

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION  
REGULAR MEETING  
TUESDAY, JULY 2, 2019  
TOWN HALL – 84 SOUTH MAIN STREET  
COUNCIL CHAMBERS – 7:30 P. M.**

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**I. CALL TO ORDER**

The meeting was called to order at 7:30 pm.

**II. PLEDGE OF ALLEGIANCE**

The pledge of allegiance was recited.

**III. ROLL CALL**

Ms. Dunne called the roll. Charles Dimmick, Earl Kurtz, Will McPhee, Thom Norback and Kerrie Dunne were present. Members not present were Robert de Jongh and Dave Brzozowski.

Staff member Suzanne Simone was present.

Charles Dimmick served as Chairman pro-tem.

**IV. DETERMINATION OF QUORUM**

Dr. Dimmick determined there were enough members present for a quorum.

**V. APPROVAL OF MINUTES – Regular Meeting – June 18, 2019**

Motion: To approve the minutes from the regular meeting of June 18, 2019 with corrections: Pg. 3 L25 “area no” to “are now”, L43 “search” to “searcher”; Pg. 5 L16 “conservation” to “conversation”, L21 “his (the town attorney) opinion”; pg. 6 L15 “onance” to “onus”, L19 “flay” to “flat”; pg. 7 L10 “his” to “this”; Pg. 8 L38 “chronical” to “chronological”; pg. 9 L46 “soul” to “soil”; Pg. 11 L19 “applicant” to “application”; pg. 16 L32 “Caron” to “Carson.”

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

**VI. COMMUNICATIONS**

Ms. Simone reviewed the following communications:

1. Engineering Comments Re: IWWC App. 2019-011, Paul Falco, Wallingford Road, Resubdivision

2. Staff Communication with Attachments Re: IWWC App. 2019-014, Miller Napolitano Wolff, LLC & Tri-Star Development, LLC, Highland Avenue, Subdivision & Earthwork
3. Staff Communication with Attachments Re: IWWC App. 2019-015, Elim Park Baptist Home, Site Plan

**VII. INSPECTION REPORTS**

1. Written Inspections – none.
2. Staff Inspections
  - a. 875 Peck Lane – Ms. Simone reported on a CO inspection for 875 Peck Lane; that was a single-family home; the site is secure even though there is a steep grade; erosion controls are in place; grass was established and overall, they did a good job maintaining that property.
  - b. South Main Street – Hartford Health Care Facility – Ms. Simone reported they put in a retaining wall along side the wetland area and that continues to be a well-managed site.

**VIII. ENFORCEMENT ACTIONS**

1. Cease and Desist Order SC 4/02/19  
Unauthorized Activities in Upland Review Area/Conservation Area  
Robert and Barbara Gelmetti  
710 Peck Lane  
Assessor's Map 42, Lot 63  
  
Dr. Dimmick reported the applicant has until October 2019 to install the plantings per the corrective order.
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

Ms. Simone reported the balance that was due to the town has been paid and she believed the property has a new owner; she had discussion with the town attorney about the cease and desist order and the advisement was to keep it on the land records since it indicated the non-encroachment area and not to go into that (area); the conjunction the that town received from the court has been complied with regarding fees and fines that had to be paid.

The Commission authorized staff to remove this item from the agenda; this item has been on the agenda since 2017.

3. Notice of Violation/Cease and Desist Order SC 3/19/19

Ed Barnett  
569 Cornwall Avenue  
Assessor's Map 63, Lot 66

Items 3 and 4 were discussed together.

Ed Barnett, 509 Mountain Road was present.

Ms. Simone asked if the Commission recalled, after the last meeting there was a lack of erosion control reports and after the last meeting, they did receive the update (report) to bring them up to speed; yesterday another inspection report was received.

Mr. Norback asked about the inspection reports being up to date; he wanted to know if the engineering was behind or was, he is making the inspections; and were the inspections compliant even if the reporting wasn't.

Ms. Simone said the reports were overdue and he did submit a report saying the dates he went there' she noted the permit is issued to Mr. Barnett and not to the engineer; the Commission did not receive the reports until prompting by the Commission.

Ms. Simone explained there were issues with not receiving the weekly (reports) but also after every 1/2 inch of rain and there was discussion of how that gets measured and there was no information of how that gets measured so its vey likely there were additional dates that did not get inspected.

Dr. Dimmick said there was a lack of information received by us that was the problem.

Dr. Dimmick opened the show cause hearing portion for this item and asked Ms. Simone to provide a summary of what has happened up to this point.

Ms. Simone summarized what has happened to date but did not provide or every comment raised at the meeting – she started from February 19, 2019- the date the permit was issued a stipulation that the construction sequence would be strictly adhered to; there was a cease and desist and several meetings from March 12, 2019 to present date regarding issues with the applicant not following the permit stipulations as well as not providing the required inspection reports; discussions were had numerous times with Mr. Barnett about that steps needed to be taken and what the stipulations were;

what steps could be taken and what the time frame requirements were for inspections and reporting.

Mr. Barnett said his engineer was doing his due diligence to make sure he did his reports; he said that at one meeting he handed out reports; he stated his engineer is out there every Friday and gets the engineering reports within 3 days – he claimed every single report is done and is up to date – the wetland have not been effected in any way; he claimed from step nine and ten not one single report has been missing – he handed out copies of a report dated July 1<sup>st</sup>; he said after the last meeting he talked to his engineer – he said the engineer does his reports on Friday and gets the inspection reports by Monday or Tuesday or Wednesday and there is nothing that has been effected from a wetlands stand point; he claimed he has not done anything he has not been allowed to do.

Dr. Dimmick said there is the issue with his doing the excavation before they had permitted him to do.

Mr. Barnett said they are looking at engineering reports – its about getting engineering reports in a timely manner – every Friday or after a ½ of rain; he said his engineering did not stop a pattern of not going out there – he said every date is reflected – its just maybe a matter of him missing getting a report in in three days; 12 weeks of inspections have been provided.

Dr. Dimmick asked if this is the case.

Ms. Simone replied that is not the case – at the last meeting the Commission had not received reports for 12 days or so; there was a question about the ½ inch or greater of rainfall and yes at some points they had received them (the reports) weekly but its been a lot of prompting and reminding of its after ½ inch of rain; then it slacked off again.

Mr. Barnett recited all the dates reports were provided for 12 weeks; saying no reports were missed; one report was 8 days late.

Ms. Dunne asked if everything was going okay based on the reports.

Mr. Barnett said the silt fence and haybales are up; the lot is very flat; there are haybales up; he said in his opinion there are zero issues with the wetlands; the foundation is in now and his hope is to make sure as soon as possible the back yard is grassed.

Dr. Dimmick said at the Commission's request, staff drafted a proposed suspension of the permit.

Dr. Dimmick read the following motion and then reviewed the following steps available to the Commission regarding motion:

**Motion:**

**That the Cheshire Inland Wetlands and Watercourses Commission, having considered the factors of the Inland Wetlands and Watercourses Regulations of the Town of Cheshire, Commissioners' knowledge of the property, ongoing enforcement action, and after review of written information provided by the record, finds the following:**

- 1. That inland wetlands and watercourses of the State of Connecticut and the Town of Cheshire are an indispensable and irreplaceable but fragile natural resource with which the citizens of the State have been endowed.**
- 2. That the wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and the existence of many forms of animal, aquatic and plant life.**
- 3. That the Cheshire Inland Wetlands and Watercourses Regulations, in effect since June 2, 1974 are enforced by the Cheshire Inland Wetlands and Watercourses Commission, per town ordinance.**
- 4. That on May 12, 2019 a Cease and Desist Order was issued for the lack of compliance with the permit stipulations.**
- 5. That on May 19, 2019 a Show Cause hearing was opened. The cease and desist order was upheld.**
- 6. That the lack of compliance with the permit stipulations continued and were discussed at the following meetings: April 2, April 16, May 7, May 21, June 4 and June 18, 2019.**
- 7. That Section 13.4 of the Cheshire Inland Wetlands and**

**Watercourses Regulations authorizes the Commission to suspend and revoke permits.**

**Therefore, the Cheshire Inland Wetland and Watercourses Commission under jurisdiction prescribed in Section 13.4 of the Cheshire Inland Wetlands and Watercourses Commission has conducted a show cause hearing and suspends permit #2019-001, prohibiting all development of the site and only allows the required ongoing erosion control monitoring and erosion control maintenance, and backfilling around the foundation as stipulated in the permit and orders that the following shall be submitted in order for the Commission to consider the reinstatement of permit #2019-001:**

- 1. A signed contract with the scope of required erosion control inspections as detailed in the stipulated approval, with dates of service provided and method of measuring rain fall events.**
- 2. The submittal of a construction sequence detailing the remaining work to be completed and the required steps and timeframe for getting the work completed.**
- 3. The submittal of the foundation as-built with t.o.f elevations, as required and stated on the site plan.**

**Failure to cooperate with Cheshire Inland Wetland and Watercourses Commission and Town of Cheshire regulations may lead to further enforcement action, including, but not limited to, consideration of revoking the permit, and transferring this matter to the Town Attorney to pursue injunctive relief and to collect all applicable penalties and fees as prescribed under state statutes. A copy of this order has been recorded on the land records for this property and will remain so until released by the Cheshire Inland Wetlands and Watercourses Commission.**

**Moved by Mr. Kurtz. Seconded by Ms. Dunne.**

**Commission members discussed the motion and actions available to them; the issues with not receiving the inspection reports and what the specific arrangements are – the scope of work and that its understood the reports are due weekly or after rain events of ½ inch**

or greater and that it gets send in within 3 days and how they are measuring when they go out; and how the services are being paid for (this detail was removed after it was discussed by the Commission).

Mr. Norback questioned the 'marked paid' language; and how this might prove difficult for the applicant.

Dr. Dimmick and Ms. Simone stated that language was suggested by the town attorney.

Mr. Kurtz said at the last meeting he (Mr. Barnett) stated the fee was fixed – it was \$200 a week.

Mr. Norback explained to Mr. Barnett the Commission is looking for guarantees the reports will be supplied timelier (then what is happening now).

Mr. Barnett said the engineer is paid up to date and he bills him every time he comes out there.

There was discussion about there being some kind of contract and the engineer gets paid \$200 a week.

Mr. Barnett said every time his engineer comes to the site its between a \$150-200 fee.

Dr. Dimmick asked if there was a signed contract.

Mr. Barnett said no - it's an engineer they have used for years.

Dr. Dimmick said they are requesting something in writing, so they have documentation of the arrangement.

Mr. McPhee suggested that if the engineering is not performing his duties due to lack of payment that the Town of Cheshire be notified immediately.

Ms. Simone said if the permit gets suspended tonight; and it gets reinstated that's language that could be added; she'd check with the town attorney.

The Commission talked about the engineer getting paid to continue to perform the work; they also discussed the steps they could take regarding the suspension and that they need an order that needs to be compiled with; they agreed wording of "marked paid" might not be correct.

Mr. Barnett said the reports from the engineer are complete – he has 12 weeks of completed reports.

**Ms. Simone said they are not saying the reports are missing – that there has been time and again that there's documentation that the reports weren't given in a timely manner as required by the permit.**

**Mr. Barnett said he wanted on the record that all the reports are in and complete and are up to date.**

**Ms. Simone said they have the reports but that she doesn't track the ½ inch of rain or greater but as the Commission has discussed there were more issues looking at the history since this permit was issued there have been numerous examples of deviation of the permit.**

**Mr. Barnett asked did we get beyond that when he got to the point, he could do number 9 and 10.**

**Ms. Simone said she was merely stating that there has been time and again opportunity for the Commission to observe that you were allowed to do one thing and then you did another and came to the Commission and say you didn't know and the Commission worked with you and you went off and did something and then came back and the Commission said what did you do and you said well I didn't know.**

**Dr. Dimmick said we have had problems one way or another in receiving things in a timely manner – we have had other problems outlined at the beginning of this (hearing); there have been so many little things that its gotten to the point that we feel we need to get better control on this.**

**The Commission discussed the change in the language to the motion regarding the engineer's payments; 'marked paid' was removed from the motion.**

**Ms. Simone said in discussion with the building department today they had an inspection of the foundation and that they authorized the back filling around the foundation – that is something she would support because it would reduce the stockpiling in and around the area of the silt fence.**

**Mr. Barnett stated its ready for back fill now.**

**The Commission added language regarding back filling to the motion; they were still looking for an as-built for the foundation based on the language on the site plan itself – it wasn't expected before that foundation was installed (the applicant is at that point that an as-built is needed for the foundation before he can get a framing permit); the language on the site plan regarding the as-built was reviewed and why its needed by the Commission.**

Mr. Barnett said he needs a plan to show the top of foundation; to get to the step where he can frame, he needs to show where the foundation is.

Commission members reviewed the three items that needed to be submitted by the applicant before they could consider reinstating the permit.

Motion approved unanimously by Commission members present, 5-0-0.

4. **SHOW CAUSE HEARING** SC 7/02/19  
Suspension/Revocation of IWWC Permit #2019-001  
Ed Barnett  
569 Cornwall Avenue  
Assessor's Map 63, Lot 66

Items number 3 and 4 were discussed under item number 3.

The show cause hearing was closed.

5. Notice of Violation/Cease and Desist Order SC 5/07/19  
Unauthorized Activities in the Upland Review Area,  
Wetland Area & Intermittent Watercourse  
John McKinley  
1415 Marion Road  
Assessor's Map 16, Lot 10

Dr. Dimmick said there was no action to take on this item this evening.

John McKinley was present; he submitted a map for the file and would be reviewed by the Commission.

**IX. UNFINISHED BUSINESS**

1. Permit Application APP 2019-007  
Shorab Hossain DOR 4/16/19  
195 Lanyon Drive SW 5/14/19  
Tree Cutting MAD 6/20/19

Dr. Dimmick noted an extension was granted for the next meeting.

Ms. Simone said they applicant is considering on how to modify their plan.

2. Permit Application APP 2019-011  
Paul Falco DOR 6/04/19  
Wallingford Road

Resubdivision MAD 8/08/19

**Motion:**

That the Cheshire Inland Wetlands and Watercourses Commission, having considered the factors pursuant to Section 10 of the Inland Wetlands and Watercourses Regulations of the Town of Cheshire, Commissioners' knowledge of the area, site visitations, and after review of written information provided by the applicant on this application finds the following:

1. That the current application is for construction of a single family house, installation of a wetland crossing, and stormwater management.
2. That the Engineering Department has reviewed this application and finds the proposed design conforms to town standards.
3. That the proposed activities will not have a significant adverse effect on adjacent wetlands or watercourses.

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2019-011, the permit application of Paul Falco for resubdivision and site plan approval as presented and shown on the plans entitled:

“Site Development Plan for 360 Wallingford Road  
Cheshire, Connecticut  
2 Sheets, Scale 1”=40’  
Dated August 29, 2011; Revised June 13, 2019  
Prepared by OCC Group, Inc.”

The permit is granted on the following terms, conditions, stipulations and limitations (collectively referred to as the “Conditions”) each of which the Commission finds to be necessary to protect the wetlands and watercourses of the State and the Town of Cheshire:

1. Any lack of compliance with any condition or stipulation of this permit shall constitute a violation of the Cheshire Inland Wetlands and Watercourses Regulations, and an enforcement order shall be both issued and recorded on the Town of Cheshire Land Records.

- 2.No changes or modifications may be made to the plans as presented without subsequent review and approval the Cheshire Inland Wetlands and Watercourses Commission.**
- 3. No disturbance of any kind, including establishment or maintenance of lawn areas, shall be allowed beyond the wetland boundary identified in the above referenced plans. Language identifying the non-encroachment area shall be placed in the deed of the property and on a map for this property filed in the Cheshire Land Records, which shall, in part, state that no disturbance or activity of any kind other than passive recreation shall be allowed within any non-encroachment area.**
- 4. Per Section 12 of the Cheshire Inland Wetlands and Watercourses Regulations, a bond covering the costs of the erosion and sedimentation controls shall be filed with the Town Planner's Department prior to the commencement of construction activities. The amount of the bond shall be determined by the Cheshire Planning Department.**
- 5.Prior to any construction activities, including tree cutting, covered by this permit grant, or request for a Building Permit, the applicant shall have the following items both completed by a qualified party and verified as complete by Commission Staff:**
  - a) Prior to any clearing or earthmoving activities, the accurate staking and/or flagging of all clearing limits.**
  - b) Prior to the commencement of construction activities, including tree cutting, a professional engineer shall certify, in writing to the Commission, that all required erosion and sedimentation controls are in place and functioning as represented by applicant to ensure the prevention of erosion and sedimentation into adjacent wetlands and watercourses. The cost of the professional engineer shall be borne by the applicant. The applicant shall also notify Commission Staff so that Staff may inspect the site to verify that all required controls are in place. Staff may also insist on additional controls if field conditions warrant them.**

- c) Prior to the commencement of activities covered under this permit grant, the name of a contact individual together with a 24-hour phone number shall be submitted to the Planning Department and designated with responsibility and authority to receive notices of any breaches or deficiencies of sedimentation and erosion controls on-site, and to effectuate repair of any such breaches or deficiencies within 6 (six) hours of such notice from the sediment and erosion control inspector, as identified above, or the Town of Cheshire.**

**Commission Staff may insist on additions/modifications to items listed above.**

- 6. An inspection of the condition, integrity, and adequacy of the sedimentation and erosion controls shall be made by a qualified party either weekly or after every significant rainfall of 1/2" or greater, whichever is sooner, until all disturbed areas are stabilized. Said party shall be independent of the contractor. All reports shall be submitted to the contractor and Commission Staff either within three days of inspection, or prior to the next storm event, whichever is sooner. All breaches or deficiencies shall be forwarded to a contact individual, as defined above, immediately after inspection. The costs of said inspections to be borne by the applicant.**
- 7. Throughout the course of conducting construction activities, and per Section 11.2K of the Cheshire Inland Wetlands and Watercourses Regulations, the applicant shall be responsible for ensuring the following:**
  - a) That all maintenance and refueling of equipment and vehicles is performed as far as practical from all wetlands and watercourses, at least 100' if possible. All oil, gasoline, and chemicals needed at the site shall be stored in secondary containment to prevent contamination of any wetlands or watercourses from possible leaks.**
  - b) That all disturbed areas on the site not directly required for construction activities are temporarily hayed and seeded until the site is permanently stabilized.**
- 8. This permit grant shall expire on July 2, 2024.**

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

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|----|--|-----|----------|
| 3. | Permit Application                                   | APP | 2019-012 |
|    | Robert Donnelly (Whole Foods)                        | DOR | 6/04/19  |
|    | East Johnson Avenue<br>Site Plan – Building Addition | MAD | 8/08/19  |

**Motion:**

That the Cheshire Inland Wetlands and Watercourses Commission, having considered the factors pursuant to Section 10 of the Inland Wetlands and Watercourses Regulations of the Town of Cheshire, Commissioners' knowledge of the area, previous site visitations, and after review of written information provided by the applicant on this application and information received during the course of a public hearing, finds the following:

1. That portions of this site have been the subject of several previous Cheshire Inland Wetlands and Watercourses Commission permit grants, with stipulations, including, at least:
  - a) a permit grant, with stipulations, to Whole Foods Market Inc for a 150,000 sq. ft. food warehouse with a 6,000 sq. ft. office, and associated roadways and stormwater management system.
  - b) a permit grant, with stipulations, to Borghesi Building & Engineering Co., Inc. (for Custom Bottle of Connecticut) for Site Plan on September 15, 1998.
  - c) a permit grant, with stipulations, to Industrial Associates for Resubdivision Activities and Construction Activities on November 4, 1997, subsequently modified on September 15, 1998.
  - d) a permit grant, with stipulations, to New England Concrete Products for Site Plan on November 4, 1997
2. That the current application is for the construction of a 3,000 square foot building, two modular office buildings, parking and delivery truck queuing area.

- 3. That this property lies within the watershed of the Quinnipiac River, and the Quinnipiac River flows along a portion of the eastern boundary of the site.**
- 4. That there are no direct wetlands impacts associated with the currently proposed activities. The Commission makes no warranties or representations, either express or implied, that future regulated activities will be permitted on this site as a result of the present permit.**
- 5. That the conservation easement has been recorded on the land records and remains in effect.**

**Therefore, the Commission grants the permit application of Robert Donnelly with Whole Food Market Inc. for Site Plan approval as presented and shown on the plans entitled:**

**“Whole Foods Building Expansion & Security  
Improvements  
400 East Johnson Avenue, Cheshire, Connecticut  
Eleven Sheets, Scale as shown  
Dated June 3, 2019  
Prepared by Milone & MacBroom, Inc.”**

**with the following stipulations:**

- 1. Lack of compliance with any stipulation of this permit grant shall constitute a violation of the Cheshire Inland Wetlands and Watercourses Regulations, and a cease and desist order shall be both issued and recorded on the Town of Cheshire Land Records.**
- 2. Any changes or modifications to the plans as presented will require subsequent Cheshire Inland Wetlands and Watercourses Commission review and approval.**
- 3. Any maintenance or refueling of equipment and vehicles shall be performed as far as practical from all wetlands and watercourses, as least 100' if possible. Oil, gasoline, and chemicals needed at the site should be stored in secondary containment to prevent contamination of any wetlands or watercourses from possible leaks.**

- 4. Prior to the commencement of construction activities, a professional engineer shall certify, in writing to the Commission, that all required erosion and sedimentation controls and temporary erosion control basins are in place and functioning as represented by applicant to ensure the prevention of erosion and sedimentation into adjacent wetlands and watercourses. The cost of the professional engineer shall be borne by the applicant. The applicant shall also notify Commission Staff so that Staff may inspect the site to verify that all required controls are in place. Staff may also insist on additional controls if field conditions warrant them.**
  
- 5. An inspection of the condition, integrity, and adequacy of the sedimentation and erosion controls shall be made by a qualified party on a regular basis, either weekly or after every significant rainfall of 1/2" or greater, whichever is sooner, until all disturbed areas are stabilized. Said party shall be independent of the contractor. All reports shall be submitted to the contractor and Commission Staff either within three days of inspection, or prior to the next storm event, whichever is sooner. All breeches or deficiencies shall be forwarded to a contact individual, as defined below, immediately after inspection. The costs of said inspections to be borne by the applicant.**
  
- 6. All disturbed areas on the site not directly required for construction activities shall be temporarily hayed and seeded until the site is permanently stabilized.**
  
- 7. Any maintenance or refueling of equipment and vehicles shall be performed at least 100' from all wetlands and watercourses. Oil, gasoline, and chemicals needed at the site shall be stored in secondary containment to prevent contamination of any wetlands or watercourses from possible leaks.**
  
- 8. All recommendations from the Connecticut Department of Environmental Protection regarding protective measures for Natural Diversity Database species shall be stringently adhered to.**

9. The Commission makes no warranties or representations, either express or implied, that future regulated activities will be permitted on this site as a result of the present permit.

10. This permit grant shall expire on July 2, 2024.

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

**X. NEW BUSINESS**

1.	Permit Application	APP	2019-014
	Miller Napolitano Wolff, LLC & Tri-Star Development, LLC	DOR	6/18/19
	Highland Avenue, Dickerman Road, I-691 Subdivision & Earthwork	MAD	8/22/19

Attorney Anthony Fazzone of Fazzone, Ryan and Riccutti and Ryan McEvoy, PE of Milone and MacBroom were present on behalf of the applicants.

Dr. Dimmick recalled this property being before the Commission under six different proposers in the last 45 years he's been on the Commission – the latest is for a resubdivision.

Attorney Fazzone explained this was before the Commission in 2008 for development of a large retail facility with mixed use and the last permit issued was in 2013; he said they are currently before planning and zoning – they have a public hearing on July 8<sup>th</sup>.

Attorney Fazzone said the current application is for subdivision but its part of an overall plan to develop the site in accordance with the zoning regulation that allows flexibility in the inter-change zone; the purpose of going forward in this manner is market conditions it seems at this time its highly unlikely that this property would be developed as a single use – there's no retail operation that would go there; their proposal before planning and zoning would have mixed uses for the site – retail, office, residential, restaurants, office space but they would be done as individual developments on the individual lots which have to go at least before planning and zoning for special permits on each lot; some of the lots are along and on side of the river corridor and mainly require site plans before this Commission.

Attorney Fazzone explained the applicant needs an earth regrading permit and that will be discussed; all of the agencies in the town of Southington have been notified and he personally delivered the package of plans and the cover letters, plans and applications to

planning and zoning, wetlands and the town itself in Southington on June 19th.

Mr. McEvoy reviewed the map, walking the Commission through the property location and proximity to the watercourse and wetland features; the site is approximately 108 acres total; in three separate properties referred to as 'the parcel' for this discussion; he showed the location of the Ten Mile River that bi-sects the property and the location of an old stone culvert crossing where the river is conveyed through; about ten years ago, a by-pass channel was constructed to elevate some flooding at the culvert which is still in place at this time and is sort of the major site on the property today; most of the site is either over grown or wooded; some of the area has been used as a staging area for construction of the 691 highway.

Mr. McEvoy talked about the 2013 approval for the Outlets at Cheshire – he pointed out the areas of disturbance approved as part of this plan; there were several wetlands and watercourse impacts and upland review area impacts – there were conceptual residential uses on the west side of the property – he said the only reason he is showing this is to show the regulated activities that were approved which totaled approximately 70,000 SF of activity in the upland review area and approximately 5,000 SF of direct wetland impact that were associated with storm drainage, some filling for retaining walls, a new bridge crossing across the Ten Mile River and a host of other activities – so that's what's been approved as of 2013.

Mr. McEvoy said this did get reviewed and approved by the DEEP; but the application (2013) was not ultimately constructed.

Mr. McEvoy said what they are seeking approval for today is an 8 lot subdivision and this subdivision would be supported by approximately 2,700 linear feet of what's proposed to be town roads – he showed on the map the location of the access roads; there are 8 lots that would be part of the subdivision but only 7 would take access off of Route 10 or the new roadway system; proposed lot 8 is on the opposite side of the river – is the largest site about 46 acres in size.

Mr. McEvoy reviewed the location of the proposed lots and the river; he said this subdivision is different than a residential subdivision because it's in the interchange zone (and they are exploring potential uses of the lots); they are now only seeking to construct the roadway and infrastructure with the understanding they can to come back on a lot by lot basis possibility by review by this Commission; the will also be required to be reviewed by planning and zoning for site plans depending on the nature of the use.

Mr. McEvoy reviewed the roadway design and its location to the Ten Mile River watershed and peak flows and storm water considerations; he spoke about the collection of storm water in a

water quality basin system; they have proposed the size and shape to accounting for first flush; they have made provisions for the lots expect for lot 3 to be connected to the drainage system; he provided more details regarding the drainage of the lots; and requirements for each lot depending on their uses.

Attorney Fazzone commented about each lot ownership.

Dr. Dimmick asked about the proposal for a gas station; and its location to the RWA aquifer recharge zone.

Mr. McEvoy reviewed the RWA aquifer zone relative to the proposed gas station as shown on the plans; the gas station is not proposed to be located in the aquifer zone.

Attorney Fazzone said this afternoon he received a confirmation from Ron Walters of RWA about what Ryan is saying is true - if the tanks and pumps are not in the aquifer protection area then there are no regulated activities; his emails would be submitted to planning and zoning commission and he (Ron Walters) may also write a report; a special permit application would be required for a proposed gas station.

The Commission discussed the proposal; and about the possible need for the lots to come before wetlands approval; and their concerns about discharge even if they are not in the wetland area – their storm water may go into the wetlands – unless it goes into the stormwater system and filtration provided.

Attorney Fazzone commented that Ryan talked about the sizing of the basins to handle the runoff; and the percentage of the development being impervious, and each lot would have to be looked at no differently than a residential subdivision; all the lots require special permit applications.

Commission members agreed based on what was presented that the activities were not significant; staff would prepare draft wording; they were still waiting for engineering comments to be submitted.

2.	Permit Application	APP	2019-015
	Elim Park Baptist Home, Inc.	DOR	7/02/19
	Cook Hill Road		
	Site Plan	MAD	9/05/19

Michael Soares, Wetlands Scientist, of Fuss & O'Neill was present on behalf of the applicant.

Mr. Soares reviewed the proposed plan with the Commission; he reported that the applicant, Elim Park is seeking to make stormwater

improvements and an access trail to the open space; no activities are proposed within the wetland along the Mill Rover and no direct wetland impacts are proposed; work proposed in the stream is to excavate the plunge pool – and to improve water quality; there will be a limited amount of tree work; they propose to redesign the trail to reduce tree removal; and take necessary measures to protect sensitive areas.

Mr. Soares talked about the potential presence of the Eastern Box and Wood Turtles based on the Natural Diversity Database report of endangered and listed species; recommendations to protect the turtles will be followed and the steps would be taken to protect species is understood by the contractor.

Mr. Kurtz said he wanted to make sure the Natural Diversity Database report was made part of the record; and recommendation presented.

Ms. Simone said the Commission can ask that Natural Diversity Database report and recommendations be made part of the site plan; so, if the plan gets approved the details are noted on the plan.

Dr. Dimmick said the wild life report and engineering comments – and all the information they need be provided to staff.

Mr. Soars asked if the Commission had a recommendation for water treatment protections and the type of materials used.

Dr. Dimmick suggested they use something that's not going to leech into the water because a short distance down water going into the Mill River ends up in the south Cheshire well field.

**X. ADJOURNMENT**

The meeting was adjourned at 9:05 pm by consensus of Commission members present.

Respectfully submitted:

**Carla Mills  
Recording Secretary  
Cheshire Inland Wetland and Watercourse Commission**