

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
TUESDAY, MARCH 1, 2016
TOWN HALL 84 SOUTH MAIN STREET
COUNCIL CHAMBERS AT 7:30 P.M.**

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

Members Absent: Earl Kurtz and Thom Norback.

Staff: Suzanne Simone.

I. CALL TO ORDER

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

II. PLEDGE OF ALLEGIANCE

All present recited the pledge of allegiance.

III. ROLL CALL

Ms. Dunne called the roll.

IV. DETERMINATION OF QUORUM

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

V. APPROVAL OF MINUTES – Regular Meeting – February 16, 2016

Motion: To approve the minutes from the February 16, 2016 regular meeting with corrections. Pg. 5 L 30 “pertains” to “mentions”, L41-42 change to “Wood Turtle and Eastern Box Turtle”; pg. 9 L20 “adverse” to “averse”.

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

VI. COMMUNICATIONS

Ms. Simone reviewed the following communications:

1. **Staff Communication w/ Attachments Re: Agricultural Request for Determination, Proposed Construction of Farm, Farm Access Rd. and Farm Pond on S. Meriden Road & Academy Road**

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

2. **The Habitat, CACIWC Winter 2016 , Volume 28, Number 1, Newsletter (To be handed out at the meeting.)**

This communication was reviewed.

3. **DEEP Pesticide Permit Application for Weeks Pond on Weeks Road**

This communication was reviewed.

4. **Staff Communication w/Attachments Re: Request for Determination # 2016-009 – 15 Burton Drive – Site Plan Improvements**

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

5. **Staff Communication w/Attachments Re: Application #2016-007, Site Plan, lot 1, Inverness Court**

This communication was reviewed.

6. **Staff Communication w/Attachments Re: Application #2016-005, Cornwall Avenue Extension/Mountain Road Subdivision**

This communication was reviewed.

VII. INSPECTION REPORTS

1. **Written Inspections**

Ms. Simone stated there were no written inspections.

2. **Staff Inspections**

a. 825 Wallingford Road

Ms. Simone stated there was a call received complaining about 825 Wallingford Road that they were patching holes in their driveway and that they had concern about the toxins from the patch material.

Ms. Simone said she had contacted the complainant to let them know that that's not anything that's regulated by the Wetlands Commission. She said they then contacted the Meriden Water Company indicating that they believed that a feeder stream was being polluted; they sent out someone to inspect and they did not find any violations on that property.

Mr. McPhee asked what the patch materials were.

Ms. Simone said it was patch asphalt that you would get in a bag to patch a hole.

Mr. McPhee said cold patch that's used on our roads every day.

Ms. Simone stated yes and it was expressed to them that municipalities use it – it's widely available and people can purchase it at Home Depot.

b. 1430 Highland Avenue

Ms. Simone said she did speak with the property owner who was supposedly committing the violation and indicated as long as he wasn't putting into the watercourse that there was no issue.

Ms. Simone said she also had a meeting with the new owners of 1430 Highland Avenue. She explained this was the property that received a permit from the Commission for a new daycare and that is something that they are planning to revisit and possibility modify so the Commission will likely see an application to transfer the permit relatively soon.

VIII. ENFORCEMENT ACTIONS

- | | | |
|----|--|---|
| 1. | Notice of Violation
Mr. Nathaniel Florian
12/31/15 | SC 1/07/14
Permit #2013-015 compliance date: |
|----|--|---|

**Woodruff Associates
Unauthorized Activities in the Upland Review Area/Inland Wetlands
108 Blacks Road
Assessor's Map 19, Lots 43 & 44**

Ms. Simone stated the town attorney has been in communication with Mr. Florian's attorney and the suggestion from the town attorney was that the attorney work with Mr. Florian to come with a remediation plan including a time and that is something that would need to be accomplished by this week and have a meeting with staff next week.

Ms. Simone said then she would receive the information and present it to the Commission. She said the town attorney made it clear to Mr. Florian's attorney that the town would be filing papers through the court for further enforcement if they do not comply.

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|----|---------------------------------------|----|----------|
| 2. | Notice of Violation | SC | 09/15/15 |
| | Mr. David Flanagan | SC | 10/20/15 |
| | Unauthorized Activities in an | SC | 11/05/15 |
| | Inland Wetland and Upland Review Area | SC | 11/17/15 |
| | Summit Road | | |
| | Assessor's Map 32, Lot 50 | | |

Chairman de Jongh stated this remains on our agenda for continued monitoring.

IX. UNFINISHED BUSINESS

- | | | | |
|----|-------------------------|-----|----------|
| 1. | Permit Application | APP | 2015-034 |
| | Jason Bartlett | DOR | 11/05/15 |
| | 358 Cornwall Avenue | | |
| | Partial Filling of Pond | MAD | 3/14/16 |

Ms. Simone explained that this application was received November 5, 2015 and it was indicated to the applicant at that time that the application was incomplete; the Commission had reviewed it and found that there was information lacking as far as the proposal to partially fill the pond.

Ms. Simone stated the applicant had been contacted numerous times via email and regular mail and phone. She said an extension was given and that the full extension to March 14, 2016 – but she has not

heard from the applicant since she believed December and no new information has been supplied.

Chairman de Jongh said that this Commission is lacking vital information that we would need to make a decision on this and due to the lack of details and the lack of response on the part of the applicant the only option the Commission has is to deny the application without prejudice due to the lack of information.

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

1. That the current application is for proposed partial filling of an existing pond located at 358 Cornwall Avenue.
2. That on October 28, 2015 a Wetland Investigation Report, compiled by David Lord, was submitted in support of application #2015-034.
3. That the Date of Receipt for this application was November 5, 2015, at the regularly scheduled Cheshire Inland Wetland and Watercourses meeting.
4. That Commission Staff reviewed this application for the November 5, 2015 meeting and notified the applicant that the application materials did not comply with the Cheshire Inland Wetlands and Watercourses Regulations, and therefore the application was incomplete. Specifically the site plan was not appropriately sized (as specified in the regulations), and that plan lacked details on erosion controls, grading, filling and stabilization of disturbed areas.
5. That prior to the November 5, 2015 meeting, Staff spoke to the applicant via telephone and detailed the information required.
6. That on November 24, 2015 Staff emailed the applicant outlining the information required under the Cheshire Inland

Wetlands and Watercourses regulations and the mandatory action date for application #2015-034.

- 7. That the applicant extended the Mandatory Action Date to the full extent allowed by State statute; March 14, 2016.**
- 8. That on January 22, 2016 Staff sent a first class mail copy and certified letter to the applicant reiterating the outstanding application requirements. On February 22, 2016 the certified mail was returned to the planning office, labeled "unclaimed".**
- 9. That no application materials has been submitted nor testimony provided by the applicant or the applicant's representative since the submission of application material from David Lord on October 28, 2015.**
- 10. That the minutes of the November 5, 2015, November 17, 2015, December 1, 2015, January 5, 2016, January 19, 2016 and February 2, 2016 meetings summarize Commission and Staff discussions regarding the incomplete status of the application and attempts to contact the applicant. These meeting minutes were posted to the town website seven days after the meeting date.**
- 11. That the applicant did not submit the required materials as detailed in the Cheshire Inland Wetlands and Watercourses regulation.**
- 12. That the state statutes define the mandatory action date of this application and the state statutes require the Commission to act upon application #2015-034 by March 14, 2016.**

Therefore, the Commission denies, without prejudice, CIWWC Permit Application #2015-034, the permit application of Jason Bartlett, for partial pond filling, for the following reason clearly set forth in the record:

I. Incomplete Application

Pursuant to Section 7.1 - Application For A Permit To Conduct Regulated Activities of the Regulations, the Commission must consider the application requirements.

The Commission finds that the application is incomplete. The November 5, 2015 application was determined by the Commission at the regular meeting on the same date, to be incomplete. The applicant did not submit the required materials, as requested on numerous occasions detailed under the finding section, for Commission review, discussion and approval.

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

Chairman de Jongh stated to let the record show the application has been denied by unanimous vote.

2.	Permit Application	APP	2016-005
	Clearview Farm Preserve, LLC	DOR	1/19/16
	Cornwall Avenue		
	Subdivision	MAD	3/24/16

John Milone, president of Milone and MacBroom and professional registered engineer in CT was present on behalf of the applicant.

Chairman de Jongh said before the applicant gets started with their presentation staff took it upon herself to try to frame the details that we have at this point and probably set the stage for the discussion this evening.

Chairman de Jongh said a couple of items of importance to this Commission were two in particular – the direct wetland impact and the Natural Diversity Data Base.

Chairman de Jongh said under direct wetland impact – at the February 2 meeting the applicant’s engineer stated that there are no “direct wetland impacts” yet the plans proposed an outlet pipe directing water from the proposed detention area into North Roaring Brook; the Commission would like to have testimony on the record from the applicant’s engineer regarding this proposal.

Chairman de Jongh said under the Natural Diversity Data Base testimony of the Commission heard at the February 2 meeting related to the December 2014 NDDB map which is the Natural Diversity Data Base map; documentation in support of this testimony was not received until the close of the February 16 meeting when one copy was provided to the Commission; since the last meeting has had the opportunity to review the survey information however

this information did not contain a summary of the best management practices or the protection of species and inland wetland resources; the Commission is now aware that the CT DEEP and NDDDB will not provide best management practices to the applicant based on the initial March 20, 2015 request; as its listed the list the applicant relied on is outdated; the applicant submitted a transmittal cover sheet like a fax cover sheet as proof that a new request to the CT DEEP and NDDDB has been submitted at this point; it is unknown what if any new species were added to the list and what best management practices might be suggested.

Mr. Milone said he wanted to go over some broad issues and then talk about some of the details which you just mentioned.

Mr. Milone said essentially this is about a 25 acres site and about 6 of the acres is being retained by the owner – about 20 acres being developed in a subdivision – containing about 20 lots.

Mr. Milone stated from a wetlands perspective there are two wetlands systems that are in play on the property – North Roaring Brook exists along the western property line and the regulated area extends into the property on its western side and North Roaring Brook is at the base of Bethany Mountain (he was not sure of the actual designation of that it – Prospect Ridge – he was not sure).

Mr. Milone said that extends down in a southerly direct then there's a pipe – a 48" pipe that there's a break in the wetland system which is just off the property and then that system – the North Roaring Brook extends then and continues in a southerly direction and that wetland system is just near the edge of the property.

Mr. Milone said just to the south of the property there is another wetland system which is isolated from North Roaring Brook which abuts the south end of the property and it abuts the portion of the property where the only portion where the proposed roadway can be extended into the site so while we are trying to avoid this wetland – we are close to it with the construct of roadway as we had no choice.

Mr. Milone said an enlargement of this area (as shown on the plan) – you can see the wetland system itself which is the extension of North Roaring Brook – the wetland system along North Roaring Brook – the red represents the regulated area along that that regulated to the north of that wetland system just to the south of the property.

Mr. Milone said so what you can see is our regulated areas involve an area where the roadway extends into the property; the extension of the this drainage system which discharges from a stormwater basin – just along the south side of the property and a couple of minor encroachments with the edge of a septic system and some public parking – some gravel parking that's going to be provided off the road for people to utilize the open space that the property abuts; and total regulated area is about .3 acres.

Mr. Milone said the drainage system has been designed with the stormwater management basin in this southern portion of this site which was designed to accommodate both water quality and quantity issues and by water quality it provides for a volume to retain the first flush of runoff from the new impervious surfaces below the outlet – its planted with appropriate species to provide reasonable treatment for that water and then it provides storage with the controlled outlet which eventually discharges just at the southern portion of the property.

Mr. Milone said the question has to do with that was raised in your first item – it has to do with whether or not the discharge at pipe at that point is a direct impact to the wetlands.

Mr. Milone said it's never been hidden as to what was proposed there – it was always part of the application – we are not disturbing any wetlands there so we never saw that as a direct impact – we do have a storm water drainage discharge at that point but what I'd like to explain relative to that is – essentially right now this property drains in a southerly direction – some of it drains to the west and then southerly and extends from the brook through this 48" pipe and discharges; the rest of it drains off in an easterly direction runs southerly – gets picked up this drainage system shown in yellow which is in the right of way that extends into the property and then is discharged at this same point so there are two drainage discharges at this point right now.

Mr. Milone said this drainage system as shown on the plan is actually an extension from Deacon Wood that was built when Deacon Wood was constructed – it picks up a reasonable amount of runoff from Deacon Wood and some runoff from Mountain Road and extends it through the property and in existing condition discharges from a 30" pipe.

Mr. Milone stated the volume of runoff and the amount of runoff that gets discharged there does not change by the introduction of the third pipe; essentially what happens is half the runoff stays here and half the runoff goes here and comes to this point – when the new drainage system is created a portion of this runoff is taken through here controlled through the detention basin and discharged at the same location so the volume and the amount of runoff that gets discharged here does not change –there is another pipe there but we haven't added any water and the water that is associated with the development has been mitigated through the stormwater management basin.

Mr. Milone said so we never saw it as a new activity – it was just an adjustment of flows but a pipe being constructed at the edge of the wetland but not in the wetland.

Mr. Milone said so hopefully that clarifies that we never had intended a direct impact that wasn't quantified.

Chairman de Jongh asked if the pre and post conditions are exactly the same.

Mr. Milone stated at that location they are. He said he has photographs if you don't recall it from the field walk so you can look at it again and we can show you where that new pipe is going to be tucked in between two other pipes but the flows there don't change and we are not proposing to do anything in the wetlands itself there.

Mr. Milone stated again – it wasn't hidden it was always part of the application but he didn't think it was anything different from what we proposed and he wanted to make sure they were all comfortable with that because it was never our intent that we were creating a new discharge per se.

Ms. Simone said to clarify – it is a new pipe that's being put in – it's being added to what's existing; not replacing.

Mr. Milone stated yes – it's a new pipe that's going to be tucked in – there's an outlet on the left, an outlet on the right and you are kind of going right in the middle of those two.

Mr. Milone said we are not adding any new flow here we are just kind of taking some of the flow that went through the other two pipes and putting in to the new pipe.

Mr. McPhee said he would like to see the photographs.

Mr. Milone handed out copies of photographs for the Commission and for the record.

Mr. Milone said so if you look at the one in the upper left that's looking at the discharge pipes – the other ones are in the vicinity.

Mr. Milone said the one in the upper right – there's an existing catch basin – and that's looking at the catch basin towards the pipe from Deacon Wood and extends over here; the next one is to the lower right – it's basically standing on top of the 48" pipe that is the larger of the pipe that exists there – the one on the lower left is a little bit further over into the woods but basically towards the same location.

Mr. Milone said if you look at the one in the upper left corner you see the flared end section and then the round pipe that sticks out on the left and you see a couple of rocks in the middle between those – what we have been doing is basically taking those rocks out putting a flared in in where those rocks were and adding the pipe at that location – right in between the two; right at the edge of the wetland but not in the wetland itself and again the amount of flow is the same as exists at these pipes right now.

Mr. Brzozowski asked what the reason for the additional pipe was.

Mr. Milone said when we build a subdivision here we have a new roadway that comes through – this new drainage typically would be mitigated because if you don't mitigate it there would be either impacts on water course quality or impacts by increased runoff – so we mitigate it by taking this runoff from both the homes that are abutting the home and bring into a design stormwater management basin – that storm water management basin needs an outlet.

Mr. Milone said we had a couple of options – we could have tried to tie into the existing system here – or create our own separate outlet – rather than analysis the capacity of these systems and since they existed worry about their conditions, etc. we just thought it was easier to just put an new outlet in between.

Chairman de Jongh asked about the condition of those existing pipes – are they adequate enough – do they have to be replaced or potentially replaced at some point.

Mr. Milone said he thinks the applicant has agreed – they are not really the responsibility of the applicant but the applicant has agreed with public works to TB inspect those before they start constructions and if there's anything that's a problem they are going to meet with public works to make appropriate replacements in kind; they are not proposing to change anything but if something is broken or there's a damaged section of pipe they will deal with it but we intend to not change those at all per se.

Ms. Dunne said so the flow is not changing its staying the same but you are still working in the wetland area.

Mr. Milone stated we are right at the edge of the wetland – not in the wetland itself but right at the edge of it.

Mr. Milone asked if that helps clarify that question.

Mr. Milone said now the other question that arose during this application was the question of Natural Diversity Data Base and your application process which is good practice requires the check off box on your application that says we sent a request to the state and asked them if there was any species of special concern in this area and we do that on every application in Cheshire – we do it for all of our clients even if other towns don't required it because we know eventually we have to deal with the state and if we don't get it out of the way early then we are going to be dealing with it later.

Mr. Milone said this application was submitted a while ago and we started that process a while ago so we sent an application up to the state and they came back and told us there were some species of special concern in the area – there were circles that surrounded this – it didn't mean they were on this property but they could potentially be on this property both in terms of plants and animals; and they identified which ones they were concerned about essentially some species of turtles and some plants species which Bill Root is here to talk about – he didn't know the specifics of those.

Mr. Milone said they said that those could potentially be out there and we would be wanting to know more about that. He said when you actually come back to us for a DEEP per permit – not for the local permit – their process is separate from your process but we are going to have to deal with that – so we did that knowing that some of those species were weather dependent particularly the plant species – we did some studies over the appropriate months during the spring

and summer and then Bill Root if you are interested can tell you the specifics about that – and at that time the application was at the point pending and then for reasons having nothing to do with the wetlands commission – it had to do with business reasons and etc. the application was withdrawn while the applicant worked out some issues with the land owner and now we came back in.

Mr. Milone said we finished our studies DEEP had recommended we do; we had our preliminary application sitting there and it wasn't a year out yet so it wasn't really outdated yet and if we were going back when we were ready for construction we would be going with the studies we completely with appropriate mitigation measure essentially for the turtles if there were any for the protection of the turtles during construction and we would ask for our storm water general permit and they would hopefully provide the storm water general.

Mr. Milone said because almost a year went by and we are in front of the Commission – the Commission asked the question is this outdated and you are not going to have it within the time that we finish our deliberations should you go back – so we went back and checked with them and sure enough they have in the area more what they call hits or potentially identified species of concern; we don't know what those are yet – we don't even know if any of them are near this site – we just know that some are on the maps somewhere – that's the extend of what we know – nothing necessarily is happening here but its precautionary.

Mr. Milone said we've made a final request for determination from DEEP as to if there are any other species that they would like us to investigate; we've provide the reports that we did out here to identify what plants and animal species we identified during our studies which would give them information then they typically have – the have a database of it and then we've submitted to them another map which includes – he handed copies of the map to Commission members – and a copy has been submitted for the record - he said we highlighted and in the upper left hand corner is says listed species turtle management plan – the only species that we know of that would require any special procedures during construction are the potential for turtles – we did not find any out there – but in an abundance of caution we're prepared to and we submitted to DEP a turtle species management plan which requires sweeps before construction and appropriate protections, etc. if any are found – it

would not necessarily mean construction could not occur but protocol so that construction's done properly.

Mr. Milone stated so we're committing to that to DEEP and we have a final request in there.

Mr. Milone said this request does not have any bearing on what the local inland wetlands commission does – essentially what it is – is it something that has to get resolved before we can begin construction – before what we can get the state calls the storm water general permit and that's independent of the local inland wetlands commission so it shouldn't have any impact on this application but it's good that we are all talking about the same thing because if there is anything that they are interested in that you might be interested in we should all be talking about it.

Mr. Milone said there is nothing that we are addressing here that would change our proposed plan or our proposed regulated activities and we see it right now and we are ready to commit to the turtle management plan as we've shown on these drawings.

Mr. Milone said he only asks that the Commission not hold up their own action on this application pending any further comments from DEEP because we don't have any control when they'll get back to us – it could be three months – it could be five months – it could be two months – but they don't have a mandatory time frame because they are not anticipating to be part of the local regulatory process – their process is sometimes concurrent but your action should not dependent on hearing from them.

Mr. Milone said if for some reason after this final review a few months from now – they come back and identify something which will cause us to modify our plan or modify our regulated activities which we don't believe would happen – we would have to come back to this Commission so we would be back.

Mr. Milone said if they ask us to add something else in terms of procedures, etc. then we would submit it to you as a process so you are aware of it – that we are doing more in the upland area – nothing would be done in the wetlands just so you are on the same wave length as them but it's not intended that anything they do should impact anything you are doing.

Mr. Milone said so all we ask that you continue your process at this time.

Chairman de Jongh asked Suzanne as a matter of protocol – would we normally get copies of notification to a client in response to a request from DEEP to review a site and how would we know – that a decision has been finalized; that the area has been carefully reviewed and there is or is not a change.

Ms. Simone explained the town doesn't get that information directly from the state so it gets forwarded from the applicant.

Chairman de Jongh said so it would be incumbent upon the applicant to supply us with the response from DEEP so that we knew what was happening.

Ms. Simone stated yes.

Mr. McPhee asked hadn't we acted on many applications before where we did not have a response from DEEP.

Ms. Simone said when she looked through the files it seems as though when DEEP is contacted it's for sites that just have turtles and then the state automatically sends the best management practices but they don't request a survey – there's no further information needed on this site – there's 14 species and with plant species you can only go during certain time periods so they didn't send the turtle best management practices back as part of their request – the state did not go ahead and supply because there are a total of 14 species listed.

Dr. Dimmick said he asked Suzanne did we get sent a list of the plant species of concern.

Ms. Simone stated we received it at the last meeting and it's from the 2014 list so she didn't know if there's additional but it was provided to the Commission at the last meeting.

Dr. Dimmick said he didn't remember seeing the list.

Mr. Milone stated they independently retained Lauren Brown to go and do the plant species so you have her report now in your files.

Dr. Dimmick said he wanted to take a look at the report.

Mr. McPhee asked if this fell under our realm or Planning and Zoning as far as the DEEP.

Ms. Simone said it's not specifically listed in the regulations that the Wetlands Commission has to get a report from the state.

Mr. McPhee said he recalled getting receiving several applications where DEEP has been notified and we've approved the application because we had not heard from the state and that's essentially what's happened here – do you agree or no.

Ms. Simone said she thinks its best standard that when there has been turtles on the site the majority of the NDDDB have been for turtles that the state does automatically send to the applicant and then the applicant sends to us the best management practices so that those are stipulated in the approval – the standard language says that the applicant will stringently adhere to the best management practices set forward by the state but she thought that a site that has far more then turtles that needs to be investigated which they had a botanical survey done – it requires more review from the state so it's not as quick a response or as easy a response – as just send back best management practices.

Mr. McPhee asked who the reinforcing body on the best management practices of the turtles – is it you – is it staff – is it the state.

Ms. Simone said if it's part of the approval where it would be stringently adhered to then that would fall under staff review so going out to a site you see that something is breeched then there's the ability to act on that – if it's independent of that she didn't know how the state does that.

Mr. Milone said so in this instance we are not trying to not do anything – we've committed to the turtle management practices and we've going to follow them – we really didn't find any turtles out there but even if we don't the second time or the state says it's okay we are still going to do those just in case because we know there are turtles in this general area event though we didn't see any out there.

Mr. Milone said and if the state comes back with any other practices as it relates to plants – even if they are upland plants we have every intention of forwarding it on to you and incorporate any best practices that they would require and if anything effects your actions

relative to regulated activities then we would be back again for a modification of the permit – if not it would probably be just a notification that we are doing these additional things and just so we are all aware of it.

Chairman de Jongh said just so we can kind of clarify – we are talking about a turtle management plan – we are talking about best management practices – he wanted to make sure as he sees it they are one in the same thing – the best management practices is the creation and subsequent implementation of that turtle management plan – as you normally would if you already gotten a response back from DEEP.

Dr. Dimmick said there is also the fact that if one of those rare and endangered plant showed up it would be a different best management practice involved in that case.

Chairman de Jongh said he just wanted on the record – we are using both terms and he wanted to make that not only the audience but certainly that the record shows that we are talking about one in the same thing in terms of what the applicant intends to do.

Ms. Dunne said the list that based on the December 2014 – have you compared that to the new list to see if there are added species at this time.

Mr. Milone said we only just submitted the request – we don't know what if anything is on the new list – they tell us if there's anything – there may be nothing new but there maybe so we don't know that yet.

Ms. Dunne said and you are not able to get that now.

Mr. Milone stated no – they have that and they tell us after we've made a request they go and tell us if there's anything new that they want us to review – that's just how it works – we don't have access to the list.

Chairman de Jongh asked John if an application was granted – what would be the sequence of construction – what would be started first presumably the entry road would started first and then the road would be finished and then a detention pond would be created and then the subsequent lots would be created after the fact – is that pretty much what would happen.

Mr. Milone said the detention pond would be created as part of the road because we wouldn't install any of the drainage until it could be installed into the basin.

Chairman de Jongh said so then the question he thinks has yet to be answered is if the response back from DEEP is such that there is a sensitive area where the detention pond was created then you would have to come back to us but what would have to happen.

Mr. Milone said that's an upland area so he is not sure what the jurisdiction is other than notification we have – so if it's an upland plant and it happens to be located here and as Charles says they might want us to relocate it somewhere or whatever we would relocate it out of the upland area –he said he did not see that as affecting the regulated activities here – at least that's his interruption here.

Ms. Simone said and also then the road and the basin construction wouldn't begin until you received your state storm water permit.

Mr. Milone said we can't do anything out there until we receive it.

Ms. Simone said and then you wouldn't get the state storm water permit until you got the Natural Diversity Data Base and everything squared away.

Ms. Simone said so the site wouldn't be opened up until everybody at the state got to review and the Commission got notification.

Mr. Milone stated that was exactly correct.

Chairman de Jongh said he thought those two issues that we had were addressed – Ms. Dunne was the one who raised the question about the Natural Diversity Database and he didn't know if she had any other questions or any other concerns.

Ms. Dunne said now that she knows that you have to do that and it's been submitted – she understands that you submitted the request and you will be getting this information and you will come back to us and add if there are additional species – she said she was felling much easier with this.

Ms. Dunne said she did want to say some of the procedure here she is not terribly happy with as far as the way this is going but she thought since they have done a chronology you already know what are concerns were.

Chairman de Jongh said he thought the reiteration of what can and can't be done without having the necessary information certainly puts the application in a better light then it was originally persevered because of the way things were handled.

Chairman de Jongh said he thought from the applicant's testimony we have a better perspective on what's going to happen.

Chairman de Jongh asked if there were any other questions from Commission members or anything else that we need to make sure the applicant is ready to address.

Dr. Dimmick said he did go through that plant list and the only two species he knew of in that area that were on that list – one Yellow Lady Slipper – you can't miss it so if they did a survey they would have spotted that one; and the other one is Ginseng is at least 500' up the mountain from where you are so he didn't think that was a problem either.

Chairman de Jongh said he knew we had some members of the public here – he said this is not a public hearing – he said he thought it was safe to say that the concerns of this Commission were adequately addressed with regard to our concerns not only on the direct wetland impact but also on the question of Natural Diversity Data Base.

Chairman de Jongh said while this is not a public hearing he would certainly allow an opportunity if there are any particular questions that you want to make sure are asked but again please keep in mind this is not a public hearing – this is purely for the wetlands area – we realize that you may have concerns pro and against – but our concerns are purely on the wetlands side of it and that's where he would ask your questions be directed if there are any.

Joan Smallwood of 469 Mountain Road addressed the Commission.

Ms. Smallwood said she had a procedural question – you all deal with the storm water issue discharge – she said somebody said something about the state storm water review.

Ms. Smallwood asked if there were two separate reviews at both the local and the state level and they are entirely separate and in parallel or are they sequential.

Mr. Milone stated that the state will not act until the local inland wetlands commission has acted but they have to act before we can begin construction.

Chairman de Jongh asked if there were any other questions from the audience.

There were no additional questions.

Chairman de Jongh said this Commission ruled on the area of significance and at the time we felt it was not significant within the context of the regulations even though we had some issue raised with the last couple of meetings – he said he believed those issues had been addressed and he didn't know if there was reason to change that decision unless any other Commission members have got anything to refute that.

Mr. McPhee said he was happy with the information that was shared tonight.

Chairman de Jongh said we have a mandatory action date of March 24, 2016 so we have time for staff to finalize the draft motion she has prepared tonight adding the additional details from tonight's meeting.

Chairman de Jongh said they would address this item at the next meeting on March 15, 2016.

3.	Permit Application	APP	2016-007
	Apex Developers, LLC	DOR	2/02/16
	Inverness Court		
	Site Plan – House	MAD	4/07/16

Matt Ducsay, PE from Milone and MacBroom was present on behalf of the applicant.

Mr. Ducsay addressed the Commission stating that he was here on behalf of Apex Developers for the property located at lot 1 Inverness Court.

Mr. Ducsay explained since the last meeting there were some recommendations made by the Commission relative to the non-encroachment line and the buffer from the wetlands as well as before we discussed the orientation of the home.

Mr. Ducsay said since that meeting we have made some revisions to the plan which have been submitted. He said most notably they rotated the house that it has more of a presence on Inverness Court but also to create more of a useable backyard which doesn't extend directly into the upland review area.

Mr. Ducsay said so we've that adjustment – we've rotated the house; it's still graded as a walkout unit which works with the contoured area; the septic system in back still maintains all the necessary separation distances from the property lines as well as the home itself.

Mr. Ducsay said one of the other recommendations from the Commission was more of a robust buffer that we had talked about. He said if the Commission remembered correctly we have a number of White Pines planted; we've also delineated a non-encroachment line; as of the last meeting that non-encroachment line was shown at a distance of 30' from the wetlands.

Mr. Ducsay said from the recommendation of the Commission we've revised that such that is jogs around the planted landscape buffer and more or less mimics the 50' upland review area at that point.

Mr. Ducsay stated there's a notation on the plans that the non-encroachment line is the proposed limit of clearing so any existing vegetation out there now will remain in place behind that non-encroachment line.

Mr. Ducsay said in addition to that is the 4' by 4" pressure treated posts and placards which delineate that non-encroachment line.

Mr. Ducsay said we've also indicated that there's going to be a spit rail fence along that area as another measure of buffer to make sure any potential homeowner knows that they are not to clear beyond that area.

Mr. Ducsay said so we rotated the house which was the major improvement that you have a usable backyard here as well as beefed by that buffer area.

Mr. Ducsay said that that's mainly the extent of revisions; if any Commission members had any questions regarding those he'd be happy to attempt to address them.

Chairman de Jongh stated that he certainly appreciates the applicant working with the concerns of the Commission and working with the potential property owner to tweak a little bit. He said out concerns have always been to try to maintain a balance between what the applicant wants to do and what we need to be concerned with as a Commission for generations to come.

Chairman de Jongh asked if there were any questions from Commission members.

No questions were asked.

Chairman de Jongh said they'd allow staff to craft the necessary wording and we should be able to address this at the March 15, 2016 meeting.

X. NEW BUSINESS

1. Agricultural Request for Determination RFD 2016-008
Shawn Stanziale
S. Meriden Road/Academy Road
Construction of Farm, Farm Access & Farm Pond

Kevin Clark, registered PE of Clark Engineering in New London, CT was present on behalf of the applicant. Shawn Stanziale was present.

Commission members reviewed the plans for the proposed activity.

Mr. Clark said what we are here for in front of this Commission for is a request for determination as to whether or not this activity falls under the jurisdiction of wetland regulations and if so how to the regulations apply to this proposed activity.

Mr. Clark said basically was this is – the property is located at 500 Academy Road – he showed the location of the area map – Academy Road, Route 68 and 70 takes a turn then heads north.

Mr. Clark explained the property is 18 acres of land and the activity is a proposed agricultural activity to grow vegetable for the business that Shawn has – he provides meals and he can describe that a little bit further but as part of that meal preparation there are of course vegetables that are included in that and he desires a spot to be able to grow these vegetables.

Mr. Clark said what we've proposed is an access road and a filled area where the growing would take place – we've provided an area for a barn and several hoop houses – an area for a farm pond.

Mr. Clark said what happens here is that the wetlands is actually all of this part – shown on the plan – and there is an island of upland area so this activity obviously does involve activity within the wetland and it involves disturbing the wetlands and filling it but it is for an agricultural activity so the question again is how does this meet or how does this work with your regulations.

Mr. Clark said the access road would be about 15' to 16' wide – we do show a profile of this road – we are proposing to put it on a fill section that where the bottom of the fill would be stone that would allow water to pass back and forth through it – we've also provided an area for some culverts to provide for an area where water can flow – it does tend to flow through this area – and tends to go off in a north westerly direction off the property.

Mr. Clark said we've shown a construction entrance – we've also shown proposed utilities; he said there is a fair amount of detail on this plan but all things have not been fleshed out because it did not make any since to go too, too far until we had some determination.

Mr. Clark said the area where the actual growing would occur was kept as small as we felt as practical for the application for the amount of growing that Shawn wants to do and also the pond is there to provide water for the growing operation.

Mr. Clark said that's pretty much it in overall detail. He said he could go through some numbers if you need – he said they did have areas of disturbance which are shown in the narrative on the plan – we also have if you need to know how much fill would be involved – he said he had those numbers to.

Mr. Clark said he thought they had some questions to be answered before we get too much into detail – he said if you'd like some further detail on what the business operation is Shawn can answer those questions for you too.

Mr. Clark said if there's anything from a technical or design point of view he could certainly address those as far as they have gotten with them.

Dr. Dimmick said very quickly the agricultural exemption does not cover fill into a wetland; once you put fill into a wetland you are going to need a permit even if it's an agricultural use.

Dr. Dimmick said you can plow it and plant it but as soon as you put fill in it you are going to need a permit by the way he reads the state regulations.

Chairman de Jongh said certainly one of the concerns that he's got is while this may be with a wider definition of what's a permitted use and what isn't – one of the things he thinks an application would allow us to see or the details – there's a lot going on in the creation of the road so what an application allows us to do assist Shawn in saying this makes sense or doesn't make sense – he said he thought it was a give and take conversation with the details that we've got to be able to have staff and Commission members be able to view this and say okay – that seems to work and the end result may be totally favorable but without the details he is a little bit uneasy about the creation of what you are trying to do.

Ms. Simone said to Dr. Dimmick she had a question – in the as of right non-regulated uses where it talks about filling or reclamation of wetlands or watercourses with continual flow.

Dr. Dimmick said that does not include filling or reclamation of wetlands and the courts have said or watercourses with continual flow – the courts have put a comma in there that is not here (in the copy she is reading from).

Ms. Simone said then she guessed then the trigger would also be the wetlands do not have continual flow just watercourses.

Ms. Simone said she had a question about the driveway and the culvert – is that to catch overland drainage because looking at the

soil scientist report they don't identify intermittent stream in that area.

Mr. Clark said when we walk this area – there was an area that there was some evidence of some flow – it's hard to tell you have a fair amount of water standing there but it did appear to have a little bit so we felt it appropriate to put the culverts in there.

Mr. Clark said on the third page of the plans we showed a proposed cross section of the driveway and what we've called for again is a layer of stone at the bottom of this with a geotec style below it to stabilize it and a geotec style above it to keep the fill from the road out of the stone; this would permit water to flow freely from one side to the other so even though we show the culverts they may not actually be necessary in that the road base already would allow the passage the water to go through so it's sort of a belt and suspenders type of deal.

Mr. Clark said if it's the consensus of this Commission that a permit is required then he needed an answer as to whether or not that is in fact the consensus of the Commission and secondly if a permit is required then what would be the next hurdle that they would have to go through because if they do have to apply for a permit there are certain standards we have to meet and are we going to get into a significant activity type of permit which there are certain other standards that we have to apply to and if we are going to have to meet those bars how can we give this Commission enough information that we can make an appropriate application.

Chairman de Jongh explained one of the things we typically do in an area where we have not had an opportunity to see – if it's the Commission's pleasure to require an application then that would be presented at the next Commission meeting but in the interim we may be able to come out and do a field trip – so we can come out and take a look at the property and a lot of times a field trip tells us a lot more than just drawings on a paper.

Chairman de Jongh said if we can determine some significance by just walking the property and by doing that we can kind of circumvent the process a little bit and make you prepared for what would be the presentation when you present the application so we can probably schedule that field trip between now and the next meeting so that we can go out and take a look at it and give you our

feedback – you can work with staff to be prepared for what that presentation would be on the 15th.

Dr. Dimmick said he wanted to emphasis working with staff – staff is very corporative in terms of helping processes and warning you about things we might do and not do.

Mr. Clark said that certainly sounds like a good plan – he said if the Commission could walk the site and then after that point he could meet with Suzanne and we could go over the input the Commission may have. He said he didn't think they would be at the next hearing – it would probably be the one after that just to make sure we have all bases covered because we have to make sure we have a complete application and as he said we have a fair amount of information here but it may not be complete to meet the standards for the application.

Chairman de Jongh asked Mr. Stanziale about his timing for the activity – did he want to have it up and running by spring time.

Mr. Stanziale said the plan is they want to do it – he said they currently buying the vegetables somewhere else so it's up to when the Commission makes their decision.

Chairman de Jongh said so there's no immediacy hovering over this – so we have time to do it right.

Ms. Simone said she would recommend that the Commission if they are interested in going out to visit the site – that we done while this is an active issue before the Commission so that either the request for determination is held over and its left open so that the Commission can schedule to go out and do a field inspection or it's a determination is made tonight wait until an application is submitted and then plan and go out into the field because it becomes an issue of having enough public notice and how would we characterize it if it's not under an actionable item.

Mr. Clark said the preference would be leave it as part of this request for determination – that way if they come back with something that they decided that we have to do some other things then we can decided what to do at that point but he said they would like to keep it under the present request.

Chairman de Jongh said he thought that made a lot of sense; it's an informal way to cross the "T's" and dot the "I's".

A field trip would be set upon agreement of the applicant, staff and Commission members.

Ms. Simone would notify all regarding the field trip date and time.

2. Request for Determination RFD 2016-009
Cole Engineering/Ralph Pasquarella
15 Burton Drive
Site Plan Improvements

Michele Lambert, PE was present on behalf of the applicant.

Michael Lambert, PE with Harry Cole and Son, 876 South Main Street, Plantsville.

Mr. Lambert said for this application – it was a subdivision back in 1986 that got approved – this entire lot was initially lot 8 of the subdivision.

Mr. Lambert stated the majority of the lot was all wetlands that got filled back in 1986 and then back in 2002 the construction went forward of building this single building with the associated parking lot. He said he believed that went forward with the Inland Wetland permit.

Mr. Lambert said as far as we can tell there are currently no longer any wetlands on the site – they were filled back in the late 80's.

Mr. Lambert said for our new proposed plan is to increase the size of the building quite a bit, add a lot more associated parking.

Mr. Lambert said our initial design is to take the roof and infiltrate into it the ground with Full Tec units – the driveways will be put into underground pipe released through an outlet control structure that would help regulate the flow into an existing 36" pipe that does go through our site – discharges to the south.

Mr. Lambert said we are helping in trying to detain and limit how much is leaving the site because we are increasing the amount of impervious quite a bit but we do believe our design system does help regulate the flow that is going off site – we do meet the zero increase in runoff for the 25 year storm.

Ms. Simone said she just wanted to clarify to the Commission that back in 1986 when the Commission reviewed the original plan to fill in the wetlands and create this industrial subdivision that the Commission had stipulated “the Wetlands Commission’s retains the right to review all site plans for all lots in this subdivision” so that is why even though this lot does not show that there are wetlands on it – there’s that stipulation that administratively staff is not able make a decision for the Commission – it needs to come back to the Commission for the Commission to decide whether or not it needs a permit.

Ms. Simone stated they have indicated there are no wetlands on the property – they were filled in 1986.

Dr. Dimmick said he was trying to remember the best he can what this site was like before it got filled – it said it seemed to him that although it was wetland it was almost waste land because it had been quarried over sand and gravel over at one time – they quarried down to the water level.

Dr. Dimmick said he thought the reason we allowed whole sale filling of wetlands at that time is we are talking about old sand and gravel pit before it was abandon; they abandon it because the water table was at the surface at that point.

Commission members reviewed the plans.

Ms. Simone said part of the record in 1986 there is a letter from the Department of Agriculture and it indicates that “much disturbance and filling has occurred within the wetlands and the drainage ditches have lowered the water table on some of the lots; according to the soil scientist who mapped the wetlands much of the wetlands on lots 4, 7 and 8 is due to the relief and seeps occurring near the toe of the adjacent slope.

Dr. Dimmick said that was the case and a lot of the disturbance was because they hauled a lot of sand and gravel back in the 60’s in that area and the drainage ditches were partly to get the water low enough to get the sand and gravel out.

Dr. Dimmick said this site has a long history of disturbed land – there was nothing suitable on that land to try to preserve; normally we

would not allow filling of such a large amount of wetland but it was highly disturbed.

Chairman de Jongh said he wanted to go back to a comment made about the runoff coming off the site – so even with the significant increase in impervious surface you are looking at zero increase in runoff.

Mr. Lambert stated zero increase for up to a twenty five year storm.

Ms. Simone said and there is no direct tie in to any wetlands off site.

Dr. Dimmick asked where that 36” culvert go.

Mr. Lambert stated going on at site it does flow down and then it makes a hard left turn and does discharge into a swale behind a lot of the properties and he believed that does run into the existing detention basin that was part of the 1986 subdivision of the area.

Chairman de Jongh said so there is no requirement needed to any way kind of trap any kind of oil or sediment or things like this – are there going to be any measures to collect anything like that before it gets taken off site or is that taken care of down where this thing connects. He asked if they were proposing any kind of mitigation or measure to be able to collect any kind of oil or gas or anything might flow off of the impervious surface on site.

Mr. Lambert stated through our initial design there is no oil water separator proposed but this if this something that the Commission wanted us to add into our plans to help in any of those areas – and talking to our client – they have a lot of vehicles parking on site – a boil water sperator should be installed and then has we make our changes that we have submit to Planning and Zoning – has there been any comments from them (it was stated no) so part of the revising of the plans we will be adding an oil water separator to it so before it gets discharged into the 36” pipe it will go into the oil water separator and discharge through so we will help eliminate it.

Dr. Dimmick asked if the town engineer reviews these plans.

Ms. Simone stated yes they do for Planning and Zoning.

Dr. Dimmick said so they would catch something like that.

Chairman de Jongh said he didn't see any problem on this since the property has been disturbed for the last 30 years.

Motion: That the Commission having reviewed the proposed activities finds that they do not rise to the level of needing a permit from this Commission.

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

XI. ADJOURNMENT

The meeting was adjourned at 8:40 pm by consensus of Commission members present.

Respectfully submitted:

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