

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
PUBLIC HEARING
TUESDAY, FEBRUARY 4, 2014
TOWN HALL 84 SOUTH MAIN STREET
COUNCIL CHAMBERS AT 7:32 PM**

Members present: Charles Dimmick, Kerrie Dunne, Dave Brzozowski, Earl Kurtz, Will McPhee, and Thom Norback.

Member absent: Robert de Jongh.

Staff: Suzanne Simone.

Dr. Dimmick served as chairman in Robert de Jongh absence.

I. CALL TO ORDER

Dr. Dimmick called the public hearing to order at 7:32 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 Charles Dimmick, Kerrie Dunne, Dave Brzozowski, Earl Kurtz, Will McPhee, and Thom Norback.

Ms. Simone explained to Commission members that there are new microphones and speakers in the ceiling so when the microphones are turned the sound is going to be amplified. She explained there's a new CD recording system – it's still sort of spotty as to how it works and how it's going to function so tonight's meeting is being backed up with an audio tape.

IV. DETERMINATION OF QUORUM

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

V. BUSINESS

1. Permit Application	APP	#2013-028
John Romanik, Jr.	DOR	10/15/13

Whispering Hollow Court Site Plan - House	PH	11/07/13
	PH	11/19/13
	PH	12/03/13
	PH	1/07/14
	PH	1/21/14
	PH	2/04/14
	SW	10/19/13
	SW	1/14/14
	MAD	3/11/14

Dr. Dimmick and Mr. Norback recused themselves from the public hearing discussion.

Ms. Dunne read the legal call for the public hearing.

Dr. Dimmick reviewed the public hearing procedures.

Mr. Kurtz recused himself from this portion of the meeting at 7:35 p.m.

Darin Overton, PE and Bill Root, Soil Scientist of Milone and MacBroom were present on behalf of the applicant.

Attorney Anthony Fazzone of Fazzone, Ryan & Ricciuti, LLC was also present.

Ms. Simone said handed out at tonight's meeting to Commission members you'll find a response to the Engineering Department's October 9, 2013 comments.

Ms. Simone explained the applicant's engineer did submit their response to that yesterday – early afternoon and the Engineering Department indicated that they are not able to accommodate a review of that material in one day so we do not have the Engineering Department comments.

Ms. Simone said additionally on October 15, 2013 the Wetlands Commission requested a comparison – side by side summary from previous denials from what's currently proposed and that information was just received today.

Ms. Simone stated that information was mailed out to Commission members today as well handed out at tonight's meeting.

Ms. Simone said perhaps Commission members can ask the applicant to review that (the summary) for the record.

Ms. Simone said also handed out at tonight's meeting are Fire Department comments and they verify that they have finally met with the applicant and they have some issues that were raised in that review.

Ms. Simone stated they (the Commission) has reviewed revised plans – there's not a narrative with that as far as what was been revised.

Ms. Simone stated they were copied on comments that were sent from the Regional Water Authority.

Dr. Dimmick stated the applicant's representatives were present and there were several things still pending.

Dr. Dimmick stated this is the last time we'll have a session of this public hearing because time has run out and all the extensions have run out.

Attorney Fazzone stated that is unless they want to have a special meeting in the next ten days.

Ms. Dunne stated it would be great if you (the applicant's representatives) could go over the comments of the January 31, 2014 – if someone could read them into the record – they seem important.

Attorney Fazzone said he was going to ask Darin Overton of Milone and MacBroom go over those comments (their office prepared those comments).

Darin Overton addressed the Commission.

Mr. Overton said he was just going to go through what's happened since the last meeting – there were some Commission members at the last meeting who expressed an additional field walk so they did have a subsequent field walk.

Mr. Overton said on that field walk was our soil scientist Bill Root.

Mr. Overton said there was a question as to whether there were other areas of wetlands on the property – he said there are depressions in the back – he said Bill brought an auger and looked at those additional areas in the back and determined in fact they were not conditional wetland areas on the site.

Mr. Overton explained on that field walk they took some measurements of the two initial stream crossings and because the topo mapping really didn't represent the locations of those stream very well and would they found was they were close enough if they shifted the bridge they could eliminate a cross culvert and have both of the streams run under the timber bridge so that's one of the plan revisions made.

Mr. Overton said we submitted a revised plan that shows the relocation of that bridge we essentially slid it further to the west so both of those streams could be accommodated there and eliminated the 18" cross culvert there.

Mr. Overton said as part of the engineering comments they looked at next cross culvert – he said they broke up the watershed – we previously mentioned there's about a 600' foot watershed - middle culvert has an 80' watershed and that stream flows independent for the others in low flows – its likely in higher flows these combine – but we looked at the sizing of that for the computations that were provided to Engineering and we enlarged that culvert – it's a larger box culvert that's shown on the plans.

Mr. Overton said and the last cross culvert that's shown there – there isn't any normal flow that goes through there but it looks like in high flow conditions that little ravine there may have some flow so we're leaving a cross culvert there so essentially under normal conditions will have no water going through it but during high flood type flows we wanted to put a cross culvert there so we continue to have a similar distribution of water through the wetland area.

Mr. Overton said so those are the changes in the revised plans – some were made to address either comments that were either received from the Commission, information that was gathered on the field walk or from other engineering comments that were received.

Mr. Overton said we put together a number of responses.

Mr. Overton stated that Suzanne (Simone) had mentioned three of the letters that were submitted – with those letter we also submitted some back up information – there was a March 2013 wetland delineation that was submitted – just to follow through on the discussion of the last meeting - back in 2003 there was a wetland delineation – it was updated in 2013 by David Lord another soil scientist and then our soil scientist Bill Root has been out on the site and all three of them are generally consistent and we've provide a plan and signed by Mr. Root certifying that fact that the wetlands

delineation is consistent throughout the history and is consistent with what he's seen on the site.

Dr. Dimmick asked if staff has seen that plan.

Mr. Overton stated he has a copy of that with me which I'll give to the Commission.

Ms. Simone stated no (she does not have a copy of that plan).

Dr. Dimmick said in going through our check list that's one of the things that we did not have up until this point and this is the last chance you have to submit that sort of thing.

Ms. Simone said she sees there's some information that was presented from David Lord dated March 2012 and it has some flagging.

Mr. Overton stated he was mistaken it was 2012 and not 2013.

Ms. Simone said so this is the certification that you are presenting.

Mr. Overton stated its just further documentation – I think Soil Science and Environmental Services had originally flagged the wetlands – well before that there was a delineation of the subdivision which I think was done by Soil Science and Environmental Services which was done in 2003 with the prior application for this lot.

Mr. Overton said subsequent to that David Lord was out there and looked at it again and came up with the same delineation.

Dr. Dimmick said he was wondering because this two page thing from David Lord identifies location of some of the numbered flags but not most of them so had you submitted to us any indication – because I understand the flags either been renumbered or have been retied so the numbered flags out there don't have a guide to where the position is on the map of a particular number flag if we were to go out and pick it up.

Mr. Overton said we did not go out as part of this application and re-flag all of the wetlands – we just went out a verified the prior boundary.

Dr. Dimmick said so the flag numbers out there are what's left over from that (the prior) delineation.

Mr. Overton stated from that delineation.

Dr. Dimmick said from 2012.

Mr. Overton said when we were out there on a field walk – Bill and I were both were looking at the flags numbers and they were consistent with what was shown there.

Dr. Dimmick said because I see flag number 9 – 16 – 20 identified but in between them I presumed there are other numbered flags – are they on some kind of a map.

Mr. Overton explained there are still a number of different flags hanging in those locations out there.

Mr. Overton said we don't show specific flag numbers on our drawings.

Dr. Dimmick said that's kind of the problem – you don't.

Dr. Dimmick said another thing that came up of course you finally did meet with the Fire Department and we just received yesterday comments from the Fire Department – did you get a copy of these comments from the Fire Department.

Mr. Overton stated we did – Suzanne sent us a copy I believe yesterday.

Dr. Dimmick said ok so it would be nice some kind of reply to these - as I said again tonight is the last time we have to receive anything from you regarding comments.

Mr. Overton stated we met with the Fire Department twice to discuss this– once before the last meeting and then we met before the last meeting and now and then the comments came in yesterday and we do have a revised plan – we could never come to an agreement with them over the 12' driveway even though there's nothing in the regulations that requires a wider driveway – they had a desire to have a 15' driveway so we decided to just show that on the plans after the comments came out yesterday.

Dr. Dimmick said so your revised plans show a 15' wide bridge instead of 12' wide.

Mr. Overton said the bridge was always shown as a 16' wide.

Dr. Dimmick said but you have a 15' wide driveway within the abutments of the 16' wide bridge.

Mr. Overton stated yes.

Ms. Simone said Darin – for the Planning and Zoning approval – when I had looked at that it did stipulate that the Fire Department comments would be incorporated in that approval and one of those comments was that all of the driveways would be 15' wide so you are proposing a driveway that's 12' wide will you then go to Planning and Zoning to seek approval for a change.

Mr. Overton stated no – we've proposed the driveway to be 15' wide.

Dr. Dimmick said so your revised drawing is now 15' in front of us.

Mr. Overton stated yes and I have a copy of that to be submitted.

Ms. Simone said so this plan has 15'.

Mr. Overton stated yes - not the one you have there but the one that's going to be submitted shortly.

Ms. Simone asked if the Fire Department reviewed this.

Mr. Overton said I spoke with them on the phone today regarding the 15' wide driveway and explained what we were going to be showing and they said as long as we're showing the 15' they'd be satisfied with it and the other two comments in there were regarding the loading – the bridge is going to be designed to the federal loading standards and we are going to meet the requirements for that and the other one was just a suggestion regarding future code changes that they expect sprinklers will likely be required for homes in certain situations which they think may apply in the future to this but doesn't apply now.

Dr. Dimmick said their earlier comment that requested that they have a turn around space for a vehicle once it goes over the bridge – has that been worked into your plans.

Mr. Overton said they discussed pull out spaces – there was a lot of discussion about the width of the driveway – they said if we sprinklered the house and we left the 12' driveway with some pull outs that was an option that they could live with; he said the applicant really did have an interest in sprinklering the house so we

went to the 15' wide driveway – there was quite a bit of discussion that went on with the Fire Department.

Mr. Norback asked if it would be prudent or possible to get the map that we're talking about in front of us – he said he felt kind of funny sitting up here looking at this (map) and talking about something else – so he was wondering if that was possible within the regulations (to get the revised map).

Dr. Dimmick said he presume you are submitting this new map to us tonight – is it something we can look at.

Mr. Overton said it's a little bit out of sequence of how he planned to present the information and give you the plan.

Mr. Overton submitted three copies each of - one of the signed existing conditions with the wetlands delineation and one copy of the revised plan and profile showing the revised driveway.

Mr. Overton said he planned to go over the events of what had happened between the last meeting and this one and the changes based on the Fire Department comments.

The Commission reviewed the revised plans submitted by Mr. Overton.

Mr. Overton stated on sheet three all of the wetland boundary isn't shown.

Ms. Dunne said but without flags (the maps).

Mr. Overton said right. He said the delineation of the wetland boundaries have been the same through the course you've seen this project – all the way back to the subdivision up until today with the three different soil scientists that have looked at it – all of the delineations have been consistent.

Mr. Overton said so the change on the plan that's been submitted we've widen the driveway out to the 15' wide width and the impact has changed – we were just over right around 4,000 SF with the previous plan that submitted – it's gone up about 700 – 750 SF – the total was 4,750 SF with the 15' driveway – most of that occurs at the bridge approach and beyond before it starts climbing up the hill before the proposed house location.

Mr. Overton said so we've designed this with a 15' wide paved driveway – we put a 1' shoulder on the sides to support the edge of pavement and then from there it slopes down to existing conditions so that wider condition the additional 3' with the driveway has added up to a little over 750 SF of additional wetland filling – and that was done to meet the safety requirements by the Fire Department.

Ms. Dunne said the Fire Department also said that they should have clearly defined requirements as to maintenance and life expectancy to the proposed timber bridge.

Dr. Dimmick said he wasn't necessarily sure that was their (the Commission's) concern (but it was somebody's concern) how big is the bridge and how its put in are definitely our concern – how long it will last afterwards – if they will need to do a replacement they'll have to come back to us.

Ms. Dunne said she thought maintenance might be important.

Dr. Dimmick said maintenance – that's a good question.

Ms. Dunne said requirements as to maintenance and life expectancy – so that would probably be our concern.

Mr. Overton said so there was also a question at the last meeting regarding the types of wood treatments that are used to preserve the wood – we need submit material data sheets on two different types of wood treatments that are used – the wood comes pretreated with the ACQ tread type treatment which was the replacement for the old arsenic version of the pressure treated lumber.

Mr. Overton explained the company they have been talking to and has provided information on the bridge provided the treatment they use as well which is periodically used to maintain the bridge may get reapplied.

Mr. Overton said the bridge has as it gets put in place about a thirty year life span and the better it's maintained the longer its going to last.

Ms. Simone asked if you (Mr. Overton) could summarize what the maintenance would entail.

Mr. Overton said its really just periodic inspection of the bridge as to whether any of the fasteners become loose or there's any damage to the bridge if in storm event anything gets lodged against the bridge from a storm flood – then periodically the condition of the timbers and whether there needs to be a new wood preservative treatment periodically done to preserve the wood.

Ms. Simone asked if there were manufacturer's specifications that detail the maintenance and the types of materials that would be used.

Mr. Overton said the company actually has a maintenance program – you can buy a maintenance plan from them and they will come out and inspect and maintain it or the homeowner has the freedom to hire someone else to do that on a periodic basis.

Ms. Simone said and this would just be visual inspection or would there be any mechanics involved in doing this – you know mechanical equipment.

Mr. Overton said the bridge company they are talking to – they design and build their own bridges – they actually send a crew out and build them – they come back as part of the contract and they inspect the bridge after a certain period of time – he said he didn't remember the time frame – and they retighten all the fasteners and inspect the bridge to make sure its in sound working order and then you have the opportunity after that so sign into a maintenance agreement to continue to maintain it periodically.

Mr. Overton said he didn't have the information regarding that maintenance agreement.

Ms. Simone said she was wondering if they just do it by hand or that they're using machinery to get in there to do the regular maintenance – she said she was just curious as to what the maintenance would entail relative to the potential impacts whether temporary or permanent to wetlands.

Mr. Overton said it would just be hand tools that are required – they way they build these bridges is the only real equipment they need is for driving the piles and setting the timbers – they use a standard excavator with different attachments to drive the piles so once the driveway is built they build the abutment – they drive the piles and the bridge deck is then built – the piles are usually spaced about 15’ apart so the excavator can reach out – it can drive two rows of piles at a time – the deck gets put down – the excavator drives out on to the bridge and then they drive the next rows of piles and continue all the way across the bridge.

Dr. Dimmick asked what the piles were made of.

Mr. Overton stated they were made of wood.

Dr. Dimmick said they are made of wood too – and they have a preservative in them.

Mr. Overton stated yes.

Dr. Dimmick said he’s looking at the next to the last page of the data sheet and they are talking about the wood preservative shouldn’t be under water.

Mr. Overton said he thought there were different types of ones that they use. He said the piles are treated with the ACQ.

Ms. Simone said but there’s nothing definitive that can be submitted for the Commission tonight to detail that because it may conflict with what’s submitted here saying it shouldn’t be used in wet conditions.

Dr. Dimmick said it says ACQ not recommended for water immersion applications at this time so he was just wondering.

Mr. Overton said they’re driven into the ground.

Ms. Simone asked if there were any guidelines for installing within a wetland soil because it makes it sound as though this is not designed for that.

Mr. Overton stated these bridges are built all across the country and most of them are spanning marshes – they have significant boardwalks that they’ve built for hundreds of feet across marshes so these are typically used in a wetland crossing or stream or river type crossing.

Dr. Dimmick said there is a question – they may be typically used for that but whether it's appropriate because the ACQ does contain copper.

Mr. McPhee stated it's very common that non-treated wood be used as pile-ons – its oxygen that creates the rot so if there non-treated wood and its not being exposed to the oxygen which creates the rotting of the wood then you're okay and that's how it's done very commonly.

Dr. Dimmick said staff can go over this and make recommendations because there are about eight pages there and he doesn't have time to digest the whole thing himself right now.

Dr. Dimmick said the other questions they have are probably for Bill Root.

Dr. Dimmick asked if the Commission had any other questions for Darin Overton from this stage.

Ms. Simone said she did have a question – just to clarify – what the Commission was asked to review previously was 4,200 SF of disturbance for the installation of the driveway and the timber bridge and now that has increased to 4,750 SF.

Mr. Overton stated yes – we've done that to accommodate the Fire Department comments regarding the 15' wide driveway.

Ms. Simone thanked Mr. Overton.

Mr. Overton said they were trying to come to an agreement with them (the Fire Department) to keep it at the 12' but we could never get there so we decided to make the change based on the comments coming out requesting the 15' wide driveway.

Ms. Simone said and this being submitted at tonight's meeting then the Engineering Department obviously hasn't had a chance to review this for the increase in square footage – there may be additional comments – she could not anticipate what they might say.

Mr. Overton said Engineering didn't have any comments on the width of the driveway – we were just meeting the Fire Department requirements.

Ms. Simone said correct but this is a change to the plan so there may be some overall changes or recommendation that the Engineering

Department may have or may not – she said she can't speak for them because they haven't seen it.

Dr. Dimmick said he knew Engineering did have concerns in terms of the amount of impervious and therefore the whole design of the rain garden and so forth could catch the amount of runoff that it might or might not change their statements on that.

Ms. Simone asked if the size of the rain garden changed relative to the amount of impervious surface that's now proposed.

Mr. Overton said they submitted computations to show that the rain garden as shown on the plans is sized to meet the addition of the impervious surface.

Ms. Simone said just to clarify the computations that were received yesterday do not reflect the 15' wide driveway – they reflect the site plan that was submitted yesterday that showed the 12' wide – is that correct.

Mr. Overton said yes – they widened the pavement – you're right.

Ms. Simone said but it's widened on this plan – it's not widened on the plan that was submitted yesterday.

Mr. Overton stated no.

Ms. Simone said so those computations are relative to the 12' wide driveway.

Mr. Overton stated yes and there maybe enough volume in the basin to support that additional 3'.

Mr. McPhee said but again Engineering hasn't looked at that and proved that.

Ms. Simone stated no.

Mr. McPhee asked if the mandatory action date just in a public hearing or is it for both the applications.

Dr. Dimmick stated the mandatory action date is for the public hearing and any other information from the applicant or from anyone opposed to it.

Dr. Dimmick stated we can still receive communications from staff and from our own town engineering after the public hearing has closed but neither the applicant nor opponents to the applicant would be able to submit anything after the close of the public hearing.

Ms. Simone said so if for example its identified after the reviewing these plans that something else it needed or a modification is in order the applicant would not be able to submit that information – what’s being shown to the Commission tonight is all that the Commission can consider so there may be comments that indicate that there are issues with the design but the applicant now does not have the opportunity to change that design or address it.

Mr. Overton said they are out of time as far as the public hearing – we believe that everything we’ve submitted addresses all of the comments to date – to the extent that the 3’ of pavement would require more volume in the rain garden that’s outside of the regulated area – there is room to accommodate that – but what we’re submitting to date as part of the public hearing we believe addresses all the issues and addresses all the comments.

Attorney Fazzone said for example if there’s enough information in the record and the Engineering Department says that the rain garden needed to be expanded by 12 SF that could be a stipulation of approval – this information is now being put into the record and the Engineering Department can analyze that.

Ms. Simone said historically the Engineering Department has not designed rain gardens or just as an example hasn’t designed so say it needs to increase by ‘x’ amount of square footage – they ask for further information so that’s where that comment comes up that we can’t get more information from the applicant.

Dr. Dimmick said he forgot to mention that besides town staff there are in our regulations provision that we can still receive additional information from the Water Company and a couple of other of that sort.

Ms. Simone said yes – we received a copy of the response that was sent from the applicant’s engineer to the Regional Water Authority yesterday so the Commission can receive comments from Regional Water Authority – yes.

Mr. Norback asked if he’s clear on this – if the Fire Department – you mentioned that they kicked around the idea of maybe needing

turnoffs or something – has that been dis-considered or they're not going to request that – so you've satisfied the Fire Department – he said the only reason he asks is that if they want that all of a sudden then that's more information that we're going to need and it seems it would impact the whole driveway fairly significantly so is that off the table now.

Mr. Overton said the reason they are proposing the turn out is a comprise to widening the whole driveway so what we looked was when it was a 12' driveway as you saw in the field there was an old excavation her along the side.

Mr. Overton said as you come in the driveway you come down a little bit – you start to make the turn and then there's an old excavation here – what we looked at is that we could put a potential turn out here to widen the pavement without effecting the wetlands – without needing any grading or any retaining wall or anything so they wanted it on the straight part of the driveway and we talked about putting it on the corner – they didn't want it there so we talked about this location – we also talked about the possibility of again another turn out right here (shown on the plan) – this would require a little bit of pushing out the shoulder but there wouldn't be any wetland impact associated with that.

Mr. Overton said with the 15' wide driveway based on the conversation he had with them (the Fire Department) today he believed their satisfied with the width of the driveway and the turnouts aren't needed but there's still the ability to provide some widening in those two areas to widen the driveway so two vehicles could pass – its still an option if we would need to do it but I don't believe their going to ask for it.

Mr. Norback said he was just trying to make sure we you didn't go down the road too far and then not have that option.

Dr. Dimmick asked if they had any more of Darin or should they go to Bill Root.

Mr. Overton said just one last thing he wanted to submit for the record and this was – when we were on the last wetland walk we were looking at some of the properties around it and the potential for any sort of tie-in that's been discussed in the past – so I just printed out a copy of the 400 scale map of the town GIS mapping which shows the property lines – he said he has five copies (they were submitted for the record) – he said he'd just run through it quickly.

Mr. Overton said so starting on the south side you can see the extension of Shire Court – and that the lots and the location of the houses to the south – if we were to try to bring an access in there we'd probably have to get rights from two different lots in order to try to bring an access in – its not likely that that's ever going to happen – neither of those lots are in control of the applicant and it would appear that there's at least one stream crossing that would still be required in order to get to the house location that's planned for this.

Mr. Overton said if you look to the west and north there's a large piece of property that's sort of wraps around the entire western and northern boundary – and that extends all the way out to Mountain Road but if would try to bring an access in to reach this property you'd have to cross basically the main stem of the stream that goes through here twice and this doesn't necessarily show the wetland mapping – it just shows really where the stream corridors run so its not really a viable option there that would have any less wetland impact - and then you've got the houses at the end of Whispering Court – the lots that already exist with the houses there and the one on the north side would be crossing the larger body – the central portion of the wetland and the one on the south side – you'd essentially have a similar stream crossings as to what you have now so looking at the big picture and the surrounding area we did look at these other options and we don't see that there are really any other option to access the property and the fact that we've utilized the old logging trail or whatever it was used for – an area that's already been impacted previously – you know we've did that with the new driveway to lessen the impact – there's an area of fill that was placed – there were culverts that were placed previously – if we were to go any where else – we'd be clearing a mature forest in order to build the driveway.

Mr. Overton said so we still believe that looking at these options – even if there was access – its doesn't look like there's any of these options that would have less environmental impact then what we would propose.

Mr. Overton said in that and looking at the big picture I'd like to have Bill (Root) come up now and just discuss his review of the property and the wetland impact assessment.

William (Bill) Root, certified soil scientist and wetland ecologist with Milone and MacBroom addressed the Commission.

Mr. Root explained he put together the report that's been submitted with the application – Inland Wetland Impact Assessment dated September 20, 2013.

Mr. Root said he'd just like to go through some parts of that (Inland Wetland Impact Assessment) for you tonight.

Mr. Root said the report contains photos – a few photos of the wetland in the back and some of the culverts that are there and the fill and some other resource maps as well.

Ms. Simone informed Commission members that the Inland Wetlands report is in the staff report.

Dr. Dimmick said he was trying to remember that if in this report if we had gone over the bit of the function or value of the wetlands there – what quality of the wetlands are in the vicinity of the bridge and what functions they serve.

Mr. Root said he has a short section on that in the report and it carried over from the earlier application in 2003.

Mr. Root said as part of the work that he did – he did review the earlier application – the hearing record and the permit decision and that sort of helped guide him into what the Commission was looking for in this new application.

Mr. Root said as Darin said he reviewed the formally flagged wetland boundary – walked along the old flags and had a map of the area and he didn't make any changes to the wetland boundary – he said he found it was correct and accurate in the field.

Mr. Root said the wetland system itself is very little change from earlier descriptions – it's a watercourse – two watercourse transitioning from a very steep gradient down into a flat marshy wetland system.

Mr. Root said there's a fill path as we know through the woods from the end of the cul-de-sac and an old road bed that extends through the wetland – there as you see in some of the pictures – there's a few dilapidated culverts – there's asphalt – there's gravel – there's concrete in the wetland and those culverts don't function at all anymore – they've been eroded so the fill material that is around those culverts has washed and continues to wash into the wetland itself and down through the watercourse.

Mr. Root said the wetland is kind of meandering stream course – it’s a mix of trees – it’s got scrubby margins – some areas are grassy – and sedges and there are some backwater pools because of the flat topography – there are a lot of invasive species in the wetland – its kind of funny – there’s some residential plantings like pachysandra – there’s a big pachysandra bed out there which is kind of a funny thing to see out in the woods.

Dr. Dimmick said in the summary – you have a thing that says the wetlands system has high function and values but then within the rest of it you don’t go much into the information as to why it has high function and values.

Mr. Root said alright – let me come to that.

Mr. Root said as Darin has presented the current site plan mimics the earlier design that follows the route of the former fill access way through uplands and along the wetland border from the end of the cul-de-sac – once the route reaches the wetland crossing there have been changes made to accommodate suggestions made by the Commission during the earlier application to eliminate much of the direct wetland filling – a 60’ length of timber bridge is proposed to expand some of the stream courses that are in there – there maybe some of course temporary and secondary impacts from the bridge due to some clearing of vegetation – some shading –etc but it’s a very big improvement over the former application which included just direct fill because the bridge allows some flow through the wetland system – it doesn’t impede the stream – it doesn’t impede wildlife that’s passing through or underneath the bridge.

Mr. Root said beyond the bridge its similar to the old application – the culverts that will be repaired and restored will eliminate some of the erosion into the wetlands from those old culverts – this will lessen the sedimentation into those areas from the eroding culvert areas.

Mr. Root said beyond that there’s as you know a single family residence proposed.

Dr. Dimmick said one of the things that’s a little confusing – there’s a question of vernal pools and we got the statement “no activities proposed within the critical 100’ vernal envelop if any vernal pools exist” – he said in this particular case did you look for them within that distance from the bridge.

Mr. Root said he wandered a significant distance from the bridge – several hundred feet – some of the photographs you see in there are labeled back water pool – there are little meanders back there – there are places that fill up with water during high storm events.

Mr. Root stated he did see any evidence to indicate there were vernal pools – he said he was out of season so what you do is use an out season protocol – you look for other inhabitants of vernal pools like fingernail clams – you might find Caddis fly larva and things like that Caddis fly shells cases – things like – he said he didn't see any evidence of those in there but I have not been in March or April and he didn't see any discussion of conclusive evidence that there were vernal pools there from the earlier application in 2003 either but what he did state for here is there's evidence the only pools that he found were greater than 100' – potential pools were greater than 100' away from the proposed upgrade of the crossing.

Dr. Dimmick said the statement could have been read a couple of different ways – he said he just wanted to get clarified.

Mr. Root said he did go a significant distance looking for evidence of vernal pools and to look at any pools he found to see if he could find evidence of vernal pool activity – he didn't put he was not there in the spring – he was there in the fall.

Dr. Dimmick asked if other members of the Commission had questions here – staff.

Ms. Simone said she did have some questions – in your report you make a comment that there are temporary and secondary effects due to the driveway and timber bridge installation but those temporary and secondary effects are not detailed as to what they are and where they might be located – do you have that information to share.

Mr. Root said yes – he said he thinks most of us are familiar with construction impacts from a bridge like this – some of them are probably detailed in the site plans – he said he has a site plan that shows the construction plans for the bridge and that Darin's probably better equipped to explain the actual construction methodically itself but of course there will be some clearing of land to access the clearing of vegetation to access the placement of the bridge – there will be some work to put in the foundation to the timbers for the bridge – there will be some erosion controls that need to be installed – things like that so those would be the type of temporary impact that you expect or would expect.

Mr. Root said as far as secondary type impacts that the bridge is a new structure – it doesn't exist there now – there's will be some shading – the deck is 2'-3' something like that above the wetland area so there will be plenty of through flow or water and wildlife and things like that passing beneath it but there will be some shading effects to some of the sedges and grasses or the pachysandra that may wind up underneath the bridge will be somewhat shaded.

Mr. Root said what he did state is that he did believe those impacts are not likely to be significant for the wetland itself which is a fairly large wetland – it's a large watershed – two streams and a very large wetland system which expands as you go farther to the north and then turns easterly – so he didn't think the impacts from the construction of the bridge were likely to significant or long term but that care needs to be taken of course with the erosion controls and the construction methodically itself.

Mr. Root said as Darin said this company has a lot of experience in constructing bridges in similar situations so he didn't feel there would be likely any long term impacts to the wetlands from this particular crossing.

Mr. Root stated it's certainly a lot less than the formerly proposed direct fill of the wetland.

Ms. Simone said but it's not less than what it exists now.

Mr. Root said he guessed he would never – he said he wouldn't likely stand up here say that a wetland crossing is a good thing but in this case I think people have been out there – saw the condition of former fill that's through the wetlands so we're dealing with an eroding fill base there which is continually eroding – its going to continue to erode and effect the wetlands and its pools for example that are down gradient of them so one of the advantages of doing something there would be to clean up some of that – get rid of the asphalt – get rid of the concrete and stabilize those culvert crossings and formalize them over the next one, three, five, ten years – you aren't going to get a continuous stream of sedimentation down into the wetlands.

Mr. Root said he was not here to say that any crossing of a wetland is an improvement over the existing situation but with the bridge and with the stabilization measures that Darin's detailed it does have a lot of advantages over the earlier application.

Ms. Simone said if shading could be one of the secondary effects – what about the clearing of the land – could that create more sunlight to get into some areas.

Mr. Root said he was originally afraid there were a lot of trees that needed to come down for my first visit there when I didn't have the site plans but lat time we were there on the site walk where the center line was staked out – there really were not very many trees in the wetland area that needed to come down mostly because the former fill was placed there where trees are growing are small – larger ones are off the center line of the fill roadway so he was less worried afterwards about the number of trees that were going to be coming down – trees and shrubs.

Ms. Simone said that was one of her other questions – in looking at the report and also looking at the plan is that it talks about needing to clear trees for the construction of the driveway but its doesn't locate where that clearing will take place and it doesn't give a quantity has to how many trees and what that effect might be.

Mr. Root said he was mostly talking about trees in the upland edge as you find your way from the cul-de-sac down into the wetland crossing – as you're hugging the wooden slope there – there's a number of trees that need to come down along that edge – when you get to the wetland there are a few – there's less than five – he said he was quite sure there's less than five trees in the wetland that need to come down.

Ms. Dunne said they were fairly significant trees – she said they were fairly large trees that were coming down.

Mr. Root said on the upland side there were some big Oaks on that knoll – or right on edge of that knoll – there are probably a half a dozen good size Oaks that would be coming down – it's a very wooded setting as you know but once you get to the wetland border he didn't think there were very many trees that would need to come down – but you are right – they are not marked – and they are not enumerated in any of the plans.

Ms. Simone said and the erosion you mentioned relative to the culverts that exist out there now – did you observe erosion upstream of the culverts or just downstream.

Mr. Root stated both – the streams that come down on to this wetland system come from very steep setting – Cheshire Mountain he guessed and both of the stream courses come down there have

deeply in sized channels and carry with them a lot of sediment – he said he didn't know if they were activity eroding or if they are down to bedrock now but that whole wetland system is comprised of sedimentation products – upland soils that have eroded down in to this wetland setting and that's how its achieved this flat topography with the braided channels because every storm event kind of pushes the sediement a different way and then forces its way through – that's a natural occurrence – a natural event – a natural process – and as you were saying one of the functions and values of wetlands is to trap sedimentation from uplands to stabilize it and utilize.

Mr. Root said what he was talking about was man made fill and asphalt and concrete that's come from off site and then a placed to achieve access to the billing area or beyond and that was the material he was talking about that was constantly eroding – so it's a different process – different materials.

Dr. Dimmick said he should add that at the end of Shire Court which is upstream from there they did have an application we dealt with a few years ago because there was erosion of the stream channel going down in there and eroding some of the driveway crossing across that – some of you may remember that was the same stream – just to put it in context.

Dr. Dimmick asked if there were any other questions from members of the Commission.

Mr. Norback asked about the retaining wall at the beginning or say a third of the way down – it's that going to collect any water from the slope and then how will that be distributed.

Mr. Root said he did get the gist of the question but it sounds like it might be a better one for Darin anyway.

Mr. Norback asked about the retaining wall in the steep grade – he said he guessed that's not within the wetland area – if its retaining the bank how is the water that it's interrupting – how is that being redistributed.

Mr. Overton said there will be a stone drainage layer – he explained any time you build a retaining wall you don't want a lot of hydro static pressure to build up behind it – so there will be weep holes through the wall that would allow the water to come out towards the driveway side – there wouldn't be any sort of elaborate drainage.

Mr. Norback said so there wouldn't be any sheeting or anything.

Mr. Overton said there wouldn't be anything coming across the driveway or anything like that – no.

Mr. Overton said while he was at the microphone he just wanted to clarify one thing with the timber bridge and the ACQ treatment - he said he looked at the sheet that was submitted and it does say as was mentioned not recommended for water immersion applications but the next bullet down says it can be used in above ground and ground contact application – this would be a ground contact application – we are not proposing to immerse the piles into a lake or anything like that – there not proposed to go into a stream channel – the abutments the way we laid out the bridge – the abutments will sit outside of the top of bank on either of those channels on either side and there would be a 15' span to the first row of piles that would be driven into the soil so it would seem to me that no matter what you do you are going to be driving piles into a situation where there's going to be moisture in the ground potentially intercepting a water table and he wouldn't think that would be an immersion application as its listed in the sheet so he believed we would be following the bullet that it can be used in ground contact applications.

Ms. Dunne said to Mr. Root that she was looking at the Southwest Conservation District report and they talked about the different habitat species that are there – they even mentioned an unknown fish species – she asked if he could give them an overview of the habitat he found in that area.

Ms. Dunne said that its high value – that it's going to be impacted but she didn't have an idea of what's there. The report is dated September 5, 2003.

Mr. Root said he didn't remember that particular report but as far as fish species - he said he did know if he said that report – he said he thinks he would have seen it – he said he didn't know why there'd be a reference to a fish species in there.

Ms. Dunne said it's an unknown fish species to be accurate.

Mr. Root said like they saw an individual – is that how it reads.

Ms. Dunne read from the report that “approximately a 3-4” long was observed in an undercut bank pool in a secondary stream just south of the old farm road and just east of the main stream channel area.”

Mr. Root said he was not sure where that would be – he said as far as it leads into the functions and values discussion – the earlier applicant went through and rated the functions and values of the wetlands and the ones that they cited and I agree with them were the merits of the wetland include ecological integrity – wild life habitat – nutrient and sediment removal and flood control – so those are the things that are going out there now.

Dr. Dimmick said that does raise another technical point by the way – both are staff and you have made some references to some earlier report – we don't have those earlier reports submitted as part of this application or even submitted by official reference there so do we or do we not use them in evaluating this – is this material that should have been submitted by reference by the applicant or should we just rely on it because its in our files.

Ms. Simone said the Commission is able to look at previous applications for property but also she believed the applicant has made substantial reference to previous applications and much of their testimony was balancing what was proposed in 2003 compared to what's proposed now and there's indication in their testimony that they are replying on that I believe that this then could be considered by the Commission.

Dr. Dimmick said he just wanted to clarify that point – not this applicant but we did have an applicant several years ago who objected to our using previous data in making evaluation of their proposal.

Attorney Fazzone said part of this application is that the alternatives that were shown before and were denied – the application being denied then obviously those were not feasible and prudent alternatives to what we are proposing here today so I think the Commission has the right to make the record from those applications part of the record of this application.

Attorney Fazzone said because those applications we've referenced them in saying this is a more reasonable and prudent alternative – we join the Commission in making them part of the record.

Dr. Dimmick said thank you – he said he just wanted to get that nailed down because obviously both the applicant and the Commission or at least Commission staff has had access to these and it may very well be used in some of the judgment.

Ms. Simone asked Attorney Fazzone a question for the record – the alternatives that were presented tonight or presented to this Commission relative to the current application – there based on what was denied previously so what's presented to the Commission is ---

Attorney Fazzone said not strictly and exclusively.

Ms. Simone said true and the newest one is shown how the property isn't able to be easily accessed from neighboring properties.

Attorney Fazzone said his search of the records – the land records going back is that the property that was subject of this entire subdivision had been a in – he said I think if you went back far enough in history you would find that this piece of land may have been part of a much larger piece of land – not just the six areas that's in front of you today – the entire subdivision that's Whispering Hollow but in certainly in modern history its been a single piece of property and not something that this owner since we've had wetland regulations – since we've had zoning regulations – carved out Shire Court and cut Shire Court off as a part of this property or the Cunningham property which would be to the north so that that kind of lends support to what Darin was saying that the applicant for this subdivision and the applicant for this lot didn't have any right or even opportunity to gain access through those properties – in addition to his comments that access through those other properties would also involve wetlands crossings.

Dr. Dimmick asked if there were other questions.

Dr. Dimmick asked if either of the two members of the public present had any questions.

Mr. Root said he just wanted to finish with the functions and values discussion – the earlier application cited some of the important functions and values of the area and he concurred with some of those as we just stated now but he just wanted to point out that the comments that he made that I don't see any significant negative impact to those functions and values from the proposed crossing – that's my point of view of this.

Mr. Root said driveways in and of themselves have very low utilization – its kind of one in and one out kind of thing – there's not a lot of disruption to the wetland system or to wildlife in the area once the crossing is installed and in this area where there is already a crossing which is falling apart some and he thought with the sensitivity of the design that's proposed I do feel that the long term

negative impacts are not very likely to occur – this wetland is going to continue to function for a wetland habitat – for trapping of sediment and still have its ecological integrity.

Mr. Root said the pools that are nearby are not going to be impacted by any of this work so that's why in my conclusion – he stated that this application has very considerable advantages over the earlier one and he really didn't think there's going to be any long term negative impacts to the wetland from this as long as the bridge and the crossing is installed carefully and the erosion controls are keep – certainly those things need to be done.

Dr. Dimmick said he certainly didn't mean to shut you off at that point – its just in the normal course if we had any members of the public that had question its usually best to have those before the applicant makes there final statement so he just wanted to make sure that we did not have members of the public with questions – any members of the public with statements therefore it is in order for you then to make your final statement.

Mr. Root said it was his final statement – he said he didn't think it was our final statement. He said if there weren't anymore questions he would stop there.

Attorney Fazzone said going back to when this parcel of property was left out of the original subdivision and the accessway if you would where this driveway and bridge are being proposed - if you looked at the overall site at that point in time before any development was done there it just seemed to him that the logically place to provide access to this upland area where they are proposing to build a house was over the existing wood road that had been filled at a prior point in time in the wetland and had been disturbed at that point in time.

Attorney Fazzone said as Darin has mentioned – if you are going in the proposed driveway the access is to the left – any proposed access to the left we have at least two wetland crossings – access to the right would have wetlands crossings.

Attorney Fazzone said Mr. Root has pointed--- has over three acres of wetlands on it and the amount of disturbance in relation to that three acres – 4000 SF speaks for itself – that we are not in here asking to fill an acre a half an acre.

Attorney Fazzone said he believe in earlier testimony the applicant has discussed the fact that is cost prohibitive to build a longer

bridge and they've tried to create as minimal an impact as they could and by proposing as long a bridge as they felt is economically feasible.

Attorney Fazzone stated some of the impacts to the wetlands especially the ones you've heard this evening and even going back to the 12' driveway address public safety issues that you are allowed to consider in allowing wetlands impacts – you know to protect the public health, safety and welfare and that works both ways so the fact that the Fire Department feels that the 15' wide driveway should be utilized – again he believed give them (the Commission) the opportunity to improve those impact that arise as a result of that.

Attorney Fazzone said and finally he thought that we submit to the Commission that what the applicant has done here is attempt to strict a balance between the owner's property rights and the need to protect the wetland and we hope that you would see that factor.

Dr. Dimmick thanked Attorney Fazzone.

Dr. Dimmick said there being nothing else that he knows of we would then close this public hearing – give staff time to review all the various materials that have come in and possibly have a decision at the next meeting.

The public hearing was closed at 8:38 p.m.

VI. ADJOURNMENT

The public hearing was adjourned at 8:38 p.m. by the consensus of Commission members present.

Respectfully submitted:

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