

July 12, 2021

Planning and Zoning Commission
Town of Cheshire
84 South Main Street
Cheshire, CT 06410

Dear Commission Members:

I attended the 6/14/2021 TPZC meeting, submitted to the town a letter with my concerns about the impact on the wetlands on the property (rcv'd by the town and posted 7/6/21), watched and reviewed the minutes from the 4/20/21, 5/4/21, 5/18/21, 7/6/21 IWWC meetings (5/18 minutes only – video is not available), walked the wetland area where sewer line is proposed, and obtained a copy of the ***“Proposed 40-Unit Active Adult Community – Wetland Impact Assessment”*** which was provided to the IWWC on 5/4 and referenced heavily during this meeting. This report is not on any public record, and I received it by email request on 7/9/21.

I was relieved that some discussion occurred concerning the two large vernal pools on the property but dismayed at some of the representations made concerning these wetlands. The omission of smaller vernal pools, an omission of a wetland area, and a disregard of several factors of the plan that immediately impact the wetlands should be considered in the approval of the ARPRD. Since IWWC approval was sought prior to any public hearings, and without notice to property owners effected by this application, it falls upon the TPZC to resolve and/or act on these issues.

The issues that I would like the TPZC to address are as follows:

Issue 1 – A true and accurate assessment of the wetlands

The site needs an environmental impact study. The wetlands assessment done as stated in the May 2021 document provided to the IWWC on page 8 was:

“Within the project area, two vernal pools were identified. Our survey can be considered a snapshot survey in that a more comprehensive assessment was not conducted within each of the pools. Such detailed assessments may include setting of minnow traps for adult species verification and quantification, adult auditory frog playback surveys, dip netting for hatched amphibian larvae, monitoring of hydrology with staff gages, and/or completing multiple site visits over the breeding season.”

Additionally, according to the 4/20/21 IWWC meeting (line 44 pg20):

“Mr. Sanford said the one last thing he'd say is that we did look at the DEEP Natural Diversity Database layers and this particular site is located outside of NDB circles therefore there is no NDDDB hits on this particular site.”

What this implies is that no request was made to the DEEP for a review of the property. There are NDB circles near the property, and throughout Cheshire which would indicate a good possibility that a species of concern may be impacted by the proposed development. A single day (3/30/21) is not sufficient time

for an environmental impact assessment. There are several indicator species (9 in CT 4 special concern or greater), and 7 or more facultative species (5 of which are special concern.). Facultative species are animals that use the pools for various purposes, but don't necessarily use the pools for breeding. And none of the smaller vernal pools have been assessed at all. Their existence is noted in the field reports of the IWWC on 5/4/21.

Issue 2 – Sewer access, Nature Trail boardwalk, and Nature Trail through “Preserved Meadow”

First concerning the sewer line: It should be noted that according to print G-2 the width of this disturbance is now at 20', additionally this occurs well within the 100' vernal pool envelop (15' from the nearest pool edge at WF11) and will destroy some small vernal pools. In addition, clearing of the phragmites by killing the rhizomes prior to the digging does not address the seeds. The topsoil and current seed stock per IWWC will be saved and filled over the area. The phragmites seed stock will quickly overtake any wet mix planted. This further incursion of phragmites will allow seeds to more easily flow downstream into the Mill River water shed area. And finally, regarding the sewer during the 4/20 meeting Dr. Dimmick questioned as to whether a boring was done in this area to determine where the bedrock is. Since the sewer line will be approximately 8 feet down, it could possibly hit rock. It is unclear in any public documentation that a boring was done. Additionally in order to accommodate connection to the Charles Drive area this depth may increase significantly.

Second concerning the proposed Boardwalk. There are no details as to construction. Width, installation, type of trex – i.e. is it anti-skid, how will it be leveled or does it follow natural contours etc. Another consideration is seasonality – in the winter this boardwalk may be covered in snow or ice. Allowing use of any deicing products will have serious ramifications for wetlands and may impact the upper part of the Mill River water shed as well.

Finally, the “Preserved Meadow.” There are three issues:

First there is no indication of what this trail will look like, or as mentioned in one of the IWWC meetings this may just be mowed twice a year (4/20 meeting pg. 25, paragraph starting at line 29.).

Second this trail crosses an intermittent stream which as defined by the Connecticut Inland Wetland and Watercourses Act (IWWA) is “...*Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (A) Evidence of scour or deposits of recent alluvium or detritus, (B) the presence of standing or flowing water for a duration longer than a particular storm incident, and (C) the presence of hydrophytic vegetation*” - (Section 22a-38 definitions #16.). Contrary to Mr. Sanford's statement during the 4/20 meeting (pg. 23 line 15) the flow from the proposed sewer crossing goes from east to west. The vernal pool is just 15 feet away from the proposed sewer line and the topography can be easily seen. This flow goes through the vernal pool and out WF6 where it then flows down the northern edge of the smaller meadow along the “hedgerow” which is actually a stone wall – probably from the original clearing of the fields. It then flows north down Talmadge in a well-defined channel, with signs of scouring, and a persistent flow over 24 hours after the recent storm events across the larger field and then into the culvert that crosses Talmadge. It has the same approximate flow as the wetlands indicated on the larger field. This is a watercourse as defined by the IWWA, and the property should be marked accordingly, this also needs to go under IWWC review.

Third there still is no existing and proposed pedestrian circulation system including its interrelationships with the vehicular circulation system, open space system, and other areas of common use, as specified in the ***Cheshire Zoning Regulations Section 43.4.3-C***.

Issue 3 – Stormwater Management System

I covered this in my original documentation received by the town 7/6/21. After reviewing the IWWC meetings and Wetlands Assessment materials found that stormwater management was never considered regarding their effect on the wetlands. I referenced Calhoun and Klemens (2002) in my initial review, as did Mr. Sanford in his Wetlands Assessment prepared for the 5/4/21 IWWC meeting. In brief stormwater management systems regarding vernal pools should be a net zero. The current plan reduces water flowing into this wetland by a minimum of 25%. I am not including the effect in water reduction by the infiltration galleries. The storm water basin should be as far away from the vernal pool as possible, preferably outside the limit of the Critical Terrestrial Habitat (750'). Alternately if this is not possible it's suggested that migration studies of amphibians be done. No studies done on this property, to the best of my knowledge, or if they were done this information has not been provided. The current plan puts the storm water basin close to, if not in the vernal pool envelop (within 100' of the pool.). The basin per various literature can act as a kill basin for both obligated, and facultative species, and to place it so close to the wetlands is a critical mistake.

Non-Wetland Related Issues:

Issue 1 – Sanitary Sewer connection to Sir Charles Drive neighborhood

During the 5/4/21 IWWC meeting, and the 6/14/21 TPZC Mr Quirk stated the sewer connection was to be able to service the Charles Drive and points east having septic issues. Under the current sewer plan as proposed it would be impossible to connect a gravity feed system as indicated. Houses along Charles Drive are at around 310' to 312', the depth of the sewer at the sewer easement is 305' – it is virtually impossible to maintain the required pitch, and minimum depth to connect these sewers without a pumping station- or by going considerably deeper through the wetlands. The Cheshire Plan of Conservation and Development specifically states on pg. iii “...to supply sanitary sewer to growth areas identified by the Conservation and Development Policies Plan, and also limit extension of sanitary sewers in lower density zoned Residential 40 (R40) and Residential 80 (R80).”

Issue 2-Proposal is not in accordance with the Cheshire Plan of Conservation and Development (POCD), and the application is lacking key information for the TPZC and the public to properly discuss issues.

Mr. Fazzone was kind enough to read Section 43.4 into the public record, and later in his presentation selected excerpts from the POCD, specifically from pages 21-23. What Mr. Fazzone failed to do is two things. First his application requires per section 43.4.3 “**Such application shall include a clear statement explaining how the proposed zone change and ARPRD meet the purposes set forth in Section 43.4.**” I requested this information from Mr. Voelker and was informed that it is the responsibility of the applicant to supply such information. Shortly after the request in the mail I

received a letter from Lovely development which stated erroneous unsupported "facts." I emailed Mr. Lovley wondering what the basis of his figures were, and what other pros he saw in the development. In his reply, figures aside, stated *"We are planning on developing this whether it be our planned development or the conventional development with the need that there is for the housing i am porposing i feel this will be a lot faster construction than 16/20 Mega-mansion's we would build there if we went conventional."* There was no response that specifically addressed Section 43.4 and the special needs of the elderly. The market survey had flawed data, and a lack of verifiable references. The population figures did not exclude those already living in age-appropriate housing, the desire to move into such a facility was based on a 1999 survey on what baby boomers would do in 20 years, the AARP report where satisfaction rating of the 55+ communities was a "9 out of 10" was based on attributes such as living near the water, walking distance to a park, golf courses or other amenities of which Whispering Oaks has none. The only factor I found that applied was the desire to live with other people of the same age – which was the lowest of all scales. I can't think of a single thing that this proposal provides for a senior. They are not ADA compliant, there aren't alternative energy sources, the floor plan shows a gas fireplace insert, but I'm pretty sure the HOA will prohibit external propane tanks, in an area with poor cell service, they'll need a land line for emergencies, there is no power back up or generators supplied for an area notorious for losing power. Mr. Bowman stated in the meeting that the grandchildren could visit – where are they going to play? The tick infested meadow? The wetlands? Or maybe they can take their bikes, or new electric toy Jeep for a spin on Wallingford Road? There are no places in Cheshire that exclude grandchildren from visiting – but a 55+ community would make you move if a grandparent needed to take care of the grandchildren for an extended period due to tragedy, or even a long-term military deployment for a single parent going to a hostile area. Fortunately, people over the age of 55 can choose to live in any type of housing, and there are housing developments currently in the works that are very attractive to the 55+ community that offer amenities, and assurances that family members wouldn't be required to move out..

Regarding Mr. Fazzones reading of the POCD pages 21-23 this applies to low- and middle-income housing, and care givers for the elderly etc. The Whispering Oaks proposal is not low income or affordable housing, the target market as stated is people moving out of their big houses and purchasing with the equity in their homes. They may not even carry a mortgage. There are no price guarantees, grants, or anything that would allow a low-income person to move into this property.

The POCD and the zoning regulations also require that developments blend into the surrounding zones. Specifically, under Section 43.4.4 – G which states *"The development and design of the ARPRD will not have an adverse effect on surrounding properties, will be in harmony with the neighborhood, and will not have an adverse effect on property values in the area. The proposed development will not create an undue concentration of PRD's, particularly ARPRD's."*

First there are already a couple ARPRDs in the area 1 ½ miles down the road (Cheshire Crossing), and another about 2 miles away on Weiss Rd (Richmond Glen.). Both cannot be seen off the road, or the surrounding neighborhoods. They are well set back and surrounded by open space/woodland. Whispering Oaks is 100' off the road, with now dual entries and a gate right on the road for emergency access. It is surrounded by a 3' strip of grass which is the transition to the R40 neighborhood, on one side there is a vinyl fence which protects the preserved stone wall – left for rural character. We don't know what this will look like from the street because Lovley Development has not complied with Section 43.4.3-G which states: *"Examples of proposed product types for the dwelling units, typical lot*

and/or building layouts and elevations of all buildings (front, back and both sides) showing proposed textures, materials and colors. Identical buildings will not require multiple elevations." It will most likely look like a wall of multicolored vinyl as seen from Wallingford Road. 85% of the houses will be 2 bedroom – however no plan has been submitted for those and renaming an obvious bedroom to a den is not an appropriate solution and does not comply with the legal requirement. Currently CHAFA is projecting demand increases with lower bedroom counts, but larger bedroom sizes – this refers to opportunity zones and low-income housing which this project is the exact opposite of.

Cheshire has done a tremendous job in integrating high density housing and developments into the community. These developments are hard to see from the road, and once you enter them are well laid out, pleasant, and true communities. Cheshire is currently looking to improve opportunity zones as defined in POCD, with growth and public services available to all income levels. Additionally, the current Stone Bridge Crossing project affords many more housing opportunities taking advantage of existing infrastructure and providing amenities and services within that proposed community for all income levels and ages. Whispering Oaks is nothing more than a pile of high-priced houses.

I request that any member voting yes on this zone change, put in writing on the public record, how this project meets the provisions of Section 43.4, and conformity to the POCD, considering the degradation of a vital wetland environment, retention of "preserved meadows" with invasive species and little wildlife value, and no defined restoration or open space plan, reduction of neighboring property values, failure to provide sewer to Charles drive homeowners as indicated in the overall plan, and a description of how it blends into the neighboring R40 and R80 zones. Keep in mind that Cheshire has the highest per capita number of this type of housing specifically, and the highest per capita of Age Restricted Housing which includes all types, as defined by the Fair Housing Act, then all the surrounding communities.

Respectfully submitted for your consideration,



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