

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
TUESDAY, JUNE 4, 2013
TOWN HALL 84 SOUTH MAIN STREET
COUNCIL CHAMBERS AT 7:30 p.m.**

Members present: Robert de Jongh, Charles Dimmick, David Brzozowski, Kerrie Dunne, Earl Kurtz, Will McPhee and Thom Norback.

Staff: Suzanne Simone.

I. CALL TO ORDER

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

II. PLEDGE OF ALLEGIANCE

All present recited the pledge of allegiance.

III. ROLL CALL

Ms. Dunne called the roll.

Members in attendance were Robert de Jongh, Charles Dimmick, David Brzozowski, Kerrie Dunne, Earl Kurtz, Will McPhee and Thom Norback.

IV. DETERMINATION OF QUORUM

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

V. APPROVAL OF MINUTES – Regular Meeting May 7, 2013

Chairman de Jongh suggested deferring the approval of the minutes to the end of the meeting.

Commission members agreed unanimously to defer the approval of the minutes to the end of the meeting.

At 9:55 p.m.:

Motion: To approve the minutes from the regular meeting of May 7, 2013.

Corrections: Pg. 3 L26 “their” to “they are”, “She explained” to with”; pg. 8 L16 “something” to “sometimes”; pg. 14 L23 “may” to “way.”
Moved by Mr. Norback. Seconded by Mr. Kurtz. Motion approved unanimously by Commission members present.

VI. COMMUNICATIONS

Ms. Simone reviewed the following communications with Commission members.

- 1. Public Works Drainage Maintenance Notification – Ives Farm, Cheshire St
Re: Repair culverts, remove gravel and downed trees**

This communication was reviewed.

- 2. Correspondence from Public Works
Re: Farmington Canal Greenway – West Main Street to Jarvis Street**

This communication was reviewed.

- 3. Parks Department Maintenance Notification Form
Re: North End of the Linear Trail**

This communication was reviewed.

- 4. Memo from Robert Ceccolini
Re: Corrective Order # CO-11-6-2012-A**

This communication was reviewed.

- 5. Staff Communication: Fitness Xpress; South Main Street
Site Plan: #2013-011**

This communication was reviewed.

- 6. Staff Communication: Gil Mor, 817 Wallingford Road
Site Plan: Sheds in Wetland
Application #2013-013 for Permit-After-The-Fact**

This communication was reviewed. Ms. Simone stated this item is an application tonight on the agenda under new business.

- 7. Staff Communication with Attachment: Diversified Cook Hill LLC;
Peck La.**

Subdivision: Application #2013-012

This communication was reviewed.

- 8. Public Works Drainage Maintenance Notification – Redstone Dr.
r.o.w.
Re: Reset leaning mafia block retaining wall above stream culverts**

This communication was reviewed.

- 9. Letter of Withdraw from John Gabel, CT Consulting Engineers, LLC
Re: IWWC App. #2013-008, Sperry Road/Crestwood Drive,
Subdivision**

This communication was reviewed. Ms. Simone stated application #2013-008 can be found on the agenda as unfinished business but it is withdrawn and a new application has been submitted which is under new business tonight.

- 10. Army Corps of Engineers Correspondence
Re: Mixville Pond Wetland Crossing**

This communication was reviewed.

- 11. Staff Communication with Attachments: Cheshire Route 10, LLC
Modification to Permit #2007-030, Highland Ave, Dickerman Rd & I-
691**

This communication was reviewed. Ms. Simone stated this item is under new business tonight.

- 12. Staff Communication: Ricci Construction; Sperry Rd. & Crestwood
Dr.
Subdivision: Application #2013-014**

This communication was reviewed. Ms. Simone stated this item is under new business.

- 13. Staff Communication with Attachments: Old Lane Rd.
Application #2013-006**

This communication was reviewed.

HANDED OUT AT TONIGHT'S MEETING:

14. **Communication Emailed and Printed Out
Re: Old Lane Rd.**

This communication was reviewed.

15. **Communication Emailed and Printed Out
Re: Old Lane Rd.**

This communication was reviewed.

VII. INSPECTION REPORTS

1. Written Inspections

Ms. Simone said there was a letter that she referenced to the Commission at a previous meeting – letters were sent out to neighbors on Willow Street regarding dumping on private property abutting a wetland.

Ms. Simone stated she has not heard any response back from property owners on that.

2. Staff Inspections

- a. **Ms. Simone said just to follow up on one of the communications – she had a conversation with a wetland scientist at Army Corp of Engineers regarding the Mixville Crossing and they had thanked the Commission for forwarding information to them and they followed up with Mr. Ceccolini regarding the crossing.**

Ms. Simone reported that the Army Corp stated that they are satisfied with the removal – and said that it was a violation of Army Corp standards and that if the Parks Department plans on putting it back in that they'll have to go through Army Corp in addition to local agencies.

Chairman de Jongh asked if it was worthwhile to send a correspondence to Mr. Ceccolini that any additional work needs to have the approval of Army Corp or did he receive a copy of that.

Ms. Simone stated that the letter was directed to him and we received a copy of it.

- b. **Lot 5 Prinz Court**

Ms. Simone stated there was a silt fence inspection of Lot 5 Prinz Court.

c. Stop & Shop Gas Station on West Main Street

Ms. Simone stated the office received a call about the Stop & Shop Gas Station. She stated there are some died and dying shrubs that were planted along the buffer for the wetlands so staff will follow up with their contractor regarding that.

Ms. Simone said she believed they had something written in their contract that they guarantee their plants for a year so they should be able to replace those without concern.

d. Marklyn Excavators

Ms. Simone stated staff was made aware of a zoning violation on the property of Marklyn Excavators on Mansion Road – they are stock piling soil and they are stock piling it directly along the Mill River.

Ms. Simone stated they (Marklyn) had submitted a letter to zoning stating that they would remove it within 30 days.

Ms. Simone said because she was aware of this on Friday (May 31, 2013), that wasn't enough time to issue them a notice of violation and put them on the agenda for a show cause.

Ms. Simone stated she would be following up with them and monitoring the site to see that it's secure in the meantime of when they're removing it.

VIII. ENFORCEMENT ACTIONS

- 1. Unauthorized Activities in a Regulated Wetland Area SC 5/04/10
Dr. Robert Henry and Maria Passaro-Henry
12 Mountaincrest Drive**

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

- 3. Unauthorized Activities in a Regulated Wetland Area SC 8/07/12
CMJ Willow, LLC c/o Chad Horning
151 Willow Street (56/196-1)**

Ms. Simone stated that part of CMJ Willow's approval was corrective order to plant at least 24 individual grass plants along the watercourse and the planting of 6 Arborvitaes.

Ms. Simone stated when she went out to the property she saw that 6 Arborvitaes were planted and 48 grass clumps were planted.

Ms. Simone said she drafted a violation release because it appears as though they satisfied the requirements of the order.

Motion:

That the Cheshire Inland Wetlands and Watercourses Commission, having considered the factors relevant to the issuance and release of the subject Notice of Violation, Commissioners' knowledge of the area, and after review of Staff inspections and information provided on this matter, finds the following:

- 1. That on August 1, 2012, a Notice of Violation was issued to CMJ Willow LLC for the unpermitted clearing in an upland review area in violation of the Inland Wetlands and Watercourses Regulations.**
- 2. That on May 15 and 17, 2013 Staff inspected the property and found that the ordered planting of six evergreen shrubs and a minimum of 24 grass plantings stipulated in the December 4, 2012 inland wetlands permit #2012-029 are complete.**

Therefore, the Cheshire Inland Wetlands and Watercourses Commission does hereby determine that the requirements of stipulations #4 and #5 of the inland wetlands permit #2012-029 have been met and completed. Further, the Commission does hereby release and discharge the aforementioned Notice of Violation.

Moved by Dr. Dimmick. Seconded by Mr. Kurtz.

Motion approved 6-0-1 with Mr. McPhee abstaining from the vote.

- 4. Corrective Order #CO-11-6-2012-A
Unauthorized Activities in a Regulated Wetland Area FT 10/23/12
Bob Ceccolini – Park and Recreation Department
Mixville Recreation Area, Notch Road (41/13)
Clearing of Vegetation within a Watercourse, Wetland and Upland
Review Area**

Chairman de Jongh said there was some correspondence -report the Commission was going to get back from Mr. Ceccolini. He asked if we received that report.

Ms. Simone stated no – we have not.

Ms. Simone explained that the corrective order had stated that this site would be evaluated and that a mitigation and remediation plan would be brought forward to the Commission in the spring.

Ms. Simone stated Mr. Ceccolini provided the Commission with notice that was received in our office May 13, 2013 that the inspection would be done in the end of May and that a report would be issued after that inspection and that's the last that staff has had communication regarding that.

Chairman de Jongh seeing that this is the first meeting in June then we should have that report by the next meeting and if there's a way to convey that to Mr. Ceccolini that we have that report in hand to be able to talk about that by the next meeting that would be appreciated.

Ms. Simone stated she would relay that information to Mr. Ceccolini.

Dr. Dimmick noted that the report should not be handed in the evening of the next meeting.

IX. UNFINISHED BUSINESS

- | | | | |
|----|---------------------|-----|-----------|
| 1. | Permit Application | APP | #2013-006 |
| | Dr. Jeffery Norwood | DOR | 03/19/13 |
| | Old Lane Road | | |
| | Site Plan | MAD | 05/23/13 |

James Sakonchick, PE with the engineering firm of Kratzert, Jones & Associates, Inc. was present on behalf of the applicant Dr. Jeffery Norwood.

Mr. McPhee asked Ms. Simone if the Commission had the most current notes on this item from the Engineering Department dated May 21, 2013.

Ms. Simone stated yes.

Mr. McPhee stated so Engineering is still not satisfied.

Ms. Simone stated yes.

Mr. Sakonchick stated for the past six months he has been in front of this Commission trying to get a building permit on a lot approved in 1995.

Mr. Sakonchick stated as part of that approval there was a requirement that they come back to this Commission to see if any activity would have an effect on the wetlands.

Mr. Sakonchick stated the actual design of the improvements on the lot are outside of the 50' buffer.

Mr. Sakonchick stated the access road to the lot does have activity within the 50'' buffer.

Mr. Sakonchick stated this Commission might remember that every month coming to this Commission there is a check list of non-satisfaction with the Engineering Department - they were never happy with this.

Mr. Sakonchick stated the Engineering Department has reviewed his plans and had issues with them.

Mr. Sakonchick stated he has spent a great deal of time preparing presentation tonight so he would like to discuss the issue.

Chairman de Jongh said there were a number of items that this Commission had requested information on and he was hopeful that his (Mr. Sakonchick) presentation addresses those issues – you (Mr. Sakonchick) can tell me if it does or doesn't.

Chairman de Jongh said he obviously wanted to make the most of your time and the most of our times but some of the things that are missing that we need information on before we make a decision on the application.

Chairman de Jongh stated we need to have concise drainage narrative with supporting documentation/calculations; details indicating the drainage site; the designs for the measured volume and velocity of the storm water from the site and design to travel along the driveway entirely within the upland review area; details of evidence of erosion related to the unpermitted violation – driveway; installation within an upland review area and the proposed

remediation; detail reasoning and evidence that the rain garden shown in the original design is not needed to mitigated the drainage concerns; information on the impact to the pond with the proposed increase in water from the catch basin into the driveway; cleaned up plans which eliminate unnecessary information such as rain garden planting if no rain garden is proposed; clarification on the septic area and the amount of fill to be placed on the slopes – those are some of the things that we still need as a Commission and I'm hoping that Mr. Sakonchick can address those tonight and if so we can move forward.

Mr. Sakonchick replied that they want to move forward because...he said this would be revisited after he presented a letter.

Mr. Sakonchick submitted a letter dated May 28, 2013 to the Commission into the record.

Commission members received a copy of the letter addressed to Commissioners from Mr. Sakonchick.

Mr. Sakonchick said because it's pertinent to this application he thought it was best that he read this letter into the record.

Mr. Sakonchick stated in summary it is an issue with the Engineering review – some items that he thought should be discussed.

Mr. Sakonchick stated this is an open letter that he was sending to not only the Wetlands Commission, the Planning and Zoning Commission and the Town Council.

Mr. Sakonchick read the letter into the record:

“Dear Commissioners,

As a designer I understand that the town government has a responsibility to protect public health and safety for all new construction. Examples are the standards for constructing a single family home on a lot in town, the structure must meet the Building Code, the septic system must meet the Health Code and the site drainage and improvements must meet the requirements of the Public Works Department.

STANDARDS

Standards represent a collection of time proven engineering, physical improvements that have worked. The training of all engineers is generally similar and no engineer has all of the answers whether he works for a public or private entity. Both the engineer and reviewer should be able to defend either their design or review with specific references to regulations.

The Building Code and the Health Code regulations are complete documents backed up by published commentary and examples of accepted designs that are available to both the private designer and town reviewers. If a Building Department or Health Department reviewer finds a proposal does not meet the Codes, he or she is obligated to note the exact regulation not met. If the private designer and town reviewer disagree, there exist readily available third party technical reviewers, at the State and local levels, to give an expert decision. This system provides a fair set of checks and balances that allows all applications to be treated in a consistent fashion plus it offers protections to designer and reviewer.

The standards and review policy of the Cheshire Public Works Department are not complete in our opinion. There are general policy statements that are not backed up with enough clear understandable standards, references and examples of acceptable design. Another problem is that there is apparently a custom that makes one Public Works Department reviewer decide what is acceptable. If a designer and this Public Works reviewer disagree, there is no apparent alternative technical checker available for checks and balances. I wish to describe some of the frustrations this arrangement can cause.

For over half a year my firm has tried to get a permit to build a single family home on an approved subdivision lot. This permit has been held up due to the inability to get the Public Works reviewer to confirm the proposal meets Public Works Regulations.

REGULATIONS MUST BE AVAILABLE

The first fundamental of a regulation is to have it available to the public. Despite referring to and describing the Policy requirements numerous times (in the Public Works written reviews of the application) a copy of the Policy somehow could not be made available to the designer. It took in person appeals, numerous email requests and months of time before it became available.

REGULATIONS SHOULD BE COMPLETE

The actual policy was only three pages of general principals with no commentary, references or examples of acceptable designs. This leaves far too much discretion to the Public Works reviewer. Proper regulations should be specific enough so clear and repeatable results can be created even if designers or reviewers change.

DISCRETION CAN LEAD TO POSSIBLE EXCESSIVE REQUIREMENTS
One standard the Public Works reviewer has required is that a proposed catch basin, in the private driveway, be designed to accept the flow from a once in 100 year storm. For comparison the Connecticut Department of Transportation requires similar catch basins in State Highways, including Interstates to be designed for a once in 10 year storm. The DOT has determined that that standard is a reasonable compromise with the cost of a catch basin and its function. However, this local review requirement (that a private home construct a catch basin to a standard ten times larger than the DOT's) should be the type of item suitable for a checks and balances review.

DISCRETION CAN ALLOW MOVING TARGETS

It is important to able to quantify the scope of the project with staff so meetings were held to set the scope. Once the scope is set it should not arbitrarily be changed. But scope changes kept occurring as in the next example. The Town's Policy mentioned above has this requirement: "Cheshire uses zero net increase in post-development run off for all development projects. It shall be demonstrated in a drainage report that the project can meet the net zero increase requirements for a 10, 25, 50 and 100 year storm event."

This involved regulation requires expensive engineering calculations to demonstrate meeting such a requirement. A reasonable way to control costs is to recognize that the drainage from similar houses on similar lots produce similar results and, if results were accepted previously, they should be accepted for comparable situations. This logic was not acceptable to the Public Works Reviewer. He insisted on site specific custom drainage computations comparing the "existing and proposed" conditions. Suitable expensive custom calculations were done and submitted.

These were later rejected because the Public Works Reviewer changed the scope to reflect not the present conditions but the conditions that "existed in the far past." Again custom calculations were done but these were later unacceptable because the Public

Works Reviewer again changed his mind and decided new scope of the project should be "expanded to include areas outside of the lot." We do not object to any of the above scopes but to a scope that arbitrarily changes is what we object to (By the way the custom calculations came up with the same design as the similar previous results.)

REQUEST MORE COMPLETE REGULATIONS

The above describes some of the problems we have been having with this application. These problems can be avoided with better standards and regulations. For example, the Health Code requires that a well must be 75 feet from a septic system. Knowing how varied soils and rocks can be underground, it is sure that a great deal of debate existed before this arbitrary number was set, but an established number becomes a clear, understandable and repeatable standard.

Vague standards actually places both the designer and Public Works reviewer in the difficult positions of deciding questions similar to the example above, but they should not have to determine fundamental items similar to what is a safe separation distance from a well to a septic tank. There should be standards.

As the Commissions charged with protecting the public and seeing that suitable regulations are in place, I hope you consider the need for better Public Works regulations and reviews so that future applications can be treated in a direct, understandable, repeatable and reasonable way.

If you have any questions I can be available.

Sincerely,

James Sakonchick P.E.

Mr. Sakonchick noted that he has been a licensed engineer since 1978, has designed drainage for numerous sites including a large portion of the ESPN campus, is an expert witness on drainage claims for a national insurance company and lives in Cheshire."

Chairman de Jongh said he didn't think anybody was here questioning his (Mr. Sakonchick's) professional capability – that has never come into question nor would we be in a position to do that.

Chairman de Jongh said Mr. Sakonchick has been before us (the Commission) has he pointed out before and we have never had issues like this in the past when dealing with you.

Chairman de Jongh said this particular application however – you (Mr. Sakonchick) cite in your letter what the apparent difference between DOT standards and what the local standards are.

Chairman de Jongh stated the DOT standards – his understanding was is that the DOT standards are a 10 year situation because of the infrastructure problems on public roads – private roads have a different measurement. He stated he was not an engineer but that was his understanding.

Chairman de Jongh said with regard to – for example – the impact that the run off is going to have into the pond that will eventually flow into a major watercourse – we are concerned about what those calculations are – what the pre and post numbers are.

Chairman de Jongh said there were certain pieces of information that we as a Commission need to have and we require it of every applicant that has a similar type of a project – we require that same information from everybody – it's not a moving target on this Commission – he stated he has been on the Commission for 27 years.

Chairman de Jongh stated there were basic pieces of information that we have to have in order to treat this application on the same level that we treat every other application and for us to do otherwise would not only jeopardize the integrity of this Commission but leave the Commission open to continued argument of developers “and well you did it before why can't you do something this time.”

Chairman de Jongh said he for one as a Commission member will not allow that to happen. He said he was only one of seven people here but he won't allow that to happen as far as he was concerned.

Chairman de Jongh said there were certain pieces of information that we have asked for repeatedly.

Chairman de Jongh stated the Engineering Department – their review is designed to support us (the Commission) with information so that we again have a professional that we can go to and say “have you looked at this – yes – do you have an issue with it – yes or no” but

that gives us a basis for our discussion as well. He stated it's important for us to have that information.

Mr. Sakonchick said yes but it's also important that the standards be reasonable.

Mr. Sakonchick said you have to remember that it's not the entire project that he was referring to with that standard – it is the inlet grate for a catch basin on a driveway. He explained to design that catch basin inlet to make it big enough – he said now you need to remember there's a small site – you have thunder storms – imagine if you will the worst thunder storm you can get in a 100 years – that is what he's (Engineering) asking this to be designed for.

Mr. Sakonchick stated he did not believe the town standards required that – even when he (Engineering) sent the standards to him he didn't believe they required that – they require that the rate of runoff leaving the site not increase in once in a 100 year storm.

Mr. Sakonchick explained that what happens on any street is that in a normal storm of a severe nature some waters will bypass the catch basins and they kind of go overland even increasing the time of concentration before they get to the main structure in this case the pond on the property.

Chairman de Jongh said so they need to make sure the safety net i.e. the pond is going to be sufficient - if we have a worst case scenario and the culvert for whatever reason or the drain for whatever reason doesn't function as well as we expected it to function – that the pond is going to act as another residual buffer before it hits the main watercourse - we don't have those calculations.

Dr. Dimmick said in his opinion Mr. Sakonchick has a point in that the actual size of the catch basin doesn't have as great an importance to us as the flow when it reaches the pond; on the other hand we as a wetland's commission have no authority to size a catch basin so we have a problem and he (Mr. Sakonchick) does have valid complaint but it should not be with us – he may have a valid complaint with Public works on that issue but we still need the calculations (which was Chairman de Jongh's point) in terms of what's going to reach our final design point – that part we do need however it's done – whether it goes through a catch basin or whatever happens.

Chairman de Jongh said they still need to have the pre and post numbers however that water gets from one place to another and that's only one of several pieces that he mentioned earlier before your (Mr. Sakonchick's) presentation – there are a number of items that we still need and as of yet he hasn't seen any details that give the Commission that information.

Mr. Sakonchick handed out 33 pages of calculations to Commission members.

Mr. Sakonchick stated the 33 pages of calculations were for one lot and they're based on the Soil Conservation Service manual – a very bid involved manual.

Mr. Sakonchick handed out copies of plans.

Ms. Simone said just to clarify this contains information that was already submitted to staff.

Mr. Sakonchick stated yes.

Ms. Simone said she sees that it's dated May 9, 2013.

Mr. Sakonchick stated that is right.

Ms. Simone addressed the Commission reminding them they have already received this information in a Commission mailing.

Dr. Dimmick said yes with this packet – he said they haven't had a meeting since we got it since the second meeting in May was cancelled.

Chairman de Jongh asked if the Engineering Department had a chance to look at this.

Ms. Simone said if it's all the same from May 9, 2013 then yes and they have commented – their most recent comments are dated May 21, 2013.

Chairman de Jongh said just to clarify the information is already been submitted through the proper channels – the proper people have looked at and it's still viewed as being deficient in terms of the information that we need.

Ms. Simone said Engineering has comments dated the 21st (May) where they identify that there's still deficiencies and they're still looking for information.

Ms. Dunne said she was confused about something – they say that revised plans have not been submitted – what were we just given.

Mr. Sakonchick stated that those are not new plans those were plans that were part of the submittal in the past.

Ms. Simone said it was her understanding that Engineering made that comment because there's a reference in a document saying to look at the revised plans but we didn't receive revised plans so it was unclear if there's new plans coming or they meant other plans we already had but didn't reference it by date but just referenced it as revised.

Mr. Sakonchick said everything that he's presenting tonight is part of the record.

Mr. Sakonchick said what he'd like to point out of those 33 pages there are three locations where it was discussed – no increase for any of the storms – the first was coming from the site. He explained this site has a large existing pond on it – it is owned by the land owner – it is his pond.

Mr. Sakonchick explained that the drainage area going to that pond is much larger than the four acres with this lot – twenty to thirty acres exact numbers in these calculations.

Mr. Sakonchick stated the point is we looked at the overall drainage area and compared it to our lot which is right next to the culvert.

Mr. Sakonchick said the first thing they were able to show is that there is no increase because the water from the site goes through the culvert before the overall area – that's one.

Mr. Sakonchick said number two – is let's forget that - let's look at the second safety net. He said we have an existing pond owned by the land owner that has a difference in ecstatic elevation versus the emergency spillway.

Mr. Sakonchick stated there were several inches that this pond has to fill up before any water goes over the emergency spillway. He explained if you take all the previously paved areas – all the previous

lots as well as our new lot and calculate all the water that would runoff of these paved areas into this pond – the pond would not yet get to a point where it's going out into the emergency spillway and there's no significant outflow from this pond other than the standard in and out until you get to the emergency spillway.

Mr. Norback asked if the cart was before the horse here or is he mistaken – do we not have to wait for comments from the Engineering Department before we can really react to this.

Chairman de Jongh said we typically get comments from the Engineering Department to give us professional guidance related to wetland impacts and then we can discuss and act on an application.

Mr. Norback said these clarifications that Mr. Sakonchick is offering tonight – have they been conveyed to the Engineering Department.

Mr. Sakonchick stated that was his point - he said he did not believe Engineering has been given us an opportunity to properly present our side of the argument.

Mr. Sakonchick stated that they do a 33 page report to Engineering and we get back a comment that just says it doesn't meet our requirements.

Mr. Norback said with that said he can certainly understand your frustration but he's not sure the Commission can do anything about it other than to just to sympathize with your position.

Chairman de Jongh said there's a letter in the Commission's correspondence tonight in response to the report that the applicant submitted to the Engineering Department.

Chairman de Jongh said there's something that's dated May 21, 2013.

Chairman de Jongh said he was going to read it into the record so that we can get an idea of where the Engineering Department is coming from:

**“TO: Inland Wetlands
FROM: Engineering Department
SUBJECT: Site Plan, Norwood, 230 Old Lane Rd.**

This office has reviewed the above referenced application as revised to May 20, 2013 and, based on the information presented, has the following comments at this time:

- 1. A corrected driveway cross-section has been submitted with the Engineer's response, but since revised plans have not been submitted, it is not possible to verify that this change has actually been made.**
- 2. The Engineer should demonstrate that this project will conform with this department's policy of net zero increase which requires compliance for the 2, 10, 25, 50 and 100 year storm events. A clear and concise, detailed narrative report backed up by appropriate calculations is required.**

The report submitted does not conform to Engineering Department Policies. A copy of these policies is attached for Commission reference. The report submitted does not contain design information for the 100 year storm for the proposed site drainage nor is there a clear and concise summary of what is proposed.

The current revision proposes the use of the pond for attenuation. A representation has been made that there is adequate capacity in the pond by virtue of several inches of freeboard to the spillway. This is not an acceptable assumption as there is no way to determine when that observation was made.

If this office is to consider this proposal, the applicant will have to provide water level calculations at the spillway for the 100 year storm event for existing conditions as well as proposed conditions.

- 3. This item appears to be addressed in the latest response.**
- 4. The new design presented with this revision causes several concerns. There is about 300 LF of driveway at 10% grade with one CB near the bottom. What volume and velocity will the 100 year storm run-off have? This site is in a wooded area and it is reasonable to assume that this CB will be prone to clogging with debris.**
- 5. The fill in the area of the septic system approaches 4 feet in places and increases the adjacent slopes from the existing grade of 1' on 4' to 1' on 2'. This is a 2 fold increase in steepness of slope. These slopes face Northeast which combined with the increased grade will make them difficult to stabilize. It is likely that the proposed grass cover for this slope will not be adequate in the long term. At a recent meeting with the Applicant and his Engineer, it was represented that**

the fill had decreased to 2 feet, but the plans still show 4 feet. It is up to applicant to provide documentation that these concerns are addressed and that does not mean listing a phone number for us to call.

The following are this Departments replies to the Engineers responses of May 20, 2013. Numbers are in reference to our comments of May 14, 2013 and are the same as the numbers above.”

Chairman de Jongh said that’s the Engineer’s comments to this 33 page report.

Mr. Sakonchick asked to let him say that if you look at that comment list – that comment list hasn’t changed many words over the last six months.

Mr. Sakonchick said let him say that he’s tried to do detailed responses to each one of those comments and every one of his response has just simply gotten back the same set of comments.

Mr. Sakonchick stated there have been numerous meetings with the Engineer in person and his response was “a look you have to meet the regulations” so it is my position here and the reason why he’s going in front of this Commission – he said he’s going in front of the Town Council and he’s going in front of the Planning and Zoning because it is his opinion that a proper engineering review with some sort of checks and balances is not occurring here and that it is causing unnecessary delay and incredible expense for design purposes with little public benefit.

Mr. Norback asked Mr. Sakonchick what he was asking of this Commission – are you standing before us just to air your grievance or are you asking us to intervene with Public Works.

Mr. Sakonchick said believe it or not he was here to air my grievance.

Mr. Norback stated that’s what it seems.

Mr. Norback asked Mr. Sakonchick if he was asking us (the Commission) to intervene with the Engineering Department.

Mr. Sakonchick said he expected this was going to be tabled tonight but his purpose is to bring up some points; for example it is not reasonable engineering to request a catch basin in a private driveway to meet a 100 year storm.

Mr. Sakonchick said he was stating tonight that it's not reasonable for him to have on his comment list that statement about the slope for the septic system for many months when after (a) I explained to him that it is not the depth at the total slope but he reduced the depth at the septic system structure from 4' to 2'.

Chairman de Jongh asked if the plans been revised and those revised plans been submitted yet.

Mr. Sakonchick stated absolutely.

Mr. Sakonchick stated every time there's been a submittal with a significant change and revision there has been no acknowledgment – he said he's not saying he did it right – he said what he's saying is a proper engineering response would more direct to the substance of the calculations and it is not a proper engineering review to simply say that's not what he had in mind – by the say I'm going to change the scope of what you want to design – go through more expensive calculations.

Ms. Dunne stated it's not the Commission's position to be an arbitrator – the Engineering Department is not here – she said she's not comfortable with that – we're hearing one side – we're not hearing the Engineering Department – this is not something that this Commission should be deciding.

Chairman de Jongh said he understood Mr. Sakonchick was trying to use this forum as an opportunity to air his grievances – he said he sympathized with him but unfortunately this is not a public hearing and this is not an opportunity to air your grievances.

Chairman de Jongh stated the Commission was expecting to have information so this Commission could act –again as he stated at the outset there are a number of things that this Commission needs as a matter of consistent protocol when they look at an application that we don't have – part of that are Engineering comments back.

Chairman de Jongh said beyond that any absence of that information – your right this is probably going to be tabled due to a lack of information.

Chairman de Jongh stated you have a mandatory action date coming up on June 28.

Chairman de Jongh said you (Mr. Sakonchick) has two choices – you can either provide the information that we need so we (the Commission) can act on the application or extend the mandatory action date if you want to give yourself more time to prepare all that information or we'll have no other choice at the next meeting to act on the application minus the information we need and I don't think it's going to be favorable.

Dr. Dimmick asked staff is there any structure within our town government that would allow for some arbitrator or any kind of independent reviewer for this problem.

Ms. Simone explained that that the Commission could decide to hire an outside source to review it and the cost of the would paid by the applicant so the Commission does have that ability.

Ms. Simone stated one thing that she would like to address to Mr. Sakonchick and the Commission is that this application was received on March 19, 2013 and since it was received it was asked that it be deferred so this Commission has never reviewed – never had the advantage of having a presentation.

Ms. Simone explained to Mr. Sakonchick that this was his opportunity now to present his design to this Commission.

Ms. Simone stated that we've met (staff and Mr. Sakonchick) and this design has changed a couple of times but this Commission have never had a presentation so if you (Mr. Sakonchick) wanted to this opportunity to shift gears and focus on that.

Mr. Sakonchick stated he would be happy to do that right now (give a presentation).

Mr. Sakonchick informed the Commission that they had the sheets in front of them – these were the sheets he'd be presenting.

Mr. Sakonchick said what he has here is the second sheet in the packet – the 11"by 17" – he said maybe for clarity he should start with the first sheet of the packet.

Mr. Sakonchick said what they are asking for is something pretty straight forward – we have a lot – we have a house proposed on that lot – we have a septic system outside of the wetlands.

Mr. Sakonchick stated we have about 2' of fill on top of this septic system galleys. He explained now you have to extend about 10' beyond that before you start sloping and then you're chancing a slope.

Mr. Sakonchick said he would say that the slope - he point to an area on the map - is a 2:1 slope extending about 15' down the slope.

Mr. Sakonchick said he will say that he's been doing this for a couple of years - that is not an unusual orientation - it is not an unusual length of slope - it is starting from the top of a hill - it is sloping 2:1 for about 15' - there are no ground water issues - you have a silty soil there - it's just your basic Cheshire hard pan soil - it compacts well - there is absolutely no reason to belief that slope cannot be stabilized any more than any of the slopes - you drive around any of the roads in town especially older roads like when he goes up and down Marion Road - you might see five or six similar slopes on the side of the road along there which stabilize just fine.

Mr. Sakonchick said now because the engineer asked for some extra protection there we specified a \$1000 worth of filter fabric along the slope with the statement that - at first he wanted it - then we said look if you do it at the right time of year you can get the vegetation to grow the vegetation will speak for itself.

Mr. Sakonchick stated a filter fabric is not a good thing for a man to have on his lawn because you cannot cut it with a lawn mower - the fabric will goof up the lawn mower.

Mr. Sakonchick said we have a reasonable slope here - he showed on the plans - similar to hundreds or other similar slopes in town located outside of the 50' buffer - he said certainly he thinks this gentleman should have the ability to build this in customary fashion and make it a lawn and make it a lawn that can be mowed - make it a lawn that their kids can play in without tripping over a filter fabric that they might catch their feet in.

Mr. Sakonchick said so this is one example of a demand of the Engineering Department that he personally finds is excessive for this application.

Mr. Sakonchick said the next thing is the driveway over here - he showed the location on the plans - he said there's an existing driveway installed - roughed in by the current property owner.

Mr. Sakonchick stated there are evidences of erosion along this bank over here – he showed on the plans – because all the water comes down and goes over the bank so unlike the situation he was describing with the septic system which is located near the top of the hill where there’s very little water going over it – over here (he showed on the plans) you have a considerable area that collects and goes down that. He said that slope has to be protected – we have these things built into the system to protect it.

Mr. Sakonchick stated first the driveway slopes not towards the slope but slopes to a curb along the inside edge so all this water that’s coming down this way is going to get to the driveway and run down a curb on the side that is away from the slope.

Mr. Sakonchick stated so the first thing they are doing is reducing the amount of water going down this slope considerable and we’re calling for customary protections for this slope to get the grass and stabilize and happy to use filter fabric in that situation because this is a situation that might need it and it’s also a situation where it won’t be mowed – it won’t create a tripping hazard – it just needs the best type of erosion controls especially since its closer to a watercourse.

Mr. Sakonchick said so we’re picking up our water and bringing it down to one catch basin over here – he showed on the plans – now this catch basin was designed for a 25 year storm assuming 50% clogging – we did the amount of water going there – we calculated how wide this water would be in the driveway itself – we showed that the catch basin would catch the water – in fact they did a special details because it’s coming down a slope – it’s not a road it’s a driveway – we jogged the curb to the side of the catch basin so the catch basin would have not only the curb along the back – not only the thrown along the back – not only the grate for the catch basin but a section of 3’ curb perpendicular to the driveway to help trap the water.

Mr. Sakonchick said so we designed this catch basin to collect the water – we designed it to the same standards that exceed the DOT 10 years – we’re doing it for a 25 year storm – we submitted all the calculations showing how side it would be how it would go in the grate and down and again these standards were not good enough for the Town Engineer because he’s saying it has to be a 100 year but there is nothing in their regulations saying that that catch basin has to meet a 100 year storm so again he protests the expense to his

applicant in being forced to exceed reasonable requirements in his opinion.

Mr. Sakonchick said from that catch basin we have a pipe going down to a location over here – he showed on the plans – where there’s an existing pipe going across.

Mr. Sakonchick stated the reason we’re doing physical structures here is because we didn’t want the water coming down this driveway to go on to this cul-de-sac area and then waiving down over here anyways – several reasons – icing also you’re closer to the pond here – you have another steep slope – you don’t want that water going down that slopes – you’d just be transferring that problem from here to here – he showed the locations on the plans.

Mr. Sakonchick said so we have a catch basin picking up the water discharging right to the throat of an existing pipe – 24” going in underneath here.....

Tape change.

Mr. Sakonchick said he talked about preventing increase in run off. He said the first thing is the drainage area over here – he showed on the plans - he said the drainage calculations he gave to the Commission – part of the 33 pages if you flip through it you’ll probably see drainage area maps where they took the town topography – it even goes into the Town of Hamden – we picked up the Hamden water we picked up the Cheshire water and we brought it all over here and we calculated what would happen to water entering this controlled point that 24” pipe.

Mr. Sakonchick said we were able to show using SCS data that there would be no increase in the rate of run off for a 2, 10, 25, 50 or 100 year storm at that location so as far as he’s concerned that meets the regulations.

Mr. Sakonchick said however there also is – he said he believed it was the third sheet of the set of drawings they have in front of them – which is the 1995 subdivision map for this property.

Mr. Sakonchick said the important point – the highlight is there’s a big pond – it is the man’s pond who owns this subdivision.

Mr. Sakonchick said they went and surveyed around this pond – we field verified the static height of the pond is several inches below the

emergency spill way which makes sense – you don't want water going over the emergency spillway on an ordinary fashion – that's only for emergencies.

Mr. Sakonchick said its acres big - they have the exact calculations – we were able to show that if you take 100% of all the water coming off all the paved areas that this guy developed for a 100 year storm that would not even get the water up to the emergency spillway so that is a second proof that there is no increase in run off from this site to meet the town regulations.

Mr. Sakonchick stated but they didn't stop there – we went to a third proof and that is let's assume the pond is already at the elevation of the emergency spillway – we ran that – we showed for each of the storms that would not increase the run off because we do detention ponds in town all the time and the fact that the ponds fill up allows the water to leave slowly.

Mr. Sakonchick said you can prove this in your own home – take a 55 gallon drum of water dump it in your tub – the water just stays in the tub – it still leaves down that one little drain no matter how fast you pour it in it can only go as fast as the drain allows.

Mr. Sakonchick said well the drain in this case is the emergency spillway so we showed in three different fashions that this site would not increase run off for any of the storms – for that we got a response that we don't meet the requirements so consequential he looked forward to a more technical conversation with somebody who can understand the details and try to learn – he said he could learn too – why all three of these methods fail to meet requirements.

Mr. Sakonchick stated so that's his summary.

Ms. Simone said she had a couple of questions.

Ms. Simone said in looking at the plans it shows on the south side of the driveway that was put in – it shows on lot one as well as the proposed lot two – it shows some eroded areas and there's a note that it's to be stabilized with 2" crushed stone. She said she recalled reading – it was either in a report or on another plan that some areas may be filled in with top soil also – she asked if Mr. Sakonchick could explain why some areas will have top soil and some will have stone or will they all have a mix of both.

Mr. Sakonchick said the nature of that slope where you have severe erosion you're better off putting stone in – where you have minor erosion you're better off just doing the top soil.

Mr. Sakonchick said one of the disappointments he had was he was really hoping to get a permit so they could take advantage of the growing season to get that stabilized – we apparently lost that it just about over right now.

Mr. Sakonchick said but that being the case then chances are we'd use more stone now because you can stabilize with stone any season of the year.

Ms. Simone said on the plans it shows there are three areas and they're depicted all basically the same size so are there more eroded areas that are maybe smaller than what is shown on the plans.

Mr. Sakonchick stated that was correct. He said you might as well assume the entire slope there should need some tender loving care – it's the intent that this would include fixing it as it requires to be fixed.

Ms. Simone said also on the north side of the driveway – the plans call for silt socks as opposed to silt fence – did he want to maybe talk to the Commission about selecting silt socks opposed to putting in a silt fence in.

Mr. Sakonchick explained when you have existing paved areas – we've not had good success in putting silt fence on it – they have better products today – some call it coconut rolls – there's various patented items that you can lay on pavement that seem to form much of the same function.

Ms. Simone asked if this driveway was paved or gravel.

Mr. Sakonchick said it is gravel now but it will also be paved during the process.

Mr. Sakonchick explained once you get this catch basin in place – he said he always recommends getting the catch basins in place first – he said he wants his water to get into the basin he doesn't want the water to go around the basin so he errors on the side of getting the water in the basin and using something porous like a silt sock which you can put right on top to use. He said it's just a product he finds better for this type of application.

Ms. Simone said and also the curbing that's proposed on the north side of the driveway – in Mr. Sakonchick's opinion will that direct the water then along the driveway to then be deposited into the catch basin.

Mr. Sakonchick said yes – it's a time proven fashion used by this town for all new subdivision road; they find the use of curbs on the edges of roads really confines the water.

Mr. Sakonchick said he's lived on Notch Road for years that was just an edge of pavement – they choice to repave it with curbs along the edge for exactly that reason – it's a time proven method that rarely goes bad.

Mr. Sakonchick explained when you start getting into swales – we did look at the possibility of doing a swale on the side by the road here and we had several problems with that first – it would require more disturbance of the existing ground – that disturbance in some ways undermine the existing foundation of the garage – it would require the removal of more trees that are adjacent to this driveway so in an attempt to minimize the area disturbed we felt going with the curbs works better in this case.

Ms. Simone said on the north side of the driveway are there eroded areas similar to what's shown for the south side of the driveway – does the north side of the driveway also show evidence of erosion.

Mr. Sakonchick said not really – not to an extend worth talking about tonight.

Ms. Simone said so that slope then – the north side you don't believe requires then any TLC like you had described on another area.

Mr. Sakonchick said there are portions of the existing lot owner's land that is adjacent to his garage that is exposed – that probably needs TLC but that has nothing to do with the construction of this driveway or the other work they're doing on this lot.

Ms. Simone thanked Mr. Sakonchick.

Chairman de Jongh said in looking back on the list of things that he had alluded to earlier and in a roundabout way you've (Mr. Sakonchick) has addressed many of them but there are a couple of things that they still need to get some information on.

Chairman de Jongh said detailed evidence or reasoning that the rain garden that he (Mr. Sakonchick) had originally shown on the original map is not needed to mitigate the drainage concerns on what he's asking the Commission to look at now.

Chairman de Jongh said it (information) was presented one way and its being shown a different way without any rational as to why it was good before and why it's not good now.

Mr. Sakonchick said if you look at the 11" by 17" sheets that he submitted – if you look at the last two sheets you are going to see a quite involved calculations which were respective to the rain garden and that is when our charge was to just address the issues on the lot itself –this gentleman is buying this lot – he has to take care of his own world so on the lot he doesn't have access to the pond – he doesn't have access to the pipe – he doesn't have access to the emergency spillway by definition – he's just taking care of his activity on his lot – that is why we proposed a rain garden – he might add we first did the rain garden identical to other rain gardens this Commission has approved twice on similar lots – most recently one on Jarvis Street.

Mr. Sakonchick stated he literally took that rain garden from that site and brought it to this site and stretched it a little bit made it a little bit thinner but kept the same volumes – he said he took the same drainage calculations that the Engineering Department was quite happy with for Jarvis Street and resubmitted the same data – it's an expense report – its takes a lot of time so why not reuse it – submitted the same data to Engineering – what was ok in Jarvis Street was suddenly not ok for this lot right here.

Chairman de Jongh said he's not an engineer so his assumptions or his interpretation of what he's just told the Commission might not be accurate but what's good for one lot doesn't necessarily mean it's going to be good for another lot because of a variety of reasons so just to be able to duplicate something that was approved on Jarvis Street and assume it's going to be ok on this lot is somewhat foolish not saying that you are is just seems the assumption doesn't have any bearing – what logic enters into that process to say well it was good over here so it has to be good over here – conditions aren't exactly the same.

Mr. Sakonchick said what you have to do is look at the soils – look at how much of a lot can be developed – he figured .82 acres of

impervious or something like that – what he did was very conservative assumptions.

Mr. Sakonchick explained there were a lot of similarities with soils in town – in fact they really only classify a, b, c and d on the Soils Conservation Service for the purposes of things like run off and for practical purposes most of the town is just a b – c classification.

Mr. Sakonchick said if you do the actual calculations you wind up getting a pattern of numbers and if you're assumptions are still valid from one to the other they should be done – but now let's stay with that point – he asked for site specific calculations and if you look at the last sheet on the 11" by 17" – he said it's very technical data that he would expect most people would look at as a lot of numbers like reading a tax form.

Mr. Sakonchick said what he is saying is they did custom calculations – very expensive for this lot showing how that could work over here.

Mr. Sakonchick said he protested it (Engineering) – he says I don't want to compare existing to proposed I want you to go back in time so if you go to the second to the last sheet we did new custom expensive calculations for this lot that showed the rain garden would work and then we go to another meeting with the Town Engineer and he says look I've changed my mind instead of going to site specific calculations I want you to include the driveway too – I want to do both – which he (Mr. Sakonchick) wouldn't have minded if started from go with that but now he changed the rules so now if he (Mr. Sakonchick) has to figure the lot if he can get outside of my lot suddenly he could take advantage of the pond and all this attributes to control the storm water which is why he no longer need the rain garden.

Dr. Dimmick said if you no longer need the rain garden and aren't proposing how come sheet E-1 on the upper left hand corner you have all the planting plan for the rain garden.

Mr. Sakonchick said he should pull that information.

Chairman de Jongh said they keep going around and around in this worm hole – this information that we don't have – we don't have revised plans – he said he for one while he thinks some of the issues have been addressed tonight – he thinks there are still some things

that are missing and that he could not speak for the rest of the Commission members.

Mr. Sakonchick said he was happy to accept that analysis – he said he only seeks a reasonable review of this on its merits – he said he's not saying it's perfect – he said he's saying he's ready to change – he's saying he has a client who is not saying save me some money – he's saying what does it take to have this happen so for the past few months he (Mr. Sakonchick) he has gone out of his way in his opinion to try to accommodate and every time getting to a road block – a road block that he doesn't really understand what the issues are.

Mr. Sakonchick stated they've had three in face meetings with the reviewer – seeking information and in each time all we do is get a cryptic answer very similar to the written response over there – it doesn't meet the requirements – he said they are looking for a narrative describing what you're doing – we tried to include that narrative but he still puts on the thing we need a narrative describing what we do so we expand the narrative and he says we still need a narrative describing what you're doing – I give up – I'm to a point now where it does not make sense for me (Mr. Sakonchick) to do another multi-thousand dollar 40 page report this time to submit stuff without accurate feedback on what's specific issues he has where he's taking (Engineering) in trade terms – don't just say it doesn't meet the requirements say I challenge your time of concentration and I challenge your assumption over here and I'd like to see it this way and also you've got to remember this also a single family lot and he's talking for all future applicants – there is no logical reason why an applicant for a single family lot has to go through this expensive gymnastics when other towns have very cryptic requirements – if you create so much paving you got to put in so much storage – they give you a table....

Mr. Norback interrupted Mr. Sakonchick and stated you're doing it again – he said Mr. Sakonchick was straying and trying to use this as a platform – it's not what we're here for. He said your (Mr. Sakonchick's) grip is with the Engineering Department – you've got to straighten it out though but he did not know how.

Chairman de Jongh said he was going to make a suggestion and the suggestion that he's got is the new Town Engineer Walter Gancarz – that we ask him to take a look at this – as a professional engineer having his own firm – he's more than capable of being able to render a decision on this and give us his opinion on this.

Mr. Sakonchick stated he loved it – he'd love it.

Chairman de Jongh said so we can do that and he'd recommend that we table any further decision on this pending the results of a report by Mr. Gancarz and staff can make that recommendation and he can take a look at this particular project – this particular application – identify what if any areas might be missing – convey that to the applicant and let's just move this thing along.

Chairman de Jongh said all this has been tonight is been a situation where you may have some legitimate concerns and some grips about the process – he can tell you that the process is the same as whether it's one lot or multiple lots – we don't change the process for the individual applicants – he said he thought this is the best way to move this forward unless the Commission members have an objection to that.

Ms. Dunne stated she thought that was a great idea.

Mr. Norback said it sounds good to me.

Chairman de Jongh said so then he would suggest they table any further discussion on this pending the results of the report.

Ms. Simone asked Mr. Sakonchick if he wanted put on the record an extension to the mandatory action date.

Mr. Sakonchick stated yes.

Ms. Simone said so right now it's as June 27, 2013 and you have 30 more days that you can play with so do you want to extend it 30 more days to June 27.

Mr. Sakonchick stated he wish to extend it 30 more days.

Chairman de Jongh stated let the record so note (re: 30 day extension).

There were no other questions or comments from Commission members.

Chairman de Jongh said they would postpone any further discussion on this pending the results from the new Town Engineer.

Mr. Sakonchick said just a final word – thank you for allowing him to express his thoughts on this matter.

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| 6. | Permit Application - WITHDRAWN | APP | #2013-008 |
| | Ricci Construction Group, Inc. | DOR | 04/02/13 |
| | Sperry Road/Crestwood Drive Subdivision | MAD | 06/06/13 |

Chairman de Jongh stated this item has been withdrawn.

There is a new application for this item under new business.

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| 7. | Permit Application | APP | #2013-011 |
| | Fitness Xpress | DOR | 05/07/13 |
| | South Main Street Site Plan – Shed | MAD | 7/11/13 |

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, finds the following:

- 1. That the current application is for a permit-after-the-fact for the installation of a shed within a wetland, as defined by the official Town of Cheshire soils map and site plans submitted by previous property owners in 1975 and 1983.**
- 2. That the applicant states that no trees, clearing or grading was conducted in order to accommodate the shed installation.**
- 3. That the Commission has determined the activity to not be significant under the context of the Cheshire Inland Wetlands and Watercourses Commission regulations.**

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2013-011, the permit application of Fitness Xpress for permit-after-the-fact for shed installation as presented on the plans entitled:

**“Renovations to Fitness Xpress
1016-1022 South Main Street Cheshire CT 06410**

**Dated December 11, 2009; Scale 1"=20'
Prepared by Engineers Steinberg Assoc, North Haven, CT."**

The permit is granted on the following conditions and stipulations, 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. Throughout the course of conducting construction activities covered by this permit grant, 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.**
- 4. This permit grant shall expire on June 4, 2017.**

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

X. NEW BUSINESS

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|----------------------------------|------------|------------------|
| 1. Permit Application | APP | #2013-012 |
| Diversified Cook Hill LLC | DOR | 05/07/13 |
| Peck Lane | | |

Subdivision

MAD

7/11/13

Darin Overton, PE of Milone and MacBroom was present on behalf of the applicant Diversified Cook Hill, LLC.

Mr. Overton explained that he had a couple of rendered plans – one is the existing conditions plan – so this outlines – the coloring goes a little bit outside the boundary in some areas just to highlight some of the surrounds but for the most part it’s a rendering of the site itself.

Mr. Overton stated the property is approximately 18 acres and it’s in both an R-40 and R-80 zone – the zone line is essentially split by the old trolley bed that exists through the site here.

Mr. Overton said the trolley is highlighted in the lighter green – in a linear fashion through the middle of the property.

Mr. Overton said north on this plan and up to the right.

Mr. Overton explained that the property is abutted by Quarry Village to the south and the west – this bituminous road here just to the south is actually the emergency access into Quarry Village.

Mr. Overton stated that most of the property is densely wooded.

Mr. Overton said there were some previous improvements – there was an existing home on the property up until last year – in 2012 the home was demolished – it was in poor shape.

Mr. Overton said there were some test pits that were conducted that we’ve shown on the site.

Mr. Overton stated that existing wetlands were delineated by their office and field surveyed – there’s a wetland delineated shown on here – the standard dash and dotted line with a gray shade on the interior portion of that then on the rendering we’ve highlighted in this yellow hatch pattern.

Mr. Overton said there’s one other piece of wetland (up here) that didn’t get the yellow hatch pattern but it’s well away from what they are proposing as part of the development.

Mr. Overton explained that the wetland is somewhat divided – there’s another small piece in the northern part of the property that was divided when the old trolley bed was constructed.

Mr. Overton said there are some pipes that go across the trolley bed that connect – he said there’s one that connects a small pocket wetland to the larger wetland corridor and then there’s an isolated pocket that at one time had a pipe that existed there – we believe it was removed at some point so it’s just a small isolated pocket now.

Mr. Overton said the plan shows a rendering of the proposed subdivision.

Mr. Overton stated what’s being proposed is a 3 lot subdivision – he showed a blow up of the plan.

Mr. Overton said because the development is taking place down in the south western portion of the property the 3 lots are divided in that corner area just south of the wetlands.

Mr. Overton said they’re proposing a 3 lot subdivision – they will all have individual driveways to serve the lots – each of the lots are to be served by public water and a proposed septic system.

Mr. Overton explained that the septic testing was now and the systems have been properly sized for the homes.

Mr. Overton said they’ve also prepared storm water management for the property to attenuate the development.

Mr. Overton said rain gardens are proposed and infiltration structures for each of the house lots – there was a report with the storm water management measures – that was provided to the Engineering Department and was submitted with the application.

Mr. Overton said in the design plans the Commission has there is an erosion and sedimentation control plan – essentially it’s a relatively small development and the perimeter controls that we show on there – since these homes are likely to be developed at varying times – not likely all three at once – there are perimeter controls designed for each of them with silt fence and hay bales – and he believed a double row of protection up against the wetlands.

Mr. Overton said getting down to the bottom line here – the wetland impacts – there are no direct wetland impacts associated with the

development of the three lots – there is some activity in the regulated upland review area – it’s all related to two of the septic systems.

Mr. Overton stated that the total area of upland review area disturbance is 1,180 SF and its highlighted in the darker hatch on the sheet.

Mr. Overton said the lot with frontage out on Peck Lane – there’s a little corner of fill that we anticipate for the leeching field that’s going to go into the upland review area – all are frontage lots but this one does sit behind the other kind of like a flag lot – there’s also an area of fill that’s anticipated to accommodate that leeching field in the upland review area.

Mr. Overton said much of this you can see from the existing conditions plan was cleared yard area associated with the previous home – it’s only the lot further in the back that requires really much clearing of any of the woodland area so there’s very little change in the tree line proposed.

Mr. Overton said that was all he had at this point – and if there were any questions he would be happy to address them.

Dr. Dimmick said he thought the Town Engineer pointed out that this was actually the rail line and not the trolley line – the trolley line was further south – this was one of four railroads that crossed Cheshire – the trolley line was further south crossing so people called it a trolley line but it wasn’t a trolley line according to Town Engineer’s office.

Dr. Dimmick said secondly this was the old Subakus Dairy Farm – he said Eva Subakus said to him many years ago about her father going through a tunnel on their property so he didn’t know if that’s something Mr. Overton should ought to take a look for – something about a tunnel that went down to where the barite mines were – the barite mines on the east side of Peck Lane – she claimed there was a tunnel from there property that went down to where the barite mines were so that’s something Mr. Overton might want to check.

Mr. Overton stated ok.

Dr. Dimmick said this was something told to him 30 years ago but he wanted it checked.

Ms. Simone said there was enough information submitted to recognize the existence of this application.

Dr. Dimmick said it has been the custom on ones like this to take a quick look to see if there's anything –there's not anything immediately obvious that there's something significant about this and there's nothing immediately obvious there isn't but with a fairly large wetland immediately adjacent to the proposed development.

Chairman de Jongh explained that Engineering received calculations on Monday so they really haven't had a chance to review everything yet.

A fieldtrip was set on Saturday, June 8, 2013 at 8:00 a.m.

Chairman de Jongh said they'd defer any further consideration on this item pending the results of the field trip and receipt of engineering comments and then they'd take this up again at the next meeting.

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| 2. | Permit Application | APP | #2013-013 |
| | Gil Mor | DOR | 05/21/13 |
| | 817 Wallingford Road Shed | MAD | 7/25/13 |

Paul Vercelli with Fedora and Sons was present on behalf of the homeowners because they could not be here tonight.

Mr. Vercelli said they were doing a bedroom extension on his house (property owner) when this shed issue came to light – when they pulled the permit.

Mr. Vercelli said essentially what he has is – in the wetland area he discovered that when he purchased the house he has a small 7' by 7' wood shed that's within the wetland area and about three years ago Mr. Mor has some company come in and drop a 14' by 10' shed again inside the wetland area and what he's hoping to do – he filed an application and we're hoping he can keep them without moving them.

Mr. Vercelli said he's been dealing with Ms. Simone on this and she's been out to the site – they have the paper work and dimensions on everything.

Ms. Simone stated that the Commission members received copies of the application as well as pictures that were taken the day of her visit.

Dr. Dimmick said his main concern with this is that this area is directly tributary to the Broad Brook Reservoir and the wood shed isn't the problem in that sense but what's stored in the other shed could be an issue – if he's asking for a permit after the fact we'd have to look at is to make sure what is or is not being keep in that other shed.

Mr. Vercelli said he was assuming Dr. Dimmick meant some flammable materials.

Dr. Dimmick said gasoline, lawn chemicals – there's a wide panoply – he said he thinks what's in his own shed he certainly wouldn't want in a tributary to a reservoir.

Ms. Simone asked if Mr. Vercelli had any idea of what was in the shed.

Mr. Vercelli said no he didn't – he said he knew they had like four or five sheds on their property and he knew there was a larger one next to their driveway where that they keep their lawn mower equipment – so quite honestly he didn't know but he certainly can find out of the Commission.

Dr. Dimmick said to him that makes a difference in terms of significance of the whole thing.

Mr. Vercelli said and if it would help move things along (to approve the application) – he said he could make sure that anything toxic or anything that might be hazardous towards the wetlands is removed.

Dr. Dimmick said per state regulation there has to be a 14 day delay before something can be acted on – but what's in the shed is a matter of concern.

Chairman de Jongh asked staff about the list available that lists what some of those items might be – items of concern.

Ms. Simone said DEP has a listing of things that have concern about storing in and around wetlands and something they identify that you could put them there provided that they have secondary containment.

Chairman de Jongh said so providing that kind of list to the applicant would be helpful in terms of moving it away from the areas that we

have concern – letting the homeowner know that those items can't be stored in that shed would be helpful and would satisfy Dr. Dimmick's concerns.

Dr. Dimmick said he hadn't been out on the site but he certainly did get a blow up air photo which he looked at and the area although it is technically wetlands is not exactly prime swamp land.

Mr. Vercelli said he (the homeowner) said it was all groomed land – it was just a lack of knowing where the boundaries are is why they placed (the shed) there – he said it's on cinder blocks so if they ever had to it could be easily removed.

Chairman de Jongh said he thought conveying that information to the homeowner and having that as part of the approval – if that's the Commission's decision we could include that in the stipulations to make sure that stuff is not contained in that shed in that area.

Chairman de Jongh said as Dr. Dimmick pointed out we need to wait two weeks by state statutes before the Commission can render a decision on this – in the meantime we can get that information to the homeowner and probably act on this at the next meeting if that's the Commission's request.

Chairman de Jongh said further consideration on this was pending the conveyance of that information and staff recommendation.

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| 3. | Permit Application | APP | #2007-030A |
| | Cheshire Route 10, LLC | DOR | 05/21/13 |
| | Highland Ave, Dickerman Rd. and I-691 Modification | MAD | 7/25/13 |

Anthony Fazzone, the attorney representing the applicant was present.

Attorney Fazzone explained that this permit was actually approved in January 2008 and that's he believed why it has a number of 2007-030.

Attorney Fazzone explained that the application involves a mixed use development – retail – residential – a potential hotel site – exercise facility.

Attorney Fazzone said the land is north of 691 towards Southington and on the west side of Route 10.

Attorney Fazzone said here this evening with him from Cheshire Route 10 LLC – the applicant is Lou Masiello and Jeff Curley and from Milone and MacBroom Darin Overton, PE and William Root is the soil scientist.

Attorney Fazzone said he would like to go through just a few technical details before they get started in terms of the record.

Attorney Fazzone said he would like to say that they do concur – he said he had a chance to read Ms. Simone’s memo – staff memo and we do concur that based on the state statute that the permit itself has been extended through 2017.

Attorney Fazzone said he did have a letter – he said he doesn’t know if the Commission remembers back in 2010 when the first extension was granted by the legislator – they Commission sent out letters to all of the permit holders that applied to that period of time and in this particular case the expiration date on the original statutory extension was through January 2, 2014.

Attorney Fazzone said the reason why he brings that up and would introduce that into the record is that the new statutory extension or the further statutory extension says that any application that was still valid at the time at the 9 years was put into effect.

Attorney Fazzone said so that’s one of his exhibits.

Attorney Fazzone said the next is a letter – certified letter which the Commission did receive through the mail – a copy to the Regional Water Authority because there’s a small parcel of aquifer protection area on the parcel of land adjacent to Route 10 and just opposite the area where the exit on 691 heading west off into Cheshire – there’s a small parcel of aquifer protection area.

Attorney Fazzone said they’ve notified the Regional Water Authority – there’s a copy of the return receipt that will be attached to the letter – we’ve notified the Southington Water Pollution Control Authority – they are the Southington Aquifer Protection Agency – again the certified return receipt is attached.

Attorney Fazzone stated they notified the Town of Southington through the town clerk with the return receipt and Southington Planning and Zoning Commission – they all received certified letters and a complete set of the plans.

Attorney Fazzone said the Conservation Commission for the Town of Southington who is their Inland Wetlands and Watercourse Commission received a certified letter – receipts are attached.

Attorney Fazzone said finally they are required to notify the Department of Public Health – that’s done online - he submitted a copy of the actual form and that was filed in the Planning Office and a copy was provided to the Wetlands Commission and Planning and Zoning Commission.

Attorney Fazzone said again he would like to state that the applicant does concur with the staff memo that the current application is in effect until January 2017.

Attorney Fazzone said that is basically all the technical stuff that he wanted to go through and with that he’d put these exhibits into the record and will have Lou Masiello come up and speak.

Mr. Masiello addressed the Commission.

Mr. Masiello stated he was with WS Development. He stated he was very, very pleased to be back in Cheshire.

Mr. Masiello explained he knew many of the Commission members were here when they came through several years ago with their original proposal – he said there are a few new faces and he thought it might make sense for him to very briefly introduce his company to the newer members – he said he knew that would be somewhat redundant to the members who have seen the presentations prior and have some familiarity with his firm.

Mr. Masiello said he would tell a little bit about his company and try to walk through from a high level the major differences – the most significant differences between the original application and the plans you see in front of you.

Mr. Masiello said Darin Overton of Milone and MacBroom will walk through the more detailed nuances as it relates to the wetlands interest and storm water interest – he said he would try to give a little bit of an overview if you will.

Mr. Masiello said WS Development is a privately held firm based in Chestnut Hill, MA – they are more commonly known as a retail developer but they are really the development of a property

management and property ownership firm that specializes in shopping center real estate.

Mr. Masiello explained that their portfolio of shopping centers is primarily in New England – he said last time he was in front of this Commission it was exclusively in New England – in the years since they’ve grown a fair amount outside New England – but we’ve not left our core competency of the shopping center industry.

Mr. Masiello stated they have deliberately chosen to focus our efforts on the retail asset class – he said they believe very strongly in it – we believe very strongly in our own abilities in that asset class and have remained very, very cautious about distracting our focus from that.

Mr. Masiello said with this particular application we’ve become aware that this property has other potential value as a development site for other types of uses and so this project was master planned with a shopping center component as sort of the leading edge of a mixed use environment that went through a tremendous amount of collaboration with the public sector – both this Commission and the Planning and Zoning Commission and also other local boards and state holders to develop something in concert with the community that was – in his opinion very well thought out as it relates to the interests of the environment along the Ten Mile River but also the other important public interests that are reviewed by the other commissions and other agencies in town.

Mr. Masiello said that process unfolded over the course of more than a year so it ended up being several years with a development of a design vision and then a detailed engineering set of plans that followed from it for this roughly 110 odd acre site on the north side of town.

Mr. Masiello said just to orientate people – he showed on the plans the location of the subject parcel – 691 and Route 10 – the site is bisected by the Ten Mile River.

Mr. Masiello explained the project went through an extensive review to determine the appropriate relationship of the project to the adjacent roadways and to the onsite resource areas and important ecological zones if you will around that river.

Mr. Masiello said at the completion of that they had developed a plan to do essentially a retail shopping center – retail and other affiliated uses – restaurants – perhaps grocery along the south eastern half of

the site – the land between the river and the highway and on the north western – roughly half of the site we had proposed a residential town home neighborhood of about 140 units and health club and hotel and a connectivity between the two – he said he would show the Commission a map of the current plan in a minute.

Mr. Masiello said that model – that overall vision essentially remains the vision of what we want to develop today.

Mr. Masiello stated what has changed since then is really two things – one is that they've reach agreement with several of our neighbors – land owners that surround our property – agreements to purchase additional land and those parcels are shown on the map and they are outlines.

Mr. Masiello said there are two owners – he showed on the map the location of the parcels – he said two parcels are owned by one party and the one at the one of the north corner at the frontage is owned by another party so there are two different recently – new acquisition agreements they've come to with their neighbors to absorb those into the property and into the development.

Mr. Masiello said they (the new acquisitions) represent for us two things – one is obviously a little more land with which to develop which is important but they also represent the ability to develop a more organized cohesive frontage to the property and a more organized approach to Route 10 – a more organized and more attractive vista along Route 10 by the connection of those properties.

Mr. Masiello said the first development change if you will from the plans is the incorporation of those two parcels of land – they are probably more meaningful to the Planning and Zoning Commission than to this Commission but they are relevant because they are part of the development – the northerly one does reach the Ten Mile River and the resource areas around the river – the other one along the center of the frontage is really somewhat remote from the jurisdictional areas but it will be incorporated into the property so the drainage and storm water from that parcel will be relevant...

Tape change.

Mr. Masiello said the reason that the reason you haven't seen us since you last saw us is related to the economy – it's a direct result of the economy and we and just about everybody in his industry experienced a slowdown in demand from the tenants who they serve

from the retail tenants to the restaurants – the business that would participate in a development like this that would populate this would be a landlord-tenant arrangement – we would lease this space and the community of prospective tenants for quite a while now has been restrained by economic circumstances from significant new growth so that has caused like it has in many industries people in his shoes to be patient and to continue to plan and continue to work but to actually deploy a development of this size and the economic reality we found ourselves in just wasn't a reality in 2009.

Mr. Masiello said they've received a meaning resurgence in demand from the population of businesses that would occupy a facility like this and so that has taken the form of much, much more aggressive efforts by the retail community and the other affiliated businesses, restaurants, entertainment - what have you – a much, much more aggressive effort in that industry to find new opportunities for growth to locate new stores and to expand once again.

Mr. Masiello said as that has occurred the type of store has changed as it probably has in many people's industry over the intervening years – and what they are experiencing for demand on this facility has been much more tailored towards designer and fashion branded apparel in an outlet format than it has to a more diverse varied population of stores – he said they found a tremendously amount of variety in the offerings of these stores but in a format where they merchandise or the branding company wants to operate the actual business.

Mr. Masiello said that has led to a modest change if you will in the layout of the facility because these types of businesses are much more dependent on the cross shopping with their neighbors then they are on their own individualized approach to the customer – they like to operate in centers with other similar complementary businesses and what that means is that they want the pedestrian experience to be paramount over the automobile experience.

Mr. Masiello said they want the shopper to engage with the property as a whole for a longer period of then the more transient nature of a traditional shopping center where a lot of the trip are individualized to a store – these stores like being with their neighbors in this collection and that's driven us to a change he'll describe on this plan.

Mr. Masiello showed on the plan an arrangement through the center of the site is a road available to automobiles with sidewalks on either side for pedestrians to shop.

Mr. Masiello said the remaining two perpendicular avenues through this plaza would be exclusive to pedestrians – that’s different then the last plan that they brought in – the last plan that they brought before the Commission those perpendicular approaches – those avenues were like the center one were mixed pedestrian and automobile zones – this plan would involve continued access and connectivity from an automobile perspective through the site and over the Ten Mile River to the other rear portion of the site but it would not involve that intermingling in a perpendicular direction with automobiles and pedestrians.

Mr. Masiello explained so this has driven a layout change where they essentially have the same overall envelop of building area except for the land parcels they’ve added – he said they have a very similar envelop of overall development in the way of parking and supportive infrastructure but the nature of the shopping development itself is much more organized around the pedestrian activity then it is around the automobile activity – we think that’s a good thing – it’s clearly a good thing for their merchants for the merchants that would want to come here but it has driven a redesign of the periphery because this was all designed in one sort of singular holistic fashion by the engineering group at Milone and MacBroom.

Mr. Masiello said so what that’s meant is that the edges of the development along the Ten Mile River have modified.

Mr. Masiello explained that Darin Overton is going to walk though that with the Commission a little bit in detail and he (Mr. Masiello) would be available for questions as well – he said he thought it would be helpful to hear from Mr. Overton and grouped any questions for afterwards.

Mr. Masiello said he thought what he wanted to leave the Commission with before Mr. Overton comes up is that we have used the original permitting as a guiding philosophy for how to ask Mr. Overton and his organization to design the new plans – he has been almost handcuffed – we have asked him to use that overall permit raceme – that bundle of documents all the reporting, all the layout, all the engineering that was done to steer his efforts today – we’re tired to make every effort to be confined by that but as he mentioned some things will change – there’s more land hence there is more

storm water – there will be similar but larger storm water systems; the edge – the periphery – the exact cultivation of buildings is different so that edge will be different but he’s tried to follow the appropriate setback to the river where we had guidance on that before in the original permit and he’s been guided by that so he thought you will hear a lot of the same type of facets resonant then you heard several years ago because he (Mr. Overton) has been very, very cognizant and careful to use that original approval as his road map.

Mr. Masiello asked that Mr. Overton to come up and walk the Commission through some of the details – he (Mr. Masiello) would be happy to answer any questions.

Darin Overton from Milone and MacBroom addressed the Commission.

Mr. Overton explained that this site – as you can see by the Ten Mile River is bisected into two kind of separate development areas and they’ve always looked at it as two different types of areas further into the design of this.

Mr. Overton said while there are a number of changes on the interior – those two development areas – the west side hasn’t changed at all – it’s the same layout as permitted previously – on the east side while internally buildings have shifted around and there’s been a change of road configuration and things like that – along the perimeter and that development envelop there really isn’t much that’s changed – as Lou had mentioned the perimeter of that is essentially stayed the same and we’ve kind of moved things around on the interior with the exception of the addition of the three parcels that were noted earlier.

Mr. Overton said as was mentioned previously some of the Commission members have seen this before in 2007 some haven’t – he said he’d go back and go through a little bit of the existing conditions for those of you who might not entirely familiar with the property.

Mr. Overton showed an existing conditions aerial of the property and as was mentioned previously we’ve outlined in lighter white shade the two parcels – one of them was a doctor’s office and the other one is a residence and then on the northern part is a former residence that is also being considered as part of the development now so the overall boundary now is the heavier white line.

Mr. Overton explained that on all these plans they've tried to keep the same orientation – north is straight up – the property is basically bordered east and west by Dickerman Road on the west side and Route 10 on the east – its bordered to the south entirely by the 691 corridor and there's some mixed uses to the north – mostly dominated by the Rivercrest Condominium Development – there are some commercial uses in the western corner and also some other residential and mixed commercial uses over along Route 10.

Mr. Overton said they've highlighted the Ten Mile River corridor – they obvious blue is the actual river as its outlined from the aerial – the yellow area that's highlighted here are the wetlands that were field delineated by Milone and MacBroom – there's been one minor change there with the addition of the parcel along the northern property as mentioned before that goes all the way back to the Ten Mile River so there's a minor extension of the wetland boundary which is essentially the top of bank of the Ten Mile River along the back side of that property so that's about the only change under existing conditions for the wetlands but he'll have Bill Root from his office come up and go over this – he's been out to the site again and he submitted an update letter – he'll go over that once he's (Mr. Overton) finished with this.

Mr. Overton said he wanted to go over the overall development program and how they dealt with some of the utilities on the site.

Mr. Overton reviewed a plan showing the building configuration on both sides and it highlights some of the storm water management areas that we've looked at – it also highlights some of the features – we've always considered over what's considered the great fill we have the stone arch culvert that conveys the Ten Mile River in a north east fashion through the site under what was a portion of the old Farmington River Canal – portions of that still exist through the site and there's a heritage monument and a pedestrian walkway that are intended to keep the history of the Farmington River Canal alive.

Mr. Overton said there is also a proposed pedestrian and vehicle bridge – it's a timber bridge that's proposed. He explained that because they have a large flood way that we need to span – that's about a 200' long bridge to provide a vehicle and pedestrian connection between both the western and the eastern portion of the property – the location of that bridge and the design of that bridge none of that has changed from what was permitted previously.

Mr. Overton said one of the things that he wanted to go back to – he said on the plan they highlighted a couple of important features – there is a flood plain associated with the Ten Mile River – that’s highlighted in the pink here which goes out beyond the yellow wetland line and then there’s also a black dash line – all these lines are represented on the plans that were submitted as part of the application but there’s a floodway that’s also associated with that so one of the key considerations is the design of the bridge was spanning that floodway and that’s why they have a length that is beginning proposed.

Mr. Overton said as far as the sanitary sewer this was designed with a pump station – when they went to the WPCA they also had them consider a gravity alternative as well – what we are showing on our plans now is the basically the primary design that was considered previously with a pump station to serve again both sides of the river – both portions of development that would be pumped out to the Route 10 corridor and connected to the existing sanitary – its proposed to be served by public water - they’ve designed storm water management on this – the approach that we’ve continued with same as what was reviewed extensively as part of the prior application.

Mr. Overton said they do have with the addition of a the couple of properties – there is an increase of impervious surface – they have about 4.2 acres of impervious that’s increased for this new development plan so these areas are highlighted in blue – those are underground either stormwater infiltration or detention areas – a couple of those have been enlarged in order a accommodate storm water attenuation for that increase in the imperious area – the approach before was they looked at the buildings as the roof run off being clean run off – they allowed those to go into underground infiltration the soils on site – they did extensive testing with test pits and borings out there.

Mr. Overton said they found that there were 50’ of sand and gravel before they even approached anywhere near a water table which is associated kind of with the Ten Mile River corridor so they promoted infiltration for the clean roof leader run off and then for the run off for the parking lots they had some pretreatment proposed before that went into the underground detention – there was an overflow system that was designed for the 100 year storm so safely convey that out of the development area and they had on the east side related with the retail development two proposed storm water discharges – there highlighted in green on this plan.

Mr. Overton said there was an overflow system designed for the 100 year storm and then these outlets were designed to provide some additional water quality under low flows – the low flows would run through a small kind of bio-retention area and grass swale and provide some additional polishing and then there was a very well armored and controlled overflow where that would come through and then just spill straight down into the Ten Mile River – he said they designed that to be able to handle a 100 year storm without having any erosion issues.

Mr. Overton said on the other side (shown on the plans) there was also kind of a stilling basin with a rip rap overflow again to control the runoff from the development.

Mr. Overton said he'd just mention briefly what was proposed on the west side – we had another storm water management basin and we also had a flood plain compensation basin which is the larger area highlighted in green.

Mr. Overton said as part of the development –they saw on the existing conditions plan there was a flood plain – they do propose to fill some of that flood plain area and its essentially the same amount of flood plain filling as previous and we have the same compensation area proposed on the western side of the property.

Mr. Overton explained there was a landscape plan that was submitted as part of the application –some of it involves mitigation plantings in the area down by the river.

Mr. Overton said there were some plans that showed highlighting/blow ups of all four of the storm water management discharge areas – there's plantings associated with those – different seed mixes were utilized for some additional vegetative filtering.

Mr. Overton said in the area between the great fill and the proposed vehicular bridge – timber bridge – there is an area defined as the deep pool and it's really an attractive part of the property as it exists right now- there's a deep scour pool just on the downstream side of the stone arch culvert – you can see the stone arch and the great fill above it and there's some natural kind of flood plain area where some alluvial soil collects and there's kind of almost like a little bit of a rocky type beach area there – what they wanted to do is allow pedestrian access down to that area and promote that as nice feature of the property; previously there were some restaurants that were

considered as overlooks on there and that's still being considered as part of the design.

Mr. Overton stated one thing that's changed here is that we've gone to a little more of a hardscape design in this area and this is really the majority of the change that's occurred as far as what this Commission would consider in the regulated area – so they've prepared a regulated area map which quantified the different types of impacts within the wetlands and the regulated area – the 50' upland review area and part of this is also there is some deeply eroded – he said he thought some of the Commission members might remember from the field walks – there's some areas that have been previously disturbed by ATV activity and other activity out there where large disturbed areas during heavy rain falls as the water would collect in rutted areas and erode down through here so part of the impact associated with development here is meant to stabilize some of those areas and restore some of those areas with vegetation so they looked at not only impact areas as part of the development but did consider part of this as mitigation as well.

Mr. Overton said the one change they'll see is really with the upland review area impact associated with the improvements around the deep pool and the change is really a shifting from what was soft trail and soft scape things to a more of a hard scape path down here and the reason they wanted to do that is they wanted to provided handicap access down to a viewing area so they have a series of ramps from both sides to get down to a viewing area and then a portion of a trail that's intended to be some mitigation area – placement of boulders and another secondary viewing area – this would be a soft trail still remained a soft trail down to the deep pool.

Mr. Overton said so really the changes in the area that this Commission focuses on and regulated is really a shift from some of the more soft scape that was done before to a little bit more hard scape in creating that handicap access ramp system down there to the viewing area.

Mr. Overton said they did include a sediment and erosion control plans – the overall sediment and erosion control plan again is the same protocol as previous – what they've designed for the lower part portion of the fill to be placed down along the river essentially creating a berm to stop any sediment laden run off from running down into the Ten Mile River or the wetlands associated with it.

Mr. Overton said there were two large sediment basins proposed and there were some slight adjustments in the configuration of those controls – the diversion berms and swales because of the change in the layout but essentially the design premise and approach with the erosion controls was the same as previous.

Mr. Overton said the quantifications of the changes in the wetland impacts – we have about 400 SF of direct wetland impact that has changed so it's gone from 4,200 SF to 2,600 SF – the mitigation in the wetland area itself is the same as before.

Mr. Overton said he mentioned before that shift from the soft scape to hard scape to create the ramps is about a 10,000 SF shift in what they had shown before as mitigation area versus some impact area in the upland review – 50' upland review area.

Mr. Overton said at this point he'd like to have Bill Root come up and go over his recent field walk out there to verify existing conditions and then talk a little bit about the wetland corridor and some of the impacts.

William Root, the soils scientist and wetland ecologist with Milone and MacBroom who worked on the project addressed the Commission.

Mr. Root said he remembered the six nights of public hearings they had back in 2006-07.

Mr. Root said as a part of the application to extend and renew and modify the permit Darin had asked him to go out and take a look at the existing conditions and also to verify the conditions out there now and what needed to be up dated for the renewal and extension.

Mr. Root explained part of the work he had done on the project and presented at the public hearings was pretty much the ecology side of things so the mapping of the wetlands and watercourses – the evaluation of the wetlands and watercourses – all the wildlife studies that we did – the botanical surveys – the invasive species studies – the wetland impact assessments – the mitigation plans – the planting schemes – the turtle habitat – the fishery habitat – those were the things that he worked on and presented so we wanted to take a look at those again and make sure they were still valid and see if there were any changes that they needed to suggest at this time.

Mr. Root said the first change Darin and Lou has already mentioned is the addition of some properties so they had some additional landscape to take a look at and so they took a look at those three properties for presence of wetlands and watercourses and there were not any except for as Darin explained the northern most property extends down to the river and they had to put another flag or two from their prior terminus to the new terminus so but really there weren't any wetlands associated with it – it was just the high water mark of the river so you can always take a pencil and just draw along the topo line and you would pick up the extension of the wetland in that area.

Mr. Root said for people who haven't been out there and as Darin just explained the Ten Mile River highlighted in blue flowing northward up to the Quinnipiac River which it joins not too far off this map.

Mr. Root said the wetland line is shown along with the upland review area is in this kind of willow green setting.

Mr. Root said the river itself has kind of a very broad flood plain forest associated with it down in the southern part of the site that extends under 691 and extends quite a ways farther to the south – a very broad Red Maple, Sycamore, American Elms, Skunk cabbage, braided channels – very nice wildlife habitat and very undisturbed – it goes all the way back down to West Johnson and extends farther to the south.

Mr. Root said as Darin pointed out there's the old historic canal and stone arch for people who haven't seen it – they should try to go out and take a look – it's a pretty amazing structure and then just beyond that there's a deep excavated pool – they presented aerials going back into the 50's but you can see this deep pool going way back a long ways but part of it is the scour holes – and part of it may have been a borrow area to put the great fill up over the arch.

Mr. Root said there's a small intermittent watercourse tributary coming from the direction of Southington which joins the Ten Mile and then it flows through another constriction down by Route 322 so these series of constrictions – the great fill here and the stone arch and the one up on 322 often back flood waters up from the Quinnipiac River so there are flood control issue which Darin talked a little bit about and were one of the design determinants and one of the problem areas when there was some malfunction of the stone

arch and the bypass channel was created so these are all factors that got involved with the design of the project.

Mr. Root said from the work he had done on there – the wildlife studies and things like that and he has been out there recently and not much has changed on the site – there haven't been any land use changes – there's still very extensive areas of Autumn Olive – some Oak forest up along 691 – and a very nice White Pine stand that there but most of the site is very, very disturbed – the old aerials they showed it as originally farm land and then some of the biggest disturbances took place when 691 was constructed and a lot of this was storage area for material and piles of fill and things like that.

Mr. Root stated that the site's very disturbed – there are large sand backs out there – there's a lot of ATV traffic that was one of the things they tried hard to correct – he said he was a little bit disappointed to see the ATV traffic in and around the great pool is even worse than it was last time around out there so there are some pretty broad roads and forges through the river – he said it's a pretty exciting place to go do that kind of stuff if that's what you enjoy – but it does have kind of a bad effect on the river.

Mr. Root said one of the things they were worried about was that they did find some fresh water mussels down along the northern part of the river and Julia Victoria participated in some of the designed determinants – he said one of the problems with any project like this is sedimentation into the river and so Darin spent a lot of time making sure the erosion controls both the temporary ones during construction and the permanent ones thereafter would be protective on that stretch of the river but one of the stresses to that is all of the ATV traffic and these sandy soils that takes place right along the deep pool so a lot of the restoration effort in and around that area that Darin was just describing – some of the replanting schemes – the seed mixes – some of the armoring – some of the terracing that's going on – fishery habitat that's going to be installed – a lot of these things had to do with keeping erosion products – sedimentation from getting into the river because we did have some sensitive areas.

Mr. Root said another sensitive area that came up during the hearings was there are Wood Turtles – there were some Natural Diversity Database hits on this site – Wood Turtles were found.

Mr. Root said one of the interesting parts of the project was designing a turtle habitat – a turtle nesting habitat and that are part of the flood plain compensation which is in the sand area – some of

these areas will be crafted as turtle nesting habitats something which is possible there now but is not quite as formal as we'll make it.

Mr. Root said going through the permit conditions – there were requirements for water quality monitoring for wildlife monitoring – things like that and none of those really seemed to need any changes at our end and we were not requesting to change any of those things.

Mr. Root said from an ecological prospective not much has changed.

Mr. Root said on the site there are a couple of additional wetland flags.

Mr. Root said from a constructability and impact assessment view point not much has really changed. The areas are protected along the river and the upland review area is still being protected.

Mr. Root said the incursions occur in the same place where the bridge is going across – the bridge is going across in the same area of impacts just still in that sort of dump area – there's an old dump bottles and cans and things like that so the wetland impacts are still the same.

Mr. Root explained that the impacts associated around the great pool are still the same but a lot of those are mitigation efforts to try and clean up the area.

Mr. Root said from a wildlife prospective he didn't think the application was any different than it was in which the Commission permitted previously and the mitigation efforts to protect wildlife and to monitor wildlife are still the same as the original permit was issued.

Mr. Root said he'd stop there and they were all here to answer questions and to clear up things about changes that they may have or if newer members have things they want to get straightened out.

Dr. Dimmick said for the record he thought the biggest change in this modification of course is the additional area – the additional impervious surface and they have modified the water interception as a result of it.

Dr. Dimmick said he has gone through their revised calculations – but he didn't check their math to see if that was correct but he did go through the revised calculations – the procedure is the same as it was the first time – they seem to have assuming the math is right accommodated the additional run off in the infiltration there and he for one had no particular problem those changes because the impact as far as the wetlands are concerned from that increased impervious seems to be no different than it was to begin with.

Chairman de Jongh asked as they were talking about the area around the deep pool – and the hard landscape as opposed to the soft landscape – the question that came to his mind as you maintain this over time with whatever is there any concern or any thought given to how that would be maintained without creating a chemical impact on the Ten Mile River – it looks lovely but obviously it's not going to stay that way without some maintenance.

Mr. Overton said they had a little bit more of a length of a soft trail in the prior application – he explained the main reason for a lot of the mitigation that was being done here was to stop the erosion that's occurring out there now whether you do that with vegetation or other type of soft scape things or hard scape features you are still achieving the same goal – he said he just had a hard time calling the hard scape still part of the mitigation – it's really serving the same purpose because its stopping the erosion and it's a means of providing access down there but he characterizes it a bit differently in this application because it was more of hard scape type feature.

Mr. Overton said as far as a pollutant load down towards the river – he didn't believe the hard scape adds any pollutant load – there aren't going to be any vehicles going down there which is the common source of pollutants on pavement – the applicant had committed to alternative sources of salt use for ice control previously so he believed those were lesser impactful then using standard road salt – he said that was the only thing he could see that would be applied there in order to provide for safe access if someone wanted to go down there in the winter time.

Chairman de Jongh said he guessed what he was asking for was a reiteration of the commitments that were made in the original application relative to how that would be maintained for the benefits of the Commission members who were not privy to the original application – he said if they could restate that for the record – if Mr. Overton was able to do that – that was really what he was looking for.

Mr. Overton stated that yes – the same level of storm water management is proposed – storm water maintenance plan that was provided previously is the same as before and the applicant is still willing to commit to those same requirements in the prior permit regarding alternative salt uses – the storm water sampling, etc. that was committed to before is intended to be the same this time.

Chairman de Jongh said they probably ought to take a field walk out there.

Dr. Dimmick agreed – to familiarize the others with it. He said the only other thing is in terms of these changes for the hard scape versus soft scape he thinks staff does need to be able to look at those changes and give the Commission a short written report in terms of whether it seems to be that there's any increase adverse impact as a result of it or not other than that he'd love to be able to do the modifications and issue a modified permit without having to go through that public hearing process again – if there's nothing that has changed substantially since the last one he's love to not have to go through the public hearing process.

Chairman de Jongh said he understands from what he has read that actually there's about a 40,000 SF reduction in the overall foot print – is that an accurate statement.

Mr. Masiello stated there is a reduction in the overall building foot print – 40,000 SF sounds a little bit higher than what he would have said – it's getting smaller and not about that big – it's about 4,000 to 5,000 SF smaller.

Mr. Masiello said there is an increase in the overall impervious surface because of the land limits have gotten bigger but the enclosed building being proposed to be built on that property is smaller.

Ms. Dunne said her only concern would be and she agrees with what he said but is there public interest exception or is that not applicable here since it doesn't seem to be a major modification.

Chairman de Jongh said it's his personal feeling is that when there's a significant change to it then yes he could see why they'd need to have that and he's guessing the only public interest would be the fact that it's now an outlet versus the old retail approach from before other than that the work being down on site as far as this

Commission's review is concerned – he didn't see a significant change – for him personally.

Chairman de Jongh said he thought Dr. Dimmick has concurred with that so to that end he didn't know whether or not it would be necessary to have a public hearing just to hear what was being presented tonight.

Dr. Dimmick said he did think they do have to have a chance for the new members to take a look at it and make this determination next time in which it will also give 14 days if any public want to petition for a public hearing we give that gap for it before we declare significance on it.

Dr. Dimmick said he just wanted to make it clear his leaning right now is that he does think they need it – a public hearing – but as you say public interest – it depends on what – he sees people out there some of whom were here to find out what's going on.

Chairman de Jongh said there's a public interest from a Planning and Zoning end of it.

Dr. Dimmick said from Planning and Zoning there's very definitely going to be interest – but in terms of our jurisdiction he didn't see a change in our factors of it.

Attorney Fazzone said for the record in conjunction with what they are talking about he was remiss in not asking that the record of the prior permit – or the permit they are seeking to be modify – that that record be made part of this proceeding and all the findings.

Attorney Fazzone said and just too even clarify a little bit about Darin committed to – this is a modification and we expect that at least all of the conditions of the existing permit would continue on which included some of the things that you mentioned.

Chairman de Jongh said he would suggest then that they postpone any further consideration on this pending results of a field trip and then staff's commentary regarding what Dr. Dimmick was asking for.

Chairman de Jongh said the next thing would be just setting a date and time for a field trip. He said the area down near the big pool is the biggest that he thought would be some concern – he agreed with Dr. Dimmick that it was a big parcel.

A field trip was set for Saturday, June 15 at 8:00 a.m. at Dickerman Road.

Chairman de Jongh said he knew there was an emergency repair work done in that area when we had that sudden rain fall – is there any residual from that – is everything all set and we're still good with that.

Attorney Fazzone said he thought there hasn't been any further erosion – he said he hasn't been in there.

Mr. Overton shared with the Commission an update aerial photo so it actually shows the existence of the bypass channel so that still exists out there on the site – we'll see it on the field walk – he said he's seen water flow through it at least three times and he's not aware of any issues with erosion even through its very sandy soil and the grass is relatively sparse flat and broad that there isn't much velocity through there.

Mr. Overton said he hasn't been out there (to the site) in probably a year and a half or more but when he was out there and saw it flow he didn't see any issues with erosion or problems with that.

Chairman de Jongh declared that the Commission would defer any further consideration pending the field trip on June 15, 2013.

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| 4. | Permit Application | APP | #2013-014 |
| | Ricci Construction Group, Inc. | DOR | 06/04/13 |
| | Sperry Road/Crestwood Drive Subdivision | MAD | 08/08/13 |

John Gable of CT Consulting Engineers was present on behalf of the applicant.

Mr. Gable said the application the Commission has before them was the same application that was submitted back on April 2, 2013.

Mr. Gable explained they had gone through this process with this Commission but his clients decided to alter the layout from a public road to a private road.

Mr. Gable said they submitted a new application and that was done on May 7, 2013. He explained that with that application there were some legal issues regarding the right of way access from the Crestwood Road's access way and at that time his clients decided it

was just going to take took long so they have gone back to the original application with some modifications.

Mr. Gable said he said back at the meeting of May 16, 2013 they did receive comments from Engineering that was stated at that meeting and they have been incorporated into this plans the Commission has today.

Mr. Gable said he thought the hydraulic report was ok – the storm tech infiltrators have been labeled on all the lots – they provided proper cover over the drainage and we also had a show the proposed sidewalks but they are going to ask for a waiver for those.

Mr. Gable said so those were the comments that we from Engineering at that time which he is going to incorporate into the new ones so in essence nothing else had changed from the application from that stand point.

Mr. Gable said he believed that this Commission deemed that there was really no significant activity based on that layout and design.

Chairman de Jongh said so the cul-de-sac rather than ending at the end of Crestwood Drive now is going to be extended.

Mr. Gable stated yes – just like it when they handed it (an application) in back in April. He said he thought it was the April 16 meeting that the Commission made the determination that there was no significant activity on the plans – he said that plan was going to go to Zoning but then they pulled that application from Zoning per the client's request.

Chairman de Jongh said when they did the field trip on this then everything they saw on site then is going to be just as it was when they saw the field conditions.

Mr. Gable stated that was correct. He said like he said there were only the modification that were made were from Engineering regarding the cover over the pipe – labeling the infiltrators on the plans and adding the sidewalks on there – they are asking for a waiver for those but they have been included on the hydrologic report as impervious coverage.

Mr. Gable stated that was it. He said so he guessed they can't have a decision tonight.

Chairman de Jongh said Engineering hasn't had a chance to review the map so it would be imprudent to do that.

Mr. Gable stated this should be viewed as a brand new application.

Chairman de Jongh stated the state forbids us from a making a decision the same night they receive something so they need to wait two weeks anyways and will give Engineering the chance to review this to make sure these no missing elements to it – it will also give staff a chance to take a look at it as well as see if there's any comments she might have.

Mr. Gable stated the site is the same as previously viewed by the Commission.

Chairman de Jongh recommended that they defer any further consideration pending Engineering's review and comments and staff looking at and preparing wording.

**5. Lot 5 Saddle Brook Subdivision – Huckins Road
Request for Determination**

Motion: To add this item to the agenda.

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

Tape change.

Darin Overton, PE of Milone and MacBroom was present on behalf of the applicant.

Mr. Overton explained that was previously proposed as shown on the plan – has been slight shift in the shape of the house and the location.

Mr. Overton stated essentially the upland review area is the same as before – there was a little bit of encroachment of the house there still is a little bit of an encroachment of the house because of the way the existing lot slopes there has always been some grading into the upland review area – the line of silt fence was the same as previously permitted – the only change in there is there is a little bit of a patio

that's proposed off the corner here so the extend of the disturbance in the regulated area are the same.

Mr. Overton said there's only a change in one of the types for a lawn area to creating a little bit of a patio and a portion of the house still does extend into that upland review area as proposed previously.

Mr. Overton stated storm water management is the same with a rain garden for the lot and we've proposed a small split rail fence along here to kind of define the edge of the disturbed area – and it starts to slope once you get about 10' away from that area down rather steeply to Cuff Brook so there's isn't any useable yard area but it is very attractive who Cuff Brook does come down through here.

Mr. Overton stated there were prior disturbances as part of the farm activity – he said he didn't know if Dr. Dimmick was out to this property when it was fully in operation – there was some sort of modifications made to the stream – there's some old concrete headwalls and things like that so there's been prior disturbance along the stream channel here but again this is relatively similar to what was proposed previously.

Dr. Dimmick said of course he's asking for a request for determination and the only the thing he would want to make sure of if we decide he does not need to apply for a permit modification is that somehow the proposed changes do go into the file.

Ms. Simone said yes because we would number this a request for determination and it would be kept in the file and she does have the sight plan that was previously approved October 2010.

The Commission reviewed the October 2010 sight plans.

Ms. Simone explained there was an approval in 2010 then there was a request for determination May 2011 and it was found that the permit was not needed to shift the location of the house so this appears as though it is a second change.

Ms. Simone stated she didn't get a chance to review this to determine what the differences are but in the letter is just talks about disturbance within the 50' regulated upland review area but Mr. Overton is stating that it's the patio that's is the change.

Chairman de Jongh said it looks like there's a slight shift in the foot

print of the house back towards Cuff Brook and the footprint of the house looks a little bit bigger.

Chairman de Jongh said while the post and split rail fence is nice visual to prevent anything from happening beyond that – what is to prevent the homeowner from dumping grass clippings over the fence and have it kind of roll into Cuff Brook.

Mr. Overton said they didn't propose a lot of lawn to maintain – there isn't much lawn to maintain here – he said you've got that sloping up to the west and there's the rain garden on the east side. He said they're hopeful this is the final plan that's ready to move towards construction.

Dr. Dimmick asked staff if she wanted time to look over this thing before they do anything with it.

Ms. Simone said she thought if they could keep a copy that shows what was previously approved and what's proposed now that would be very helpful to keep in the file; so then she didn't feel she needed to further review that.

Mr. Overton said sure that's fine.

Motion: That the Commission declares the proposed modification is de minimis and does not require further modification application contingent upon the changes being submitted for their files.

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

XI. ADJOURNMENT

The meeting was adjourned at 9:56 p.m. by the consensus of Commission members present.

Respectfully submitted:

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

