

**Inland Wetlands and Watercourses
Minutes of Meeting
December 16, 2015**

The Inland Wetland Commission held a Regular Meeting on December 15, 2015 in Council Chambers of Town Hall, Stratford, Connecticut

Members Present: R. Hojdich, W. McCann, Alternate J. Waite, T. Fahy, D. Blake, E. Scinto, J. Tucciarone, A. Schlager

Members Absent: V. Massey

Others Present: Christina Batoh, Conservation Administrator

Call to Order: Chairman Hojdich called the meeting to order at 7:02 p.m.

Approval of Minutes: Mr. Schlager made a motion to approve the minutes of November 18th. The motion was seconded by Mr. Tucciarone. The motion carried unanimously.

Old Business:

IWWA Application #2015-4: Construction of five single-family homes with associated sewer and drainage infrastructure. Site Address: 450 James Farm Road, Stratford, Connecticut. Assessor's Reference: Map 50.00 Block 4 Lot 9. Applicant: Cummings Enterprises, Inc. – Mr. Scinto made a motion to take application 2015-4 off the table. The motion was seconded by Mr. Fahy. The motion carried unanimously. Ms. Batoh reviewed the following information noting Public Hearing had been closed on November 18th:

1. *At the November 18th, 2015 Continued Public Hearing, the applicant's agent, Manuel Jose Silva, P.E., Civil Engineer with Rose, Tiso, & Company, LLC, went on the record and stated (at approximately minute 58 of the Public Hearing video recording) that no changes had been made to the plans submitted on November 13th, 2015 compared to the plans that were submitted at the October 21st, 2015 Public Hearing.*

Upon careful review of Exhibits MM, and NN (see Exhibit List, below) however, revisions to the Site Plans (Exhibit MM), and Site Engineering Design Report (Exhibit NN) were noted between the November 13th, 2015 versions of these documents and those discussed and reviewed at the October 21st, 2015 Public Hearing (Exhibits G and X).

The most notable revisions to the plans and engineering report cited above are changes to the overall dimensions and storage capacity calculations of the proposed underground stormwater storage chambers. The Site Plans reviewed during the October 21st, 2015 Public Hearing indicate a proposed 320 linear feet of storage gallery. Plans presented on November 18th, 2015, have revised the dimensions to 440 linear feet. Furthermore, the Site Engineering Design Report submitted during the November 18th, 2015 Public Hearing (Exhibit NN) has various revisions as compared to the report entered in to the record as Exhibit G and reviewed during the October 21st, 2015 Public Hearing. Namely, the applicant's engineer, in revising the report and calculations, decreased the overall storage capacity of the underground concrete galleries from 6,494 cubic feet to 5,120 cubic feet. This revision was likely made in response to CEPA Intervener Ezyk's report from the September 16th, 2015 Public Hearing (Exhibit N) citing the applicant's improper calculation of the storage capacity of the chambers. The revisions made by the applicant on November 13th, 2015, were likely meant to

correct previous mistakes, however, these corrections should have been completed and ready for review at the October 21st, 2015 Public Hearing. Submitting the revisions at the close of the Public Hearing on November 18th, 2015 does not provide Commissioners the opportunity to question the changes made to the engineering report.

Please note, the engineering report as submitted on November 18th, 2015 (Exhibit NN) includes the following changes:

- a. On page 5 of the Appendix, entitled "Pond Report," the Pond Data cites a reduction in "Voids" from the previous report (Exhibit G) of 66% to 5.75% in the current proposal.
- b. On page 5 of the Appendix, dimensions and elevations of chamber outlet structures have been revised.
 - "Rise" and "Span" have decreased from 9.2 inches to 8.7 inches
 - "No. Barrels" has increased from 1 to 10
 - "Invert El." has been adjusted from 216 feet to 215.50 feet
 - "Crest Len" has decreased from 4.2 feet to 1.9 feet
 - "Crest El." Has been reduced from 219.5 feet to 219 feet

As the Public Hearing is closed, the Commission cannot address or question any of the changes made to Plans or the Site Engineering Design Report on November 13th, 2015. A decision needs to be made with the information as submitted. Alternatively, the applicant should FIRST be provided the opportunity to withdraw the application based on the fact that changes to plans and documents were submitted that could not be adequately reviewed due to limitations imposed by statutory time frames for rendering a decision (Section 22a-42a of Connecticut General Statutes).

If the applicant does not withdraw, the Commission should proceed with making a decision on record for the application considering the items discussed in Part 2 below.

2. As per Section 10.2 of the Town of Stratford Inland Wetlands and Watercourses Regulations "Standards and Criteria for Decisions," the application as proposed may not meet the conditions for permit issuance. The commissioners need to decide, based on the evidence whether the applicant has satisfactorily addressed ALL of the following standards and criteria of Section 10.2. . Failure to satisfactorily address any one of the standards or criteria is grounds for permit denial.

"The Agency shall take into consideration all relevant facts and circumstances, including but not limited to:"

- a. **The environmental impact of the proposed regulated activity on wetlands or watercourses including the effects on the inland wetland's and watercourse's capacity to support fish and wildlife, to prevent flooding, to supply and protect surface and groundwaters, to control sediment, to facilitate drainage, to control pollution, to support recreational activities, and to promote public health and safety;**

Finding: The application may be considered deficient in protecting surface waters and controlling pollution. The applicant's engineer submitted pages from the 2004 Connecticut Stormwater Quality Manual as Exhibit SS

during the final public hearing on November 18th, 2015. The engineer aimed to demonstrate with this information that the proposed secondary treatment train, consisting of an underground infiltration system (concrete storage gallery system), hydrodynamic separator, and a vegetated filter strip/splash pad would adequately remove sediments and pollutants from stormwater runoff. Upon inspection of the documents, however, the sections pertaining to "Stormwater Management Benefits" indicate that within the entire treatment train, only the underground chambers provide any sort of reduction in dissolved pollutants, and these benefits are "partial" at best. The evidence is not convincing that pollutant removal by the treatment train will be adequate for protection of the wetland. Furthermore, the engineer impressed upon the Commission during the final public hearing that the combined effects of each secondary treatment practice would remove the majority of all pollutants. There is no information provided, however, as to how pollutants that are not collected and retained by one system would be collected or retained by another. Lastly, the documents provided list very specific "Reasons for Limited Use" for each type of secondary treatment practice presented. Of note, hydrodynamic separators suffer a lack of "peer-reviewed performance data" with some evidence suggesting (as submitted by the Town of Stratford Intervener- REMA Ecological, Exhibit HH) that the Downstream Defender system proposed (i.e. a hydrodynamic separator) only removes 50% of total suspended solids (TSS) from stormwater flow. If TSS removal efficiency is this low, and pollutant removal is questionable, the applicant's engineer may be overestimating the abilities of the proposed treatment train to protect surface waters and control pollution. Commissioners noted conflict between the two (2) reports.

- b. ***The applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives could cause less or no environmental impact to the wetlands or watercourses including a consideration of alternatives which might enhance environmental quality or have a less detrimental effect, and which could feasibly attain the basic objectives of the activity proposed in the application. This consideration should include, but is not limited to, the alternative of requiring actions of a different nature that would provide similar benefits with different environmental impacts, such as using a different location for the activity;***

Finding: The application may be considered deficient in exploring feasible and prudent alternatives. Though requested by Staff (Exhibit D, Staff comment #4), the applicant's engineer indicated that an alternative to the proposed plan would not be submitted (Exhibit H, engineer response #4). Being that an application was previously submitted and withdrawn for this project (IWWA #2014-13) case law holds that the Commission should view the previous application as the project alternative. However, being that the Town of Stratford IWWC had previously issued a permit for a single home on the property of 450 James Farm Road, it would seem that a feasible and prudent alternative (i.e. a single home) does exist for this property. Also, during the public hearing, the applicant's attorney Stephen Bellis, went on record to state that the currently proposed project of five single family homes was not being submitted as an affordable housing complex (whereas IWWA #2014-13 was being submitted as affordable housing). Therefore, the applicant should provide justification as to why

the current proposal cannot be relocated to a different area or reduced in scope to limit potential effects to the nearby wetlands and watercourse.

Please also note that Section 10.3 of the Town of Stratford Inland Wetlands and Watercourses Regulations states that a “permit shall not be issued unless the Agency finds on the basis of the record that a feasible and prudent alternative does not exist.

Mr. Fahy noted this is not an affordable housing application – does not apply to affordable housing regulations. Mr. McCann also noted that the single family permit is a feasible alternative.

- c. ***The relationship between the short-term and long-term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses, including consideration of the extent to which the proposed activity involves trade-offs between short-term environmental gains at the expense of long-term losses, or vice versa, and consideration of the extent to which the proposed action forecloses or predetermines future options;***

Finding: No findings particular to these criteria for decision

- d. ***Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority; restore, enhance and create productive wetland or watercourse resources. This requires recognition that the inland wetlands and watercourses of the State of Connecticut are an indispensable, irreplaceable and fragile natural resource, and that these areas may be irreversibly destroyed by deposition, filling, and removal of material, by the diversion, diminution or obstruction of water flow including low flows, and by the erection of structures and other uses;***

Finding: The application may not be deemed to adequately address prevention or minimization of pollution or other environmental damage. See finding in part (a) above for explanation of the proposal's deficiencies in addressing pollution of the watercourse.

Commissioners noted this find extends back to the treatment train system in conjunction with the area being cleared.

- e. ***The character and degree of injury to, or interference with safety, health, or the reasonable use of property, including abutting or downstream property, which is caused or threatened by the proposed regulated activity, or the creation of conditions that may do so. This includes recognition of potential damage from erosion, turbidity, or siltation, loss of fish and wildlife and their habitat, loss of unique habitat having demonstrable natural, scientific or educational value, loss or diminution of beneficial aquatic organisms and wetland***

plants, the dangers of flooding and pollution, and the destruction of the economic, aesthetic, recreational and other public and private uses and values of wetlands and watercourses to the community;

Finding: The application may not be deemed to adequately address potential damage from siltation, or loss of natural habitat. See finding in part (a), above, for explanation of the proposal's deficiencies in addressing siltation of the watercourse (i.e. possible inability of downstream defender to efficiently remove suspended solids). The proposed project would also result in the destruction of "Patch Forest" as indicated by the applicant's soil scientist (Exhibit KK). While the applicant's scientist asserts that the "Patch Forest" in question does not "contribute significantly to biodiversity," it is important to keep in mind that the majority of Stratford's inland wetlands, watercourses, and forests are fragmented. The only tract of core forest in Stratford is Roosevelt Forest. Commissioners should consider, therefore, the environmental loss associated with losing this fragmented patch forest (via clearing for the proposed development), and the loss of natural filtration of stormwater prior to reaching the watercourse.

Commissioners referred to the Steven Danzer and Rema Ecological reports.

- f. *Impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed, and future activities associated with, or reasonably related to, the proposed regulated activity, which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses;*

Finding: The proposed project may have impacts on downstream wetlands and watercourses such as increased siltation and pollution. See finding in part (a), above, for explanation of the proposal's deficiencies in addressing siltation and pollution of the watercourse.

Mr. McCann noted use of the word "may" not only denotes a possibility but an inevitability.

- g. ***Measures which would mitigate the impact of any aspect of the proposed regulated activity. Such measures include, but are not limited to, actions which would avoid adverse impact or lessen impacts to wetlands and watercourses and which could be feasibly carried out by the applicant and would protect the wetland's or watercourse's natural capacity to support fish and wildlife, to prevent flooding, to supply and protect surface and groundwater to control Town of Stratford Page 17 Inland Wetlands and Watercourses Regulations sedimentation, prevent erosion, assimilate wastes, facilitate drainage, to control pollution, to support recreational activities and open space, and to promote public health and safety. Mitigation may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources.***

Finding: Again, the stormwater treatment train proposed as mitigation by the applicant may not adequately prevent or minimize pollution. Tree clearing for development does not prevent or minimize environmental damage, and the landscaping plan provided with project plans does little to mitigate the effect of patch forest loss.

Mr. Schlager feels an overflow into the wetlands is possible. Discussion ensued.

Commissioners discussed natural vs. man-made problems, filtration system, clear cutting which may result in major water problems. Commissioners discussed if larger galleries would be sufficient, conservation easement and sewer system.

Ms. Batoh reminded the Commissioners the statutory time frame for this application is December 23rd which is the last possible day to vote.

Mr. Scinto made a motion to approve application 2015-4. The motion was seconded by Mr. Tucciarone. The motion failed 5-2 with Mr. Scinto and Mr. Tucciarone voting in favor of the application.

New Business:

- A. IWWA Application #2015-9: Construction of a 71-unit apartment building adjacent to Ferry Creek, with associated drainage infrastructure. Site address: 335 Ferry Boulevard, Stratford, Connecticut. Assessor's Reference: Map 50.00 Block 4 Lot 9 Applicant: Cummings Enterprises, Inc. – Ms. Batoh distributed and reviewed the application. Noting the application involves redevelopment of the 1.69 acre property located at 335 Ferry Boulevard in Stratford, Connecticut. Currently, an office building exists on site. The proposed redevelopment involves the construction of a 71-unit apartment building. The project will involve no alteration to wetlands or watercourses, but will involve regulated activities, and alteration of, approximately 0.98 acres of regulated upland review area. Total impervious area of the redeveloped site will be 39,842 square feet (0.91 acres), or 58.2% of the site. This represents a reduction in impervious area of 5346 square feet, or 11.8% of the site. The proposed parking lot will sheet flow into a bioswale located along the perimeter of the parking lot. The bioswale will run adjacent to Ferry Creek at the north-west section of the parking lot. The bioswale will serve as an onsite water quality treatment facility and is limited to a volume of 5725 cubic feet.**

Ms. Batoh feels this project will be a benefit to the environment. The Health Department recommends the applicant get a LEP prior to moving forward. Ms. Batoh does not feel a Public Hearing is in order.

Mr. Fahy made a motion to accept application 2015-9. The motion was seconded by Mr. Scinto. The motion carried unanimously.

- B. IWWA Application #2015-10: Storm drainage improvements to Bruce Brook at the intersections of Barnum, Bowe, and West Avenues. Project involves relocating, rerouting, and widening sections of the channelized brook. Total wetlands alteration**

proposed is 0.16 acres. Site address: Bruce Brook near Barnum, Bowe, and West Avenues. Applicant: Town of Stratford.

Ms. Batoh distributed the application package and site map noting three (3) main sites:

1. Includes property within the City of Bridgeport as well as the Town of Stratford
2. Also located within Bridgeport and Stratford
3. Section of Bruce Brook running along West Avenue

This again represents a net environmental benefit to the watercourse.

Mr. Schlager made a motion to accept application 2015-10. The motion was seconded by Mr. Fahy. The motion carried unanimously.

Staff Report:

Ms. Batoh distributed schedule for 2016 IWWC Meetings

Administrative Permits: None

Commissioners Forum: Mr. McCann questioned if a budget has been submitted. Ms. Batoh will contact Mr. McCarthy. Discussion of formula for budget and fees ensued.

Adjournment: Seeing no other business to discuss, Mr. Fahy made a motion to adjourn the meeting. The motion was seconded by Mr. Tucciarone. The meeting adjourned at 8:08 p.m.

Respectively Submitted,

Gail DeCilio
Recording Secretary