



**Motion:** To approve the minutes from the June 16, 2015 public hearing and regular meeting with corrections.

**Public Hearing:** Pg. 2 L12 “opening” to “opened”; pg. 4 L48 “that shows” to “does that show”; pg. 6 L7 “sight” to “site”, L15 “sight” to “site”; pg. 11 L 11 “in” to “no”, L13 “made” to “did not make”; pg. 11 L 42 “to” to “to be”; pg. 12 L10 “senior” to “scenario”.

**Regular meeting:** Pg. 6 L9 “digression” to “discretion”, L11 after “whom” delete “and” , L13 after “said” add “the letter”, L46 “no” to “not”; pg. 7 L 19 “where” to “before”; pg. 13 L18 “there” to “their”; pg. 20 L12 “pervious” to “previous”; pg. 21 L43 “send” to “sent”; pg. 22 L30 “pave” to “fix”.

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

## **VI. COMMUNICATIONS**

**Ms. Simone reviewed the following communications:**

- 1. Request for Determination: 2015-022, Alexion Pharmaceuticals Knotter Drive, Re: Temporary Modular Office Building**

This communication was reviewed. This item is under new business tonight.

- 2. Staff Communication Re: Request for Determination: 2015-023 Jarvis Street, Resubdivision**

This communication was reviewed. Ms. Simone stated this was a request for determination for the subdivision that was previously approved from this Commission on Jarvis Street.

- 3. Staff Communication Re: Request for Determination: 2015-024 And Application 2015-024 Building Demolition and Inground Tank Removal, South Main Street**

This communication was reviewed. Ms. Simone stated this item was a request for determination and an application for removal of tanks and buildings on South Main Street – this is under new business tonight.

- 4. Staff Communication: Show Cause Hearing CK Greenhouses: East Johnson Avenue**

This communication was reviewed. This item is under show cause hearing.

5. **Engineering Comments, Coleman Farm Subdivision, 7-Lots  
678 Coleman Road**

This communication was reviewed. This item is under new business tonight.

6. **Staff Communication: Application 2015-021  
Colman Road Subdivision**

This communication was reviewed. This item is goes along with communication item number five for Coleman Road.

## **VII. INSPECTION REPORTS**

1. **Written Inspections**

Ms. Simone stated there were no written inspections.

2. **Staff Inspections**

- a. **Linear Trail Parking Lot at Jarvis Street**

Ms. Simone stated there was a staff inspection of the Linear Trail parking lot at Jarvis Street. She reported they had conducted their conducted their turtle sweep as require by the DEEP and they do have the area roughed in – erosion controls are in place and they seem to be moving right along.

- b. **1430 Highland Avenue**

Ms. Simone said for 1430 Highland Avenue which is the daycare that was approved by this Commission previously – there was a preconstruction meeting with the permit holder as well as their engineer and site developer.

Ms. Simone stated they went over what the requirements were and they are aware of stipulations that they must complete before getting a signature for their building permit.

- c. **64 Rita Avenue**

Ms. Simone stated there was a staff inspection of 64 Rita Avenue – which would be followed up under enforcement actions.

d. 837 Wallingford Road

Ms. Simone said for 837 Wallingford Road – the town was notified from the Meriden Water Company that they had conducted a survey of their property that abuts this property and that they found numerous encroachments some of which were bridges that were constructed over watercourses.

Ms. Simone stated the City of Meriden is pursuing this legally on their own – they are not asking this Commission for their assistance – they just want to notify the Commission that there were issues with that property that now they are aware of and plan to address.

e. Other – none.

**VIII. ENFORCEMENT ACTIONS**

1. Notice of Violation SC 1/07/14  
Mr. Nathaniel Florian Permit #2013-015 compliance date: 12/31/15  
Woodruff Associates  
Unauthorized Activities in the Upland Review Area/Inland Wetlands  
108 Blacks Road  
Assessor's Map 19, Lots 43 & 44

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

2. Notice of Violation SC 05/06/14  
Ms. Suzy Lynn Antunes Ribeiro SC 06/03/14  
SC 06/17/14  
Unauthorized Activities in the Upland Review Area/Inland Wetlands  
64 Rita Avenue  
Assessor's Map 14, Lot 43 CO #12-2-  
2014-A

Compliance Date: July 1, 2015

Chairman de Jongh said as staff had mentioned she had a site inspection today.

Ms. Simone stated she did receive an email from Ms. Ribeiro and copies were handed out to Commission members tonight.

Ms. Simone stated she (Ms. Ribeiro) had indicated that all the work is completed on the property and when she went to the property today she did not see any construction material.

Ms. Simone said it does appear the grade that has been established to the rear of the property is in keeping with the neighboring property which is what is stipulated in their corrective order.

Ms. Simone stated there does appear to be seed that has been spread out over the exposed soil; she stated she did not see any signs of erosion – they do have watering apparatus set up so they can keep the seed moist so that it would germinate.

Ms. Simone said it does appear as though what they have done so far is in keeping with what the Commission had requested in the corrective order.

Mr. Kurtz asked Ms. Simone if they stratified the order.

Ms. Simone stated yes but that she could not speak to the seed – she didn't know what type of seed they used – they were required to use the wetland mix – they did ask for information on where to purchase it – and she provided them with that information but there is seed that is out there – there is nothing germinating as of yet.

Chairman de Jongh said based on staff's comments he thought it's unnecessary for us to continue to keep this on our agenda.

Ms. Simone said she does not have a draft motion for the release of the violation but will have at the next meeting.

Chairman de Jongh said okay we'll take care of at the next meeting. He also might suggest that we send a communication out to them thanking them for their cooperation – acknowledge their cooperation.

Ms. Simone said she would plan to send that out after the Commission makes their formal release of the violation.

**3. SHOW CAUSE HEARING**

Notice of Violation  
Mr. Charles Kurtz

SC 05/19/15  
SC 06/02/15  
SC 06/16/15  
SC 07/07/15

Unauthorized Activities in an Inland Wetland and Upland Review  
Area

East Johnson Road  
Assessor's Map 12, Lot 2

Dr. Dimmick said he thinks we have enough evidence on this to indicate that yes a wetland was filled which is part of the determination and it may very well have been filled inadvertently but it certainly has been filled and to his mind we can make that declaration – close the show cause hearing but ask that some kind of permit after the fact be applied for.

Mr. Kurtz stated he didn't agree with Dr. Dimmick.

Mr. Norback stated he was on the same page as Mr. Kurtz.

Mr. Norback said he though what was demonstrated at the last meeting was that there was no way to know that there was a violation – he said he thought they were just out of line.

Dr. Dimmick said he respectfully disagreed – there is absolutely no way that he could see that that there was not a wetland there because we had several respective soil scientists identify a wetland there based on criteria that they would normally use – whatever criteria may not be there anymore – but they must have been present at the time when the various previous wetland soil scientist recognized a wetland there; he commented on the questioning of the professional competency of the three wetland soil scientists who did find a wetland there and he took objection to that.

Mr. Norback said he didn't feel he was questioning their professional abilities but if he wasn't mistaken wasn't there two wetland soil scientists that did not locate them (the wetlands) so those he guess he was not questioning.

Dr. Dimmick said they did not locate them because of changes that occurred after the wetland was firmly established as having been there – that doesn't mean that there was no wetland there – there had to have been a wetland there.

Mr. Kurtz said he agreed with that part there had to be a wetland there at one point – it was cataloged – it was discussed – wetlands sometimes disappeared – maybe it was filled it but we don't know when or how it disappeared – we have the two soil scientist that reaffirmed in 2014 but they said it in 2011 that there are no wetlands in that area.

Dr. Dimmick said he didn't think that was correct to say there are no wetlands – that was not the finding – the finding was that they could not find a wetland there – it doesn't mean a wetland wasn't there under a certain amount of fill.

Mr. Kurtz said he was just going by what the professionals.

Dr. Dimmick said this was close enough to his heart as a professional that he didn't think that's what the professionals said.

Chairman de Jongh said he thought the issue that we have is prior to the work that's been done on the site – there was testimony that a wetland did exist – and subsequent to the filling of the wetland – forgetting about who may have done it – when it may have happened – but from the time it was originally examined to the present wetlands were there and now they are not there – that's a fact so the problem too and we have always had this approach with property that new owner acquire or have use of is that you own the property – you own the violation.

Chairman de Jongh said he didn't think that they are saying there is a violation – he said he thinks they are trying to say is that current situation exists where wetlands that did exist at one point are no longer visible and he thinks what the need to do is to recognize that fact – those two facts are indisputable – they were there and they are not there not.

Chairman de Jongh said so what he's suggesting is we are recognizing that there was at some point work done that disposed of wetlands.

Mr. Norback said but it wasn't this owner.

Chairman de Jongh said if you own the property you own the violation.

Mr. Norback said but there was no violation because there was no wetland when he got there.

Chairman de Jongh said he understood that but if wetland disappear on a piece of property – we'll use the people on Rita Avenue for example – they didn't fill that section in but they bought the property – they have the problem – the people on CK Greenhouses they have the property they have the problem. He said he was not saying they did it – he is saying it was present at one point – it's not there now – those two facts are indisputable and now we can move on from that

premise and be able to move forward on this and he thought it was safe to say that there is evidence based on what is permissible and its not permissible to allow them to go forward but we'll probably need an application to be able to follow the process and having looked at in and having conversations with staff and looking at the evidence – he doesn't have a problem moving forward but he thought we needed an application to formalize the process.

Mr. Norback said he's disappointed the applicant isn't represented here tonight – he said he didn't like this – he can't get past Commission member Kurtz's saying it's gone – it was gone when they got there and it's gone now.

Chairman de Jongh said he's not disputing that – you are right it was there and it's gone.

Mr. Norback said so what do they need a permit for.

Ms. Simone said what brought this to our attention was is that we received complaints from neighbors and people driving by that there was fill – that's what initiated all of this – when she looked at the soils map the general official soils map it showed pretty extensive wetlands within that area – when she then looked at the only other file that we have for that property was the application for the freight terminals 1999 or so and it did identify wetlands on that property so that's what initiated the show cause as to what happened to the wetlands.

Ms. Simone said under the requirements for the show cause hearing the property owner is expected to submit information to the Commission of what did happen and not just what could have happened so we don't have any hard facts as to exactly what happened and what time frame things happened – whether it happened prior to purchase – whether it happened after purchase but that's was initiated all of this.

Ms. Simone said she was asked at the last meeting what remedy could be brought about for this and there was discussion about changing maps. She said when she looked at that as a possibility that's more involved and requires the state to review maps – it's a more extensive process in some ways and it also may appear to not involve the public as much as a regular application for it.

Ms. Simone stated this property owner does need to go before the Planning and Zoning Commission for the amount of fill that was brought in so an application is required before that Commission.

Ms. Simone said because there are wetlands documented that there was a wetland on that property and there's upland review area from the river on that property it's very likely the Planning and Zoning Commission will want to hear from the Wetlands Commission and when you look at the regulations an application must be brought to the wetlands Commission either before or at the same time as Planning and Zoning.

Ms. Simone said she didn't know if the property owner is even in good standing of just going to Planning and Zoning – they may have to come to this Commission anyway.

Mr. Kurtz said he thought they should because there are wetlands on the property and because there are wetlands on the property they want to fill – they do need to come to the Wetlands Commission and that we could understand as part of the process. He said what he just don't appreciate is the connotation of a violation or guilt on the part of these people – if they are remiss or guilty if you want to call it of something it's by not going for the permit that they needed for the moving of the fill and part of that could certainly have been a permit from the Inlands Wetlands Commission.

Dr. Dimmick said he thought they were having a problem with this word "violation" – you can own a violation that you have had no responsibility for having caused and you can still own it so they own a violation it doesn't mean they themselves are guilty of having done anything – they own the violation – it's something they have come into whether they caused it or whether a previous owner caused it – a violation exist as a factual thing not that we are accusing anybody of having done something - there is a violation.

Mr. Norback asked procedurally – what exactly is a show cause hearing – are we asking them to show cause.

Ms. Simone stated the burden is on the town to prove that there was a wetland in that area – that there is a cause for action so that's how all of this was brought about because we do have documentation that there was a wetland there – then it's there responsibility to explain and provide evidence to the Commission of what happened to that wetlands.

Mr. Norback said he thinks which they did to his satisfaction.

Ms. Simone said in the end and the Commission determines to close the show cause and find a violation or not a violation.

Ms. Simone said also in the staff report she does indicate having them come in for an application that the applicant could use the record from 1999-2000 where it was testified that that was a low quality wetland and that it didn't provide much function and the Commission could consider that in identifying that perhaps it was a low quality wetland and that filling it was something the Commission might entertain.

Mr. Norback asked if they could not also use the information supplied in 2004 and 2011 saying that no alluvial soils were noted on the property.

Ms. Simone said that wouldn't really speak to the issue of quality to give this Commission more information about whether or not to grant a permit for filling after the fact – that would really just be saying that there was a low quality wetland and in 2011 it wasn't there but still that doesn't speak to what happened – if filling a wetland is a regulated activity which it states in the town regulations that it is then they are required to come to the Commission to get their permit first – even agricultural use is not allowed to fill in the wetland.

Mr. Kurtz stated we don't know that it was filled – it's just a violation because somebody filled a wetland.

Ms. Simone said it's difficult to tell because by their own admission there is 6' of fill now on top of that area.

Mr. Norback said it seems like so much of this is subjective and speculative.

Mr. Kurtz said the letter signed by two soil scientists that doesn't say they didn't find any – it says there are no additional wetlands within 150' east or west of previous delineations – it doesn't say they didn't find any – it says there are none. He said something occurred we just don't know if it was filled in or what.

Dr. Dimmick asked if it was satisfy Mr. Kurtz if they subpoenaed these two wetland scientists that signed that and brought them in and quizzed them as to what's going on because he's not satisfied otherwise.

Chairman de Jongh said he thought that was overkill – he said as we said in the beginning there are two sets of data that we have – we have data that dates back to the existence of the wetland – we have

data that shows according to the two soil scientists that there is no wetland – it just doesn't disappear – there is no wetland because of activity that took place so it was there and it's not there now.

Ms. Simone said and there's also the additional amount of fill that was brought on to the property whether this wetland ever existed or where it is now – that's a whole other issue but still they filled within an upland review area which at the very least the Commission was required to review ahead of time before bringing that material in.

Chairman de Jongh said he thought the issue is that – they are not trying to find blame – he didn't think they were trying to point fingers to anybody – it's a simple fact that it was and it's not so now having recognized that as the perimeters that we are trying to look at this now – he thinks they need to do the l's and cross the t's is an application after the fact for the placement of soil in an area that we would have had review over.

Mr. Norback said that's where he thinks it falls apart – he thinks what the applicant should ask for is permission to fill within the proximity of the wetland not over the wetlands because the wetlands aren't there.

Chairman de Jongh said but they already filled in an update review area which is part of our previous.

Mr. Kurtz said that should be part of their application – we don't know that it was filled in – we know that there was fill put on top of that area but there's some testimony that says there was no wetland there – the violation is they did not come to the Commission for a permit so they need a permit even though it's after the fact. He said maybe the P&Z is saying the same thing.

Chairman de Jongh said he thinks that's where they are going on this – is that they added additional soil in an upland review area that normally would require permission from this Commission.

Ms. Simone stated this is all tied to this specific notice of violation and cease and desist order that was sent.

Mr. Kurtz said there should be no question that the order should have been issued because the information that Suzanne had to go by indicated there is a wetland there and the other information didn't come to light until a couple of weeks ago.

Dr. Dimmick added that scientifically, there was a wetland there even when the other people couldn't find the wetland. He said once a wetland has been established and legally determined the wetland is there legally even if you can't find it later – you can't remove a wetland once it's been recognized officially unless you go through some sort of process – we would be subject to all kinds of possible appeals were we to decide that there wasn't a wetland there – he didn't want to see us in that kind of legal bind.

Ms. Simone said the notice of violation and cease and desist dated May 12, 2015 is for unauthorized activity in an Inland Wetland and Upland Review area – which covers everything and isn't identify one particular pocket wetland – it talks about wetland area which there are wetlands in the near proximity of this property and at the time this was based on information as you had stated that indicted that there were wetlands on the property.

Chairman de Jongh said this Commission needs to vote on the show cause hearing and at the closure of which if we think there was a violation of the wetland violation and then we can move on to the second part and that is if we feel the applicant needs to file an application with us after the fact for work that was done.

Ms. Simone said the Commission can also set the time frame – either by a date or when an application is brought into Planning and Zoning it can be brought into Wetlands at the same time.

Mr. Kurtz said he's (CK Greenhouses) is guilty for not asking for a permit.

Dr. Dimmick stated based on the finding at show cause hearing:

**Motion:**

That a wetland did exist, that fill was placed in a wetland and upland review area without a permit from this Commission, whether purposely or ignorantly we don't know and that a recommended action is to apply for a permit after the fact for the filling.

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

Ms. Simone stated she could send him (Mr. Kurtz) a letter letting him know what the Commission's motion was (notifying him of what action to take moving forward).

**IX. UNFINISHED BUSINESS**

1.	Permit Application	APP	2015-010
	H & H RE, LLC	DOR	04/07/15
	Moss Farm Road	PH	06/02/15
	House	PH	06/16/15
		PH	07/07/15
		MAD	08/11/15

Dr. Dimmick said his feeling on this was either of the plans submitted tonight would satisfy most of our concerns – his only real concern here is that when the driveway does go in that the area between the new driveway and the vernal pool be allowed to revert to some sort of a wild state to add additional protection to the pool.

Chairman de Jongh stated his comments earlier in the public hearing held this evening indicate his preferences to the alternate plan as opposed to the one that was proposed because it does provide a greater buffer between the crossing and the vernal pool.

Mr. Norback stated he agreed.

Ms. Simone said she believed Dr. Dimmick’s comments about the success of breeding in the vernal pool helps to lend to field observation that the vernal pool is actually a vernal pool and it is successful.

Chairman de Jongh said that he would then instruct staff at this Commission’s pleasure that staff can go ahead and draft the appropriate wording that we can discuss and comment on at the next meeting.

There was a brief discussion about additional plantings.

Dr. Dimmick said the area is going to provide enough seedlings in and of itself.

Ms. Simone said the area is not populated by wetland grasses – is that sufficient enough.

Dr. Dimmick said he thought if you stop any mowing within 30’ of the pond that there are other things moving in there – in and among the wetland grasses he saw several other wetland favoring type vegetation.

Ms. Simone said to clarify – it's not from the edge of the driveway to the vernal pool – its 30' from the vernal pool towards the driveway.

Dr. Dimmick said it's from the maximum extent of the vernal pool.

Chairman de Jongh said they'll wait for staff to come back with her recommendation at our next meeting.

2.	Permit Application	APP	2015-013
	Joseph M. Green	DOR	05/05/15
	10 Prinz Court	SW	05/26/15
	Site Plan - House	PH	06/02/15
		PH	06/16/15
		MAD	07/21/15

Ms. Simone stated there was a draft motion for approval and we have received all the information we were waiting on further clarification of the wetland flag area; the engineering department is also satisfied.

Motion:

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

1. That the current application is for construction of a single family house on 10 Prinz Court.
2. That no direct or indirect wetland impacts are proposed.
3. That the inland wetland boundaries were copied from IWWC permit for subdivision approved on May 16, 2006.
4. That the proposed activities will not have a significant adverse effect on adjacent wetlands or watercourses.

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2015-013, the permit application of JOSEPH M. GREEN for site plan approval as presented and shown on the plans entitled:

**“Zoning Location Survey  
Site Plan for House, Assessor’s Lot 75**

**Owned by Bryan Zerhusen and Lama Alloush Zerhusen  
10 Prinz Court, Cheshire, CT  
Dated April 29, 2015, Revised June 8, 2015  
Two sheets, Scale varies  
Prepared by Robert Green Associates, Terryville, CT.”**

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

- 1. Any lack of compliance with any condition or stipulation of this permit shall constitute a violation of the Cheshire Inland Wetlands and Watercourses Regulations, and an enforcement order shall be both issued and recorded on the Town of Cheshire Land Records.**
- 2. No changes or modifications may be made to the plans as presented without subsequent review and approval the Cheshire Inland Wetlands and Watercourses Commission.**
- 3. Prior to any clearing, grading, or other construction activities on the site, or the request for a Building Permit, the applicant shall:**
  - a. accurately stake and/or flag all clearing limits and permanently mark all non-encroachment lines. The location of non-encroachment lines shall be agreed upon by the applicant and Commission Staff. Work is to be completed by qualified personnel. The applicant shall notify Commission Staff so that Staff may inspect the site to verify all such areas have been properly marked. Staff may also insist on additional markings if field conditions warrant them.**
  - b. provide a professional engineer’s certification, in writing to the Commission, that all required erosion and sedimentation controls are in place and functioning as represented by applicant to ensure the prevention of erosion and sedimentation into adjacent wetlands and watercourses. The cost of the professional engineer shall be borne by the applicant. A visual barrier such as orange plastic construction fence or equivalent shall be used to identify the erosion controls. The applicant shall also notify Commission Staff so that Staff may**

**inspect the site to verify that all required controls are in place. Staff may also insist on additional controls if field conditions warrant them.**

- c. submit contact information with a 24-hour phone number for the individual with the responsibility and authority to receive notices of any breaches or deficiencies of sedimentation and erosion controls on-site, and to effectuate repair of any such breaches or deficiencies within six (6) hours of such notice from the sediment and erosion control inspector, or other appropriate staff of the Town of Cheshire.**
- 4. An inspection of the condition, integrity, and adequacy of the sedimentation and erosion controls shall be made by a qualified party on a regular basis, either weekly or after every significant rainfall of 1/2" or greater, whichever is sooner, until all disturbed areas are stabilized. Said party shall be independent of the contractor. All reports shall be submitted to the contractor and Commission Staff either within three days of inspection, or prior to the next storm event, whichever is sooner. All breaches or deficiencies shall be forwarded to a contact individual, as defined below, immediately after inspection. The costs of said inspections shall be borne by the applicant.**
- 5. Throughout the course of conducting permitted activities, and per Section 11.2K of the Cheshire Inland Wetlands and Watercourses Regulations, the applicant shall be responsible for ensuring the following:**
  - a) That all maintenance and refueling of equipment and vehicles is performed as far as practical from all wetlands and watercourses, at least 100' where 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.**
- 6. This permit grant shall expire on July 2, 2020.**

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

3. Request for Determination RFD 2015-015  
607 Yalesville Road  
Pool Shed in Upland Review Area

Chairman de Jongh said they were waiting for a map with some type of measurements which they received this evening.

Ms. Simone said yes and she did look at the town aerial photographs and it does appear to be in keeping with what is shown here.

Dr. Dimmick said so this is a case of a shed went in without getting a permit and it's really a question of whether we need to have them come in with a permit after the fact.

Ms. Simone stated it is a replacement shed.

Dr. Dimmick said a replacement shed for something that was there to begin with.

Ms. Simone said in looking at the aerial photographs it does locate the shed and it does appear from this information and from speaking with Mr. Webster that the shed is installed in the same location.

Dr. Dimmick stated and essentially this is an established house and lawn that has been there for quite some time and it doesn't look like we are going to be talking about any impact as a result of it.

The Commission reviewed the map showing the location of the shed, house, wetlands and pool and discussed the activity performed on the site.

Motion:

That this activity is de minimis and therefor does not require an application.

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

4. Permit Application APP 2015-019  
Town of Cheshire Public Works Dept. DOR 06/16/15  
Peck Lane  
Drainage Improvements MAD 08/20/15

**Motion:**

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

- 1. That the applicant is seeking a permit to improve drainage on Peck Lane by installing catch basins, a culvert and underdrain.**
- 2. That there no species of concern in the area, as identified on the current CT DEEP Natural Diversity Database.**
- 3. That the activities will likely not have a significant adverse effect on adjacent wetlands or watercourses.**

**Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2015-019, the permit application of Town of Cheshire Department of Public Works for site plan approval as presented and shown on the plans entitled:**

**“Town of Cheshire, Connecticut  
Department of Public Works and Engineering  
Site Plan Depicting Drainage Improvements  
Peck Lane, Cheshire, CT  
Dated: January 6, 2015  
Two Sheets  
Prepared By: Town of Cheshire, Engineering  
Department.”**

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

- 1. Any lack of compliance with any condition or stipulation of this permit shall constitute a violation of the Cheshire Inland Wetlands and Watercourses Regulations, and an enforcement**

order shall be both issued and recorded on the Town of Cheshire Land Records.

2. No changes or modifications may be made to the plans as presented without subsequent review and approval the Cheshire Inland Wetlands and Watercourses Commission.
3. Prior to any clearing, earthmoving and/or construction activities, the applicant shall accurately stake and flag clearing limits and properly install erosion controls.
4. Throughout the course of conducting construction activities, and per Section 11.2K of the Cheshire Inland Wetlands and Watercourses Regulations, the applicant shall be responsible for ensuring the following:
  - a) That all maintenance and refueling of equipment and vehicles is performed as far as practical from all wetlands and watercourses, at least 100' where 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.
5. This permit grant shall expire on July 7, 2020.

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

**X. NEW BUSINESS**

- |    |  |                   |                                  |
|----|--|-------------------|----------------------------------|
| 1. | Permit Application<br>Apex Developers<br>Coleman Road<br>Subdivision | APP<br>DOR<br>MAD | 2015-021<br>07/07/15<br>09/10/15 |
|----|--|-------------------|----------------------------------|

Ryan McEvoy, PE with Milone and MacBroom was present on behalf of the applicant.

Mr. McEvoy addressed the Commission. He explained what they are proposing as part of this application is seven lot residential subdivision located at 678 Coleman Road.

Mr. McEvoy reviewed the plan with the Commission. He said the property is abnormal in shape and is just under 20 acres in size and has a long stretch approximately 7 acres in the front along Coleman Road and a larger portion to the rear.

Mr. McEvoy said the site is bordered by residential properties to the east along Tamarack Road, residential properties to the south along Philson Court and a couple of houses on Coleman Road.

Mr. McEvoy said across the street is the Leavenworth Tree Farm and some greenhouses on the opposite side of Coleman Road.

Mr. McEvoy explained the property has historically and currently is being used for agricultural purposes primarily along with a house and associated barns and accessory structures to the northern part of the property and in the rear along the roadway and to the rear is just more or less open field that is used for grazing.

Mr. McEvoy explained the site is fairly open – there are some wooded areas in the eastern most part of the property and the topography of the site generally drains in two directions - he stated the drainage is on the northern and central portions flowing to the north – and to the east it drains towards an intermittent watercourse and wetlands along the rear.

Mr. McEvoy said a primary feature of the frontage along Coleman Road is a fairly broad wetland corridor that is flagged in the vicinity of the south part of the corridor by William Root from our office in April of this year and in the north we utilized available town mapping to delineate the wetlands.

Mr. McEvoy said the focus of our application in our proposed lot development will be located to the east (shown on the plan) and south.

Mr. McEvoy said what they are proposing is a 7 lot subdivision with 6 new lots in that portion on the eastern side of the property – the northern 6 acres approximately are going to be retained by the owner of the parcel and will include the farm house and the accessory structures and all 6 lots are going to take access off of a new town road which will be located along Coleman Road and the road length is approximately 850' in total.

Mr. McEvoy stated all the lots will be served directly off this cul-de-sac with about 3 lots located at the cul-de-sac – one lot further to the

back with a longer driveway and the other five essentially more standard distances to the roadway.

Mr. McEvoy said the primary nature of the application in terms of wetland impacts is the entrance coming off the road – we selected the road location at the southernmost point on the property that we could possibly put it in given the turning radii requirements for a town standard road – we have to come about 15' off the property corner and the geometry of the road is the tightest we can get in terms of horizontal curvature and the result is we do have a section of that wetland corridor that will be effected as a result of the roadway.

Mr. McEvoy said this wetland corridor to the north is historically and currently used for agricultural purposes and grazing so it has been impacted and has been disturbed in the past – it has been used by livestock occasionally.

Mr. McEvoy said we would pick the location for the roadway could go and the location further south that it could go and the result is a total of 4,975 SF of impact to the wetlands and the approach coming off of Coleman Road will have 4,225 SF of impact within the upland review area and on the opposite side of the wetland corridor there will be just over 8,000 SF of impact within the upland review area.

Mr. McEvoy explained they limited the amount of impact to the wetlands by providing short retaining walls. He explained that they would be filling between 2' to 4' in grade providing a culvert underneath the road to direct a very limited amount of surface runoff that goes through the wetland corridor and we do propose some sort retaining walls just off the edge of the right way again to limit the amount of fill in the wetlands themselves.

Mr. McEvoy said as for the remainder of the site we don't have any additional impacts within the upland review area – we do have two storm water management basins located in the eastern area of the parcel and in the vicinity of the wetland crossing is detention basins – stormwater management basins that are designed to handle the increases in runoff in the development for up to the 100 year storm – they do include several water quality features as part of the stormwater treatment which include sediment chambers prior to discharge into each basin – a sediment forebay at the inlet to the basin and particularly with the basin to the eastern part of the site a level spreader outlet to allow for the runoff to exit the basin in a level even manner – slower velocities at a point discharge.

Mr. McEvoy stated these lots will be served by private septic systems and public water – there is public water available in Coleman Road and these lots do conform to the basic subdivision requirements for R-80 lots – we are not seeking any special permit or special exceptions through the Planning and Zoning Commission.

Mr. McEvoy said so the crux of the matter is the wetland crossing at least from a regulated activities along with the approach to the corridor on both sides of the street.

Mr. McEvoy said he would like to mention there was a small intermittent water course – looks like a ground water seep in the northern portion of the back part of the lot – we are not proposing any activities within the upland review area associated with that.

Mr. McEvoy stated the intermittent water course heads to the north through the adjacent parcel and eventually connects to the reservoir.

Mr. McEvoy stated the back eastern part of the property does drain towards the reservoir – the Meriden Reservoir and the northern area of the property drains towards the Mill River and the South Central Regional Water Authority Watershed.

Mr. McEvoy said as part of the application they did notify the Meriden Water Company and Meriden Water Department and the South Central Regional Water Authority as required by state statute along with the Department of Public Health and we have not received any comment from them but we did receive confirmation that they were in receipt of the documents that we submitted.

Mr. McEvoy said with that – if there were any questions he'd be happy to answer them.

Dr. Dimmick said in the area of the proposed road crossing – there was at one time about a half dozen small springs or seeps that were the source of the water that was continually flowing down through there – he said he would like to see that those are taken into account as far as being able to continue the flow rather just catching the surface drainage through that culvert – he said and the fact in terms of the integrity of your road foundation you probably want to put in something like a gravel blanket or something of that sort to catch those springs and seeps and carry them out under the road and thus maintain the continual flow of that stream going north.

Dr. Dimmick said there also was a permit issue issued at one time for that same spot that allowed William Coleman to place a certain

amount of fill in there for improvement of pasture and in giving that permit there was a clause inserted in the permit which stated that the area could only be used for agricultural purposes unless he came back to the Commission to ask for further permission in terms of what was done – so you or your lawyer need to look at that clause to make sure it's not going to be interfering with what you're doing.

Mr. McEvoy said that's something they'll take into consideration and something they'll discuss with Don Nolte of the engineering department to make sure they are comfortable with that under a town roadway. He said they do provide a cross culvert for surface water flow – coming from a neighboring property.

Ms. Simone stated she received an unanimously complaint that there was dumping taking place on this property – when she visited the property yesterday she did see there was an area that was probably an old farm dump – there was some metal, tree stumps to the far back of the property – did not appear to be within the wetland but it had heavy vegetation growing on top of it so it was something that was historic as opposed to something that was active. She said the property does plan on cleaning that material out of there – there are dumpsters on site and he plans on pulling the material out.

Mr. Kurtz said there's going to be a lot of engineering involved in that road – he said he was wondering about the flow of the water to make sure it goes in a northerly direction rather than on the property next to where the road goes through there.

Mr. McEvoy explained what they were doing regarding directing run off to a detention basin that will connect to the culvert underneath the roadway and discharge to the north. He explained the proposal to direct the drainage in this area so there is no impact on the proposed lots.

The Commission agreed to have a field trip of the property.

A field trip was set for Tuesday, July 14, 2015 at 5:30 pm.

Chairman de Jongh said they would disperse with any further consideration pending the results of the field trip.

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| 2. | Request for Determination<br>Alexion Pharmaceuticals<br>Knotter Drive<br>Temporary Modular Office Building | RFD | 2015-022 |
|----|--|-----|----------|

David Carson, a principal of the OCC Group was present representing the applicant Alexion Pharmaceuticals.

Mr. Carson explained that Alexion is proposing another temporary office module – there were two approved last year - they came to the Commission for determination on those – the third one is being proposed (as shown on the plan).

Mr. Carson said approximately 2800 SF – 60’ off the existing building at one of their entrance points - it’s a minimum of 240’ from the nearest wetland – 475’ from the flood plain – it’s above ground on piers.

Mr. Carson stated Planning and Zoning had issued a 2 year approval on these – he said they would be looking for the same thing here.

**Motion:**

To declare that the proposed activity is de minimis within the context of the regulations and not requiring a permit.

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

3. Request for Determination RFD 2015-023  
MMI  
Jarvis Street Resubdivision  
Sanitary Sewer

Ryan McEvoy, PE of Milone and MacBroom was present on behalf of the applicant.

Mr. McEvoy addressed the Commission.

Mr. McEvoy explained this is a modification that we are seeking a determination from this Commission for Cedar Crest Subdivision. He said when they originally got their feasibility approval from the Cheshire Water Pollution Control Authority and when we had received a permit from this Commission as well as P&Z Commission they had an approval for a common low pressure forced main sewer system for all the proposed lots to be directed to an existing gravity manhole near the intersection of Moss Farms Road and Jarvis Street.

Mr. McEvoy said the WPCA expressed their concern about the use of pumped sewer systems – and while they granted feasibility based on the plan to provide forced mains for the houses they strongly

recommended the applicant pursue any way possible to construct a gravity sewer.

Mr. McEvoy said the applicant has come to an agreement with the owner of 115 Orleton Court to have a sewer line built through their property which would connect to the existing gravity line and out to the existing pumps station that is adjacent to their property.

Mr. McEvoy said the elevation of this sewer line is such that we can achieve gravity service for all these proposed lots via a new sewer line within the roadway and a cross country sewer line that will wrap around the high point in the back of the lot and the location that we chose is supposed to minimize the depth of excavation associated with the sewer and also to stay outside of any regulated areas from the delineated wetland associated with the Ten Mile Brook.

Mr. McEvoy said what we are proposing is a sewer lien through the homeowner association property that does not have any activity within the upland review area – it will be temporary in nature to construct they sewer itself and the only maintenance requirements on a typical basis would be perhaps be annual mowing.

Mr. McEvoy showed the plan the WPCA granted final approval for – and as the result of the condition of this Commission’s approval any changes are required to be brought before you for determination or for future action.

Ms. Simone said she had a couple of questions – the approved site plan for Cedar Crest does show there is a sanitary sewer line – it shows manholes.

Mr. McEvoy said the original plan the Commission approved has the force line going out toward Jarvis Street.

Ms. Simone said in the approved plan there was no clearing in this area (shown on the plan) and this does get right up to the upland review area.

Mr. McEvoy showed on the plan the location that was outside the upland review area and the location was chosen to try to wrap around this high point so they don’t have a 30’ huge sewer so they are trying to find the happiest medium between a reasonably deep sewers not having any impact to the upland review area.

Mr. McEvoy said the sewer is generally 10’ deep on average – 8” PVC.

Dr. Dimmick said the lien will come very close to one of your proposed detention basins – does it change any of the piping going into the detention basins.

Mr. McEvoy said it will be lower; he said it can be constructed anytime but it is likely this will be done sewer than later and this is not in land that we proposed as open space for the Town of Cheshire – it is all in land that was approved and shown as land to be retained by the homeowners association.

Ms. Simone said that the new plan calls for more erosion controls than what was previously.

Mr. McEvoy said because of the temporary nature of we just show silt fence around the down slope size – it should be constructed relatively quickly – in the matter of a few weeks at most.

Dr. Dimmick said he thought for our record although it's a request for determination he thought they needed to make sure that they have on file the existing permitted subdivision and that they'd would have a revised plan because the revised needs to show this change. He said they need to have on file what's going to be closest to what's going to be the as built for the subdivision otherwise it could get missed.

Dr. Dimmick said it is a very minor change as far as wetland impacts but as far as our records are concerned it's a major change.

Mr. McEvoy asked about additional records that are part of the official record if in fact the Commission found a permit was not needed.

Ms. Simone said that becomes tricky when it comes to subdivision – she said when someone comes in to look at a subdivision file that's what they get – they may not get this request for determination; she explained that the determinate is tracked differently than an application. She explained the process to track applications and requests for determinations – noting this requested need to be tracked in a more formal manner – because of the nature of the proposal the Commission may want to track the activity.

Ms. Simone talked about the proposed activity formalized and put on the record.

There was discussion regarding the need to have an application for the proposed activity and that a basic application can be submitted tonight.

Motion: After reflection, the Commission has determined that a permit application for modification is required for this particular proposal.

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

Motion: That the meeting be left open long enough for receipt of a preliminary application this evening.

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

4. Request for Determination RFD 2015-024  
Alliance Energy  
986 South Main Street  
Building Demo and Tank Removal

Patrick Lord, an environmental scientist with Apex Companies was present on behalf of the applicant.

Mr. Lord explained the proposed activities are located at 986 South Main Street – the old Shell Station – they’ve closed the station and they need to remove the underground storage tanks and they are going to demolish the building.

Mr. Lord explained the Mill River is present approximately 450’ from the edge of pavement.

Dr. Dimmick said at one point its about 25’ – he stated he knows that property very well.

Mr. Lord said the property has existed for quite some time and in order to complete the tank removal because it is within the wetland review area – they have to file a request for determination if not go through with an application.

Mr. Lord said what the client is proposing is to establish a silt fence and hay bale erosion controls along the edge of the existing bituminous asphalt between the asphalt and the embankment to the stream. He talked about the current condition of the embankment – he said the activities are not going to have any adverse impacts –

they are not going to be encroaching on that area at all so he believe the establishment of erosion controls and silt fence, hay bales will be sufficient.

Dr. Dimmick said his main concern with that is he (Mr. Lord) knew the depths of the tanks from the existing pavement – he said ground water gets within about 6’ of the surface in some places there and the ground water had been containamated one time by a spill – there’s eight monitoring wells on the property – there may be more and he is worried that if they have to dewater the holes when pulling the tanks out – where that water goes.

Mr. Lord stated there’s contingency right now that there’s any dewatering – there is not going to be any tank replacement – the tanks are going to be removed – all UST system components will be removed – nothing will be replaced – the dewatering aspect of that project would be to if at all needed would be to allow for excavation of any impacted soils that would be encountered – that would be handled with either vacuum trucks and taken off site for disposal.

Mr. Norback asked if a project like this was monitored by DEEP during construction.

Mr. Lord stated everything goes to DEEP - it’s not monitored during construction.

Dr. Dimmick stated South Central Water Company has a big interest in this because you are right above their south Cheshire well field area – primary recharge area.

Mr. Lord stated it is within the aquifer protection area.

Dr. Dimmick said at one time there was a spill within the vicinity of the pumps and he presumed that was cleaned up sufficiently – he was not sure.

Mr. Lord said there is a proposal to after the demolition to go in and excavate any impacted soil that is present there from that release.

Dr. Dimmick said there are two 55 gallon drums on the site right now.

Mr. Lord stated those would be removed.

Dr. Dimmick said there are two above ground tanks – one was a fuel source for the building and he didn’t know what the other one was for.

Mr. Lord stated there are two heating oil tanks present now on the property and those are going to be emptied and those will be removed.

Mr. Norback asked if the excavator or contractor who is going to be doing the work – are they certified within this kind of work (specialists).

Mr. Lord said they are petroleum contractors.

Dr. Dimmick said he thought his concerns had been addressed – he said you are not going to be storing any of that soil on site.

Mr. Lord stated no – everything would be loaded and transferred off site for recycling. He stated he believed there may be a clause that if that property is ever developed again that there be a no compete – no gas station clause for the site.

Dr. Dimmick stated that's of great concern to the Water Company – they want to get rid of all the gas stations in their primary recharge zone eventually.

Mr. Norback said he would be careful saying there is no material going to be stored on site because if all of a sudden all hell breaks loose and you have to take far more material than you had anticipated you may not have provisions to get rid of it.

Mr. Lord said the practice is to protect and store that on plastic sheeting; he said they could manage that (if something happened).

There was discussion about the removal of the tanks on site and the proper methods to remove the tanks.

Motion: To find that within the context of our regulations the proposed activities will not require a wetland permit

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

- |    |                                |     |          |
|----|--------------------------------|-----|----------|
| 5. | Permit Application             | APP | 2015-024 |
|    | Alliance Energy                | DOR | 07/07/15 |
|    | 986 South Main Street          |     |          |
|    | Building Demo and Tank Removal | MAD | 09/10/15 |

Mr. Lord withdrew this application.

6. **MMI  
Jarvis Street Resubdivision  
Sanitary Sewer**

Ryan McEvoy, PE of Milone and MacBroom was present on behalf of the applicant.

Chairman de Jongh stated that the record show we have received an application from Milone and MacBroom on behalf of the Jarvis Street Resubdivision Sanitary Sewer modifications and this appears to be an application to modify the permit that was granted to recognize the change in the location of the sanitary sewer line.

Mr. McEvoy stated that was correct.

Dr. Dimmick said you'll (Mr. McEvoy) will be in close touch with staff so we can go full blown next time.

Ms. Simone asked if the Commission would like to take the testimony that was provided under the request for determination and make that part of the record for this application.

Dr. Dimmick stated so moved. Seconded by Mr. Norback. Approved unanimously by Commission members present.

Chairman de Jongh said they'll allow staff to wield her magic pen and they could take care of this at the next meeting.

At 9:01 pm: Return to the approval of the minutes.

XI. **ADJOURNMENT**

The meeting was adjourned at 9:02 p.m. by the consensus of Commission members present.

Respectfully submitted:

Carla Mills  
Recording Secretary  
Cheshire Inland Wetland and  
Watercourse Commission