

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
TUESDAY, JULY 21, 2015
TOWN HALL 84 SOUTH MAIN STREET
COUNCIL CHAMBERS AT 7:30 P.M.**

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

Staff: Suzanne Simone.

I. CALL TO ORDER

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

II. PLEDGE OF ALLEGIANCE

All present recited the pledge of allegiance.

III. ROLL CALL

Ms. Dunne called the roll.

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

IV. DETERMINATION OF QUORUM

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

**V. APPROVAL OF MINUTES – Public Hearing – July 7, 2015
Regular Meeting – July 7, 2015**

Chairman de Jongh called for a motion to approve the minutes from the July 7, 2015 public hearing and regular meeting.

Dr. Dimmick noted there was no longer a need to defer the approval of the minutes to the end of the meeting.

Motion: To accept the minutes from the July 7, 2015 public hearing and regular meeting with corrections.

Public Hearing: pg. 3 L44 “beginning” to “being”.

Regular Meeting: pg. 5 L22 “stratified” to “satisfied”; pg. 10 L43 “was” to “would”; pg. 12 L16 “isn’t” to “doesn’t”, L24 delete “violation of the”; pg. 21 L15 “effected” to “affected”; pg. 21 L35 “right” to “right of way”; pg. 22 L45 “soothing” to “something”, L49 delete “issue”; pg. 23 L18 “unanimously” to “anonymous”, L25 property “owner”, L44 “disperse” to “dispense”; pg. 26 L8 “lien” to “line”, L13 “sewer” to “sooner”, L22 “size” to “side”, pg. 27 L36 “450” to “45”; pg. 28 L10 after “is” add “if”; pg. 28 L13 “containamated” to “contaminated”.

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

V. COMMUNICATIONS

Ms. Simone stated there were no communications.

VI. INSPECTION REPORTS

1. Written Inspections

Ms. Simone stated there were no written inspections.

2. Staff Inspections

Ms. Simone stated there were no staff inspections.

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 would remain 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

Ms. Simone stated there was a draft motion to release the notice of violation and cease and desist that was issued on April 30, 2013.

Motion:

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

1. That on April 30, 2014, a Notice of Violation/ Cease and Desist was issued to Ms. Suzy Lynn Antunes Riberio, 64 Rita Avenue for the unpermitted stockpiling of construction debris and filling of an inland wetland at 64 Rita Avenue in violation of the Inland Wetlands and Watercourses Regulations.
2. That on May 6, 2014 the Cheshire Inland Wetlands and Watercourses Commission opened a Show Cause Hearing and closed the Show Cause Hearing on June 17, 2014 and determined the unpermitted stockpiling of construction debris and filling of an inland wetland at 64 Rita Avenue in violation of the Inland Wetlands and Watercourses Regulations.
3. That on June 16, 2014 a Corrective Order was issued, requiring the construction debris and fill be removed by July 1, 2015.
4. That on July 1, 2015 the property owner confirmed in an email to Commission Staff that the debris had been removed.
5. That Commission Staff verified the removal of construction debris and fill, and the establishment of the grade in keeping with the prescribed Corrective Order.

Therefore, the Cheshire Inland Wetlands and Watercourses Commission does hereby determine that the requirements stated at the December 2, 2014 Corrective Order have been met and completed. Further, the Commission does hereby release and discharge the aforementioned Notice of Violation/Cease and Desist Order.

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

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|----|---------------------|-------------|
| 3. | Notice of Violation | SC 05/19/15 |
| | Mr. Charles Kurtz | SC 06/02/15 |
| | | SC 06/16/15 |
| | | SC 07/07/15 |

Unauthorized Activities in an Inland Wetland and Upland Review
Area
East Johnson Avenue
Assessor's Map 12, Lot 2

Ms. Simone stated the show cause hearing on this item was closed and a letter was sent to the property owner advising him that the Commission had requested that an application for a permit after the fact be submitted.

Ms. Simone stated the application has not yet been submitted – the letter just went out last week.

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 |

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 Lot #2 Moss Farm Road, two lot subdivision approved in 2002.

2. That the applicant's soil scientist located a vernal pool on lot #1, in the vicinity of the proposed driveway, and that the applicant's engineer stated during the public hearing this vernal pool is an "environmentally sensitive area".
3. That the location of the vernal pool on the maps prior to June 29, 2015 were based on the 2002 mapping, and were not accurate.
4. That the proposed driveway is located within a grassed wetland, and will account for 3,300 square feet of impact.
5. That the vernal pool is productive and support amphibian life cycles, as witnessed by egg masses and tadpoles.
6. 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 #2015-010, the permit application of H&H RE, LLC for site plan approval as presented and shown on the plans entitled:

**"Site Plan-Alternative 1
Connelly Property Subdivision
916 Moss Farm Road, Cheshire, CT
Scale 1"=30'
Dated June 29, 2015
Prepared by MMI, Realty Drive, Cheshire, 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 properly install all erosion controls as depicted on the above referenced plans. Staff may also insist on additional erosion controls if warranted by field conditions.**
 - b. permanently establish a vegetated buffer 30 feet from the maximum extent of the vernal pool and post the area with non-encroachment markers. This area is permitted to be mowed a maximum of once per year. 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.**
- 4. 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' if possible. All oil, gasoline, and chemicals needed at the site shall be stored in secondary containment to prevent contamination of any wetlands or watercourses from possible leaks.**
 - b) That all disturbed areas on the site not directly required for construction activities are temporarily hayed and seeded until the site is permanently stabilized.**
- 5. This permit grant shall expire on July 21, 2020.**

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

2.	Permit Application	APP	2015-021
	Apex Developers	DOR	07/07/15
	Coleman Road	SW	07/14/15
	Subdivision	MAD	09/10/15

Chairman de Jongh stated this property was subject of a field trip.

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

Mr. McEvoy addressed the Commission.

Mr. McEvoy stated since the last meeting they did have a field visit – last Tuesday (July 14, 2015) a few members of the Commission were able to attend.

Mr. McEvoy explained he had a couple more updates. He said they did receive a comment letter from the Regional Water Authority – they area to the west near the wetland crossing is within the Mill River Watershed and they (the applicant) doesn't take any exception to their comment letter – their comments or suggestions.

Mr. McEvoy said they did receive a comment letter from the Engineering Department which they have not addressed in detail yet but they were hoping that some further discussion with the Commission tonight will give us an idea as to whether or not this activity would fall under a significant activity or not a significant activity based on the regulations.

Mr. McEvoy said if there were any questions he'd be happy to answer them. He stated he did want to mention he did review the file from 1993 where the owner of the property proposed some regrading in the wetland area to the north of where we proposed their activities and while the wetland delineation does differ somewhat from what we determined to the current delineation – they have in fact is a broader wetland area then what was shown in the 1993 plan so we certainly thinks the activity that they are proposing and the number they are quantifying as part of the direct wetland impact would

actually be greater than what would be called for if we were using the previously flagged delineation from 1993; he said this is something he could discuss further if they (the Commission) would like.

Dr. Dimmick reported that the two Commission members that went on the field excursion (Dr. Dimmick and Mr. Norback); he said the only area of concern is the actual wetland crossing to his mind – the rest of the site and the distance from the wetlands and all of the other locations seem to be perfectly adequate and not to be causing a problem.

Dr. Dimmick said the actual wetland crossing is through a viable wet meadow with the usual assortment of plants that you'd find in a wetland meadow and the kind that would support the wildlife that is dependent on that. He said this seemed to him the sort of thing that we would normally require public hearing comment on.

Mr. Norback stated he agreed with that – he said it was mentioned something about a stipulation that was put forth when filling of that area took place.

Dr. Dimmick said that Ryan said he looked at it and the actual area of filling was just to the north of this.

Mr. McEvoy stated the activity that was approved was primarily to the north of this area – it wasn't entirely clear from plan.

Dr. Dimmick stated the execution of the plan wasn't entirely consistent with the permit anyways.

Mr. McEvoy said there may have been some excavation – some activity in here – it's hard to say for sure but he can tell them the wetland delineation to the east towards their properties is significantly further than what was originally shown on the plan in 1993. He said he didn't know if that was due to any excavation in that area or if it's just due to a different opinion from a different soil scientist but certainly the eastern limit of the wetlands is quite a bit away from where the 1993 plan depicted it.

Chairman de Jongh asked Ryan if he said he hadn't had a chance to look at the comments from Engineering.

Mr. McEvoy said he's looked at them (the comments) but he's not had a chance to respond yet. He did have some informal

conversations with Mr. Nolte of the Engineering Department to discuss a potential alternate to how we grade the driveway coming in to it to eliminate the retaining walls along the side of the roadway; its obviously something that's not desirable from a road construction perspective – we are trying to limit the amount of grading and fill by proposing those retaining walls but there may be another option to lower the grade of the road and provide slightly less cover over the cross culvert beneath the road which would eliminate a few of the feet of the elevation grade that we are proposing currently – but that is something he'll take up with Mr. Nolte.

Chairman de Jongh asked if the town was going to require sidewalks at all around the entry area.

Mr. McEvoy stated they are proposing right now a sidewalk along the north side of the road – they are seeking a sidewalk waiver along the south side of the road – that doesn't change their proposed impacts or doesn't changing how we are grading out the right of way – they are still required to provide the same shoulders for snow shelves which pitch back to the roadway as we would if there were sidewalk or not.

Mr. McEvoy stated they are seeking a waiver on the south side.

Chairman de Jongh asked if they were required on the Coleman Road entry.

Mr. McEvoy stated no – there have been court cases at the state level where they deemed that it's not a requirement the town can impose a developer to extend sidewalks along the road.

Ms. Simone agreed to send out the engineering comments to Commission members.

Dr. Dimmick said after looking at the map – he felt that the plotting of the wetland had shifted by about 15' the whole wetland path both side was plotted 15' closer to Coleman Road - he said the whole thing was off – but since it was for pasture improvement he didn't try raising an issue.

Chairman de Jongh asked Commission members and staff if there were any other questions or comments that would be helpful in directing the applicant. There were no additional questions or comments made.

Motion: That the Commission determined that proposed activities were significant within the context of the regulations specially 10.2 a, c and d

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

A public hearing was set for Tuesday, August 4, 2015.

Mr. Kurtz said this seems to be a simple question about what they are going to propose – they are obviously going to need to cross the wetlands – will they have the opportunity to talk about mitigation or replacement.

Dr. Dimmick said an alternative doesn't always mean an alternative placement of the road although the can point out at the public hearing the impracticality of moving it somewhere else. He talked about what alternatives could be proposed.

Mr. McEvoy stated they explore different alternatives and different means of conveying water beneath the roadway for the public hearing.

Mr. McEvoy said in addition they'll attempt to address comments from Engineering and the Regional Water Authority and will address alternatives and present prudent and feasible alternatives.

The public hearing will be held Tuesday, August 4, 2015 at 7:30pm.

3.	Permit Modification	APP	2015-001A
	MMI	DOR	07/07/15
	920 Jarvis Street Sanitary Sewer	MAD	09/10/15

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, public hearing testimony, and after review of written information provided by the applicant on this application, finds the following:

- 1. That the current application is for the modification of permit #2015-001 to include the location of a sanitary sewer, to be located, in part, through the upland review area.**
- 2. That the sanitary sewer will be located on lots 4, 5, 6 and 7.**
- 3. That the proposal will not have a significant adverse effect on adjacent wetlands and watercourses.**

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2015-001, the permit application of APEX DEVELOPERS, LLC as presented on the plans entitled:

**“Cedar Crest Subdivision
Planned Residential Subdivision Development
920 Jarvis Street, Cheshire, CT
Dated: January 16, 2015; Revised: May 15, 2015
11 Sheets, Scale Varies
Prepared by Milone and MacBroom, Inc.”.**

The permit is granted on the following conditions and stipulations, each of which the Commission finds to be necessary to protect the wetlands and watercourses of the State and the Town of Cheshire:

- 1. Any lack of compliance with any condition or stipulation of this permit shall constitute a violation of the Cheshire Inland Wetlands and Watercourses Regulations, and an enforcement order shall be both issued and recorded on the Town of Cheshire Land Records.**
- 2. No changes or modifications may be made to the plans as presented without subsequent review and approval the Cheshire Inland Wetlands and Watercourses Commission.**
- 3. That all conditions and stipulations of CIWWC Permit #2015-001 granted, with stipulations, Apex Developers, LLC for subdivision on April 21, 2015 are incorporated by reference as though fully set forth herein to the extent they are not in conflict with the present permit transfer grant.**
- 4. This permit grant shall expire on April 21, 2020.**

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

X. NEW BUSINESS

1.	Permit Application	APP	2015-025
	CK McCausland Court Cheshire, LLC	DOR	07/21/15
	335 McCausland Court		
	Agricultural Use – Drainage	MAD	09/24/15

Attorney Anthony Fazzone was present on behalf of the applicant. David Lord, soil scientist was also present.

Attorney Fazzone addressed the Commission.

Attorney Fazzone explained the map he was presenting was slightly different than what they have, He stated this one was just completed on Monday – he submitted three copies for the record.

Attorney Fazzone explained the difference from between what you have and what he just submitted is that in addition to the indication on the originally filed map showing the wetlands mapped by Ken Stevens of Soil Science, this now shows the current delineation of the wetlands as shown by David Lord.

Attorney Fazzone stated he did have a report – he said that he thought the delineations were almost identical – he didn't see where they differ.

Commission members reviewed the map.

Attorney Fazzone submitted a copy of David Lord's report and sketch showing his indication of the wetland flags and shows the delineation on the plan filed this evening is as shown by Mr. Lord.

Attorney Fazzone explained the purposed of this application is that the applicant is seeking and has had discussions with the town about relocating an existing drainage easement – that drainage easement is some 50' to 100' off the existing property line and the proposal with the town is to move the easement to the property line and the discharge point from the drainage pipe will now be able 50' north of the existing pipe.

Attorney Fazzone said the existing pipe will be removed or abandon and the new outfall of the pipe has been designed in cooperation with the town engineering department – he said he believe they had a memo in the file from the town engineering department saying that they have approved the design of the pipe,

Attorney Fazzone said the plans do show specifications for the outfall and the erosion and sedimentation controls.

Attorney Fazzone stated the ultimate purpose of this is that CK Greenhouses would like at some point in the rear future to explain the size of the greenhouse which is shown in light beige (on the plan).

Chairman de Jongh said he was looking at the communication from Don Nolte and he is a little bit confused – the wording does provide any explanation regarding the comment there are no concerns about the project – he said he is a little bit unsure what their concerns were to make sure the afore mentioned is okay.

Attorney Fazzone said he thought it's related to the relocation of the storm drainage.

Chairman de Jongh said he didn't know and didn't want to be the one to interrupt what Mr. Nolte was thinking when he made that memo.

Chairman de Jongh said he wanted to rebut the comment 'he approved it' the memo doesn't necessarily said "I approve it" it says "if approved" so he just wanted the record to be clear until we get some clarification from Don in terms of what those concerns were.

Dr. Dimmick commented he examine a drain pipe outlet back when the Airgas people were going in (in this location) – it seemed to him it was south of where that existing building went in there – that might have been of your property.

Attorney Fazzone said he didn't think there was anything else on the property.

Ms. Simone asked if there was a calculation for the amount of square footage or amount of area to be impacted in the upland review area.

Attorney Fazzone stated it was approximately 1000 SF of upland review area (impacted).

There was a brief discussion about properties in the general area of the proposed activity.

Dr. Dimmick said he didn't see they have a significant wetland impact – they are just changing a discharge point and a slightly improved design.

Chairman de Jongh said he would like to get clarification from the town engineer on his memo to make sure we understand what his thoughts and comments were.

Ms. Simone said she's follow up with him.

Chairman de Jongh said we should be able to take care of this at our next meeting.

XI. ADJOURNMENT

The meeting was adjourned at 7:58 p.m. by the consensus of Commission members present.

Respectfully submitted:

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