

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
TUESDAY, OCTOBER 3, 2017
TOWN HALL – 84 SOUTH MAIN STREET
COUNCIL CHAMBERS – 7:30 P.M.**

Members present: Robert de Jongh, Charles Dimmick, Earl Kurtz, Will McPhee, Thom Norback and Kerrie Dunne (arriving at 7:32 pm).

Member not present: Dave Brzozowski.

Staff: Suzanne Simone.

I. CALL TO ORDER

Chairman de Jongh called the meeting to order at 7:30pm.

II. PLEDGE OF ALLEGIANCE

All present recited the pledge of allegiance.

III. ROLL CALL

Mr. Kurtz called the roll.

Members present were Robert de Jongh, Charles Dimmick, Earl Kurtz, Will McPhee, Thom Norback and Kerrie Dunne (at 7:32 pm).

IV. DETERMINATION OF QUORUM

Chairman de Jongh determined there were enough members present for a quorum.

V. APPROVAL OF MINUTES Regular Meeting – September 5, 2017

Chairman de Jongh called for a motion to approve the minutes from the September 5, 2017 regular meeting.

Motion: To approve the minutes of September 5, 2017 regular meeting with corrections.

Page 4 L9 “there: to “their”, L11 “done” to “down”; pg. 5 L5 “proving” to “providing”, L39 “was” to “was not”; pg. 11 L9 “then” to “rather than.”

Moved by Mr. Kurtz. Seconded by Mr. McPhee. Motion approved unanimously by Commission members present.

VI. COMMUNICATIONS

Ms. Simone reviewed the following communications:

1. **Staff Communication w/Attachments Re: Request for Determination for 266 & 292 South Main Street Medical Office Building**

Ms. Simone stated this communication was subject of a staff communication and request for determination.

2. **Staff Communication Re: App. #2017-016, 1392 Cheshire Street, Activity in Upland Review Area**

Ms. Simone stated this item was subject of a staff communication and is under new business on the agenda tonight.

3. **Staff Communication w/Attachments Re: Request for Determination for Lot 7, West Ridge Court (Plank Road) House**

Ms. Simone stated this item was subject of a request for determination for lot 7 West Ridge Court under new business.

4. **Bond Release Request Re: Nosal Properties of Cheshire, 85 Fieldstone Court, IWWC Application # 2016-013**

Ms. Simone stated this item was for a bond release under new business on the agenda.

5. **Staff Communication w/Attachments Re: App. #2017-014, Lake Percival Way, Garage Modification**

Ms. Simone stated this item was subject of a staff communication and is under new business on the agenda. She said the Commission may recall at the last meeting there was a request for determination at the last meeting which precipitated this application.

6. **Bond Release Request Re: Ed Lennon, 144 Higgins Road, IWWC Application #2016-034**

Ms. Simone stated this item was for a bond release under new business on the agenda tonight.

7. The Habitat Newsletter, Summer 2017, volume 29, number 3
(to be handed out at the meeting)

Ms. Simone said handed out at tonight's meeting was the latest copy of The Habitat Newsletter.

Chairman said let the record show that Ms. Dunne joined the meeting at 7:32 pm.

VII. INSPECTION REPORTS

1. Written Inspections

Ms. Simone stated there were no written inspections.

2. Staff Inspections

- a. 228 Old Lane Road

Ms. Simone stated there was a continued CO inspection of 228 Old Lane Road; we are awaiting the engineer to supply the as-built survey with some corrections.

- b. Poplar Drive – Castle Heights

Ms. Simone stated there was an inspection of the age restricted development Castel Heights at Birch and Poplar.

Ms. Simone explained we received a complaint having to do with drainage and through site investigation did not observe there were any problems or deviations from the approved plan.

Chairman de Jongh asked staff to communication back to the person who complained at Castle Heights.

Ms. Simone stated yes – she would.

- c. Strollo Court

Ms. Simone stated there was an ongoing observation of Strollo Court which has held up fine.

VIII. ENFORCEMENT ACTIONS

1. Notice of Violation/Cease and Desist Order SC 12/06/16
House 2 Home Construction, c/o Mr. Edward Barnett
Unauthorized Activities in a Regulated Wetland Area
509 Mountain Road
Assessor's Map 62, Lot 4

Chairman de Jongh stated this item is on the agenda for continued monitoring.

2. Notice of Violation/Cease and Desist Order SC 5/16/17
Unauthorized Activities in Upland Review Area SC 6/06/17
Luis Rivera and Joanna Kozak SC 6/20/17
1392 Cheshire Street SC 7/05/17
Assessor's Map 30, Lot 17 SC 7/18/17
SC 8/01/17
SC 9/05/17

Chairman de Jongh said he knew there were some things that they were waiting for the applicant to do and take care of by the next meeting.

Ms. Simone stated yes, there's a corrective order which required that an application be submitted for tonight's meeting and is on the agenda under item number three and that application is for the installation of the patio and hot tub within the upland review area.

Ms. Simone said additionally they are required to reinstall the posts that they had where removed and put up the markers as well as put the shrubbery along the non-encroachment line and that is something they are required to do by October 16, 2017; and then submit a letter to the Commission by October 17, 2017 indicating that all of the work is done.

Ms. Simone reported that she had email communication with Mr. Rivera today to remind him of those dates to inform him of how many markers he needs to purchase so we're in communication.

Chairman de Jongh asked did we know if he fails to do this by our next meeting – have we checked with the town attorney as to what we can do.

Ms. Simone stated no – not as of yet – if it's not here for the next meeting it will be turned over to the town attorney.

Chairman de Jongh asked if he's been made aware of that.

Ms. Simone stated yes.

IX. UNFINISHED BUSINESS

Chairman de Jongh stated there was no unfinished business.

X. NEW BUSINESS

1. Request for Determination RFD 2017-015
Cheshire Medical Associates, LLC
266 & 292 South Main Street
Medical Office Building

Attorney Anthony Fazzone of Fazzone, Ryan and Ricciuti, LLC, Cheshire, CT was present on behalf of the applicant.

Attorney Fazzone addressed the Commission.

Attorney Fazzone explained the applicant filed an application with Planning and Zoning Commission to build a medical office building on South Main Street at the site of the old moving theatre and Huxley's Gas Station.

Commission members reviewed the plans for the proposed activity.

Attorney Fazzone stated the property has no wetlands on it.

Attorney Fazzone stated none of the property is within the 50' upland review area.

Attorney Fazzone said the stormwater discharge report shows that in all instances that the design is reducing the flows from the site that's pretty much accomplished by the fact that the State Department of

Transportation is allowing the applicant to connect the roof runoff into the state drainage system.

Attorney Fazzone said so you can see a significant portion of the site will be covered by that roof.

Attorney Fazzone said the stormwater report shows the discharges are reduced in every instance of every storm.

Attorney Fazzone stated the flow generally is to the corner of the property to the rear to the south side is Dunkin Donuts and the applicant has obtained an easement from the owner of the Dunkin Donut property to an easement – to run the discharge to this point (as shown on the plan).

Attorney Fazzone said if you're familiar with prior Dunkin Donut applications the drainage approval included what he'd call a small plunge pool (shown on the plan).

Attorney Fazzone said the applicant has agreed with Batista Properties to clean and repair their plunge pool and extend it and build a plunge pool (in an area shown on the plan) which on the plan you're (the Commission) is a blue line that is the marked wetlands which was taken off a prior site plan application which was filed for the Calcagni property which is the next property to the south.

Attorney Fazzone explained the green line represents the upland review area and in this area there's a new plunge pool and new work in this area (shown on the plan) to handle the discharge coming out of the pipe.

Attorney Fazzone said he believed the reference in the wetland impact report shows this to be about 600 SF of disturbance some of which has already been disturbed.

Attorney Fazzone said we're asking for a determination as to whether or not an application is necessary.

Dr. Dimmick said he wanted to ask a question just for the record – the map that your showing which is L4 erosion control plan – is part of your package that Planning and Zoning will approve.

Attorney Fazzone stated yes – Planning and Zoning and Wetlands have received the same package.

Dr. Dimmick said if Planning and Zoning approves this then this becomes part of what your required to do; whether or not we require a permit.

Attorney Fazzone stated that's correct; and the same with the sedimentation and control plan which is detailed (and is with Planning and Zoning also).

Dr. Dimmick said that takes care of all our concerns – Planning and Zoning is overseeing this.

Motion: That the Commission declares that the proposed activities are not significant enough to require a permit

Moved by Dr. Dimmick. Seconded by Mr. McPhee.

Discussion:

Ms. Simone asked Attorney Fazzone for the record – the plunge pool that's shown on the Dunkin Donuts property – there's no discharge – there's no outlet that is proposed to go on to private property to the east– is that correct.

Attorney Fazzone stated that's correct.

Attorney Fazzone stated there's no discharge from that – it kind of runs to directly to the wetland – there's a reduced amount of water going to that area.

Ms. Simone said but there's no outlet pipe.

Attorney Fazzone stated no.

Mr. McPhee said just to clarify – you say your extending the existing plunge pool – he asked if the existing plunge pool in not in the upland review area or is it.

Attorney Fazzone stated it's not.

Dr. Dimmick said he believed about half of it is.

Ms. Simone said she has a full set of plans that shows existing conditions and proposed conditions.

Commission members reviewed the plan sets; existing conditions and proposed conditions.

Attorney Fazzone pointed to areas on the plan showing the existing plunge pool and reinforced with additional rip rap and we do believe that's all outside the 50' upland review.

Mr. Norback commented about where this details shows up on the plans but said it doesn't appear it's on the plans.

Ms. Simone said let's look at the Dunkin Donuts approval to see what was proposed for drainage at that time.

Commission members reviewed the Dunkin Donut plans.

Mr. Norback said for accuracy the plans should be corrected; the plan S3 should be corrected showing the information it says it does.

Attorney Fazzone said they can certainly correct that.

Ms. Simone said the Dunkin Donut plans show the detention basin; the wetlands are not shown because they're not on the property.

Ms. Simone showed the extent of the detention basin that was approved and that's 60' from the boundary and the location of the upland review area - so the basin as it exists now is outside the upland review area.

Mr. McPhee asked what that land is now – is it woods –is it grass – is it eroded.

Attorney Fazzone stated its weeds and there is quite a bit of erosion.

Ms. Dunne asked if there was a very small body of water behind Dunkin Donuts.

Attorney Fazzone said there's a plunge pool. He said there are no pipes that drain the area so it may be water in it at times.

Chairman de Jongh said based on the recommendation by the applicant and the changes and extension of the plunge pool is going to mitigate the drainage off site and reduce the amount of flow that

comes off site and reduce and repair the erosion coming off the Dunkin Donut site.

Attorney Fazzone said the new plunge pool has been designed to handle both.

Dr. Dimmick said he needed to point out the site of the proposed medical building the water that does run off runs off the back of the property towards where that plunge pool is; a certain amount of that is being mitigated because it's absorbed into the soil.

Dr. Dimmick said the testimony states that there's going to be less water running off so some of the water coming into the plunge pool is coming off of this property; he said there's a small swale running along the back of the property – the back end of the movie theatre – there's a slight swale shown and runs towards the Dunkin Donut area now but when its paved your increasing that but its proposed to be mitigated by catching all of that and then some.

Attorney Fazzone said that will catch what's running off now – and that amount will be reduced by the amount of roof surface which will be put into the Route 10 storm water drainage system.

Chairman de Jongh said so you're dividing the runoff from the current site not only between tying it in to the Route 10 drainage system but what ultimately goes towards the Dunkin Donut system.

Attorney Fazzone stated that was correct.

Chairman de Jongh said so the net effect is there's reduced run off from the property in whichever direction it's going in.

Attorney Fazzone said the size of the new plunge pool is designed to handle what's coming off the Dunkin Donuts property site as well as off the site location property.

Dr. Dimmick said the impression is this is a net slight improvement; even though your intruding 10' into the upland review area – you're getting a net slight improvement.

Mr. McPhee asked if under the Planning and Zoning application would engineering review and confer what Mr. Fazzone is saying about both properties.

Ms. Simone stated yes.

Mr. McPhee said he didn't have a problem.

Ms. Dunne said that would be great but what happens when we decide not to look at this.

Dr. Dimmick said that's why he asked if Planning and Zoning would be fully reviewing and enforcing this. He said he didn't see additional concerns for us over what they have anyway.

Ms. Dunne said you don't see any concern that there's a wetland on the Calcagni site – does there need to be any kind of notification or with that owner.

Ms. Simone said Attorney Fazzone has stated there is no discharge going onto that property that it will all be contained – it will be contained in the additional 600 SF impact area containing a plunge pool.

Mr. McPhee said he wanted to point out for the record that he and Mr. Norback did figure out the plans and they are correct.

Motion approved unanimously by Commission members present.

2.	Permit Application	APP	2017-015
	Cheshire Medical Associates, LLC	DOR	10/03/17
	266 & 292 South Main Street Medical Office Building	MAD	12/07/17

Attorney Fazzone requested that the permit application be withdrawn.

3.	Permit Application	APP	2017-016
	Luis Rivera	DOR	10/03/17
	1392 Cheshire Street Activity in Upland Review Area	MAD	12/07/17

Ms. Simone stated the corrective order had stipulated that an application for the impacts to the upland review area containing the patio and hot tub would be submitted to this Commission for a review.

Ms. Simone said we did receive an application – it is lacking the details of the size of the application.

Ms. Simone said she did email with Mr. Rivera and he did send her that information.

Ms. Simone said she can go out to the property and she can verify the size he provided to make sure that we have all the proper information.

Dr. Dimmick said so the status is that we have the application but we don't have all the information necessary to act on it.

Ms. Simone said yes- he did provide some details relative to the size but she has not been out to verify it.

Ms. Simone said if the Commission would like her to go out and do that before the next meeting she could do that.

Chairman de Jongh said then we'll leave this as an open item.

4. Request for Determination RFD 2017-017
Diversified Cook Hill, LLC
Lot 7, West Ridge Court (Plank Road)

Paul Bowman of 387 Mt. Sanford Road was present.

Mr. Bowman addressed the Commission saying they are asking for a determination on lot 7 on West Ridge Court to build a house and there's an area of wetlands shown on the western portion of the lot between the originally proposed house and the primary and reversed septic systems.

Mr. Bowman stated they finalized a plot plan with Milone and MacBroom that moves the primary septic system down in front of the house along West Ridge Court so the only activity would be in the future would be in the reserve septic system area up in the western portion of the lot.

Mr. Bowman said so now it's a gravity system and will go down in the front – before it would have been a pump system that would have gone to the west of the property.

Mr. Bowman said there was a question if they removed the old tractor and some other debris that was in the wetlands – that was removed a couple of years ago and we’re asking if we can do the plantings of the wetland plants at such a time when we do the foundation plantings and general stabilization of the lot prior to an as-built survey and certificate of occupancy.

Ms. Simone stated an email has been made part of this request that specifies that so the Commission has this information to consider as well and in addition to this site plan Mr. Bowman states that they’d get the plantings done in accordance with the subdivision approval upon getting the CO.

Dr. Dimmick said originally this lot was to come back before us because we didn’t have any details on the subdivision approval so if anything were to be done of concern we’d have a chance to review it

Dr. Dimmick said he’s looked at the plan and didn’t see anything that strikes his as a concern; it’s well outside the upland review area in terms of the proposed activities.

Dr. Dimmick said there are some general subdivision requirements that they will be subject to also.

Ms. Simone stated yes and there are markers to be shown and placed all around the 50’ upland review area of the two wetland areas; shown in triangles on the plan – this property has six.

Chairman de Jongh said he didn’t see a problem with this (application).

Motion: That the Commission determined that a permit for this lot is not necessary in view of the information presented to us this evening.

Moved by Dr. Dimmick. Seconded by Ms. Dunne. Motion approved unanimously by Commission members present.

5. **Bond Release Request** **APP 2016-013**
Nosal Properties of Cheshire
85 Fieldstone Court

Ms. Simone explained that this property was subject to an erosion control bond; the project is now stabilized – this is independent of the vernal pool – this just had to do with putting up the vernal pool and hay bales.

Ms. Simone reported the site is now stabilized so they are asking for their bond back.

Motion:

That the Cheshire Inland Wetlands and Watercourses Commission has considered the request for bond release by Joe Nosal, representing Nosal Properties of Cheshire, LLC for erosion control bond stipulated as part of CIWWC Permit #2016-013 issued June 7, 2016 and finds the following:

That staff has inspected the area and verifies that all areas are generally stabilized and all conditions of the permit grant have been generally met.

Therefore, the Commission grants the bond release request by the applicant for the erosion control bond.

Moved by Ms. Dunne. Seconded by McPhee. Motion approved unanimously by Commission members present.

6.	Permit Application	APP	2017-014
	Trilacon Development Corp.	DOR	10/03/17
	Lake Percival Way (Off Jarvis)		
	Garage Modification	MAD	12/07/17

George LaCava from Trilacon Development Corporation with offices in Berlin, CT was present on behalf of the applicant.

Mr. LaCava explained the Lake Percival property first came before the Commission in July of 2000 for a wetland permit.

Mr. LaCava explained the site work was done over the course of the years and when the economy took a down turn we shuttered the job.

Mr. LaCava said they had built one home that was outside the upland review area.

Mr. LaCava said last year they came before the Commission, he believed in August to renew the original permit that had expired.

Mr. LaCava explained there were three units that were subject to that permit – units 4, 5 and 6 and as part of the permit unit number 6 which is the old Walter Percival Estate was existing we had showed a proposed garage added to the structure with a dimension of 36' by 24'.

Mr. LaCava stated he was here at last month's meeting asking for a determination if we needed to come before you because we wanted to increase the garage an additional 4' which would move up 4' closer to the wetlands.

Mr. LaCava explained with the additional 4' addition we are about 16.5' off the wetlands; when he was here last month we talked about erosion control – planting schedule – the plans we submitted with the permit show the detailed erosion control and the planting schedule for the disturbed areas.

Mr. LaCava noted because of the existing grade – the grading is pretty much unchanged from the original garage which would have been 36'.

Commission members reviewed the plans for the proposed activity.

Mr. LaCava stated there is one large tree that will be removed that is in the middle of the garage – he said that was a question asked last month as well.

Mr. LaCava said because we will not be disturbing any of the wetlands the plantings is all outside the wetlands.

Dr. Dimmick explained we asked for a permit applicant to have some kind of control over this lot and what is provided is adequate and in his opinion we can instruct Suzanne to draw up the proper paperwork for next time.

Chairman de Jongh said he agreed with Dr. Dimmick- now that we have the proper details staff can craft wording for the next meeting.

