

**INLAND WETLANDS COMMISSION**  
**MINUTES**  
**Regular Meeting of February 14, 2018 at 7:30 p.m.**  
Council Chambers, Newtown Municipal Center  
3 Primrose Street, Newtown, CT

**These Minutes are subject to Approval by the Inland Wetlands Commission**

**Present:** Sharon Salling, Mike McCabe, John Davin, Craig Ferris

**Absent:** Kristen Hammar, Suzanne Guidera

**Staff Present:** Robert Sibley, Deputy Director of Planning & Land Use, Steve Maguire, Senior Land Use Enforcement Officer, Dawn Fried, Clerk

Ms. Salling opened the meeting at 7:30 p.m.

**PUBLIC HEARING**

**IW Application #17-27 by 79 Church Hill Road, LLC**, property located at 79 Church Hill Road, Newtown, CT for regulated activities associated with the construction of 224 multi-family residential dwellings and approximately 55,360 sq. ft. of commercial space within a regulated area.

Mr. McCabe read the public notice in to the record. Ms. Salling welcomed the public and stated the Public Hearing process.

Christopher J. Smith, Esq., Shipman & Goodwin LLP, Hartford, CT, presented the abutter receipts for the record.

Mr. Smith introduced the team: Mr. James R. Swift, Professional Engineer/Landscape Architect, Shelton, CT, Mr. Mathew J. Popp, Environmental Land Solutions, LLC, Norwalk CT.

The team spoke on behalf of the applicant, 79 Church Hill Road, LLC.

Mr. Smith distributed a packet titled "Packet in Support of Application for Permissions to Conduct Regulated Activities Associated with a Mixed-Use Development of Real Property Known as 79 Church Hill Road, Newtown, CT", dated February 14, 2018. Mr. Swift gave an overview of each section of the packet. Mr. Smith described the project which consists of two commercial buildings approximately 70,000 sq. ft. and 224 multi-family dwellings.

Mr. Swift started his presentation with an aerial view of the site which is 35 acres. Mr. Swift explained that there are three wetlands on-site which he refers to as "Wetlands A", "Wetlands B" and "Wetlands C". Wetlands A has no apparent inflow of a water course and discharges into a culvert that flows underneath the highway ramp. Wetland B is the more significant wetlands which has pipe discharge coming from Evergreen Road. It is a functional wetland area. Wetlands C is a very small wetland area and could have

been created by discharge from a pipe on Walnut Tree Hill Road which goes into a culvert underneath the ramp.

The topography on-site pitches down on a consistent slope of 10-15%. All of the utilities (water, gas and sewer) exist on Church Hill Road.

Mr. Swift summarized Exhibit D which is the proposed Incentive Housing Overlay Zone.

Mr. Swift gave an overview of the buildings on-site. The two front buildings will be used for commercial use. Building #1 is in close proximity to the Iroquois pipeline. There have been preliminary discussions with Iroquois and Iroquois is "on board". They will continue discussions as the project progresses. Building #1 and Building #2 are two-story buildings. Building #1 has a flat grade and Building #2 has a grade change. Building #2 will have retail in the front of the building on the lower level and will have professional offices in the back on the upper level.

The residential section of the site is on 15-16 acres. It has 224 dwelling units and a club house at the entryway. There is also a proposed walking trail thru the woods and wetlands. The development is saving green space by keeping the buildings clustered together. The upland wetland area will be undisturbed land.

The storm water in the parking areas will be flowing into a Vortex unit which goes into an infiltration management system. The infiltrators are plastic, volume-holding units surrounded by crushed stone. The bottom of these infiltrator systems will be placed 1 to 2 feet into the existing grade. The infiltrators by Building #1 will discharge into a rain garden. The rain garden discharges through a grass swale into a pipe that goes underneath Church Hill Road. Building #2 goes up the hill and is about 20-ft higher than Building #1. Building #2 has a grade change from the front of the building to the back of the building. The parking lot in front of Building #2 serves as the accessway to the retail component. The upper parking lot in the back of the building will serve as the accessway for the professional offices.

The parking lot will be pitched to the back of the parking lot which will have sheet-flow run-off into a grass swale. The drainage from the roof run-off and the parking lot run-off will go through the infiltration systems. The discharge will be separated from the small wetland area. The new discharge will go through a pre-formed rip rap sediment basin which will run to a watercourse that finds its way to a culvert underneath the highway ramp.

Grading Plan - The grading plan for the residential buildings has a relatively flat area. Each building is set at its natural grade which minimizes where the earth works throughout the site. Retaining walls are used in some areas. The lowest unit by the club house comes out on grade. The infiltration system will be the same as the commercial buildings but will have an added area of a rip rap swale next to the stone wall. The rip rap swale will have a very shallow flow, will be 5 to 6 feet wide and will be very spread out. There will be soils in the rip rap for the purpose of future vegetation. Mr. Swift and Mr. Popp will personally stake the fields to prevent trees from being unnecessarily cut down.

Excavation Plan - The commercial area will have 10,900 cubic yards of excavation and 14,500 cubic yards requirement for fill. The residential area will have 61,100 cubic yards of excavation but need 57,500 cubic yards of fill. The 3,500 cubic yard excess from the residential area will be brought to the commercial area.

Soil and Erosion Control Plan - The Soil and Erosion Plan will be split up into 2 different systems; one for the commercial area and one for the residential area. There will be multiple temporary sedimentation basins throughout both areas. Erosion control will be managed by the contractor throughout the construction process and additional measures will be taken if needed.

Watershed – The site is located in three watershed areas. Watershed "A" has a 15" pipe under Church Hill Road with dedicated storm water controls. Watershed "B" has a 36" pipe under the on-ramp for I-84. Watershed "C" comes from Evergreen. According to the storm water management report all of the post development flows for each watershed are equal to or less than the pre-development flows. Mr. Swift reiterated they are concentrating on getting water back into the water system.

Mr. Popp started his environmental assessment and landscaping presentation by giving an historic perspective with an aerial photo from 1950. Mr. Popp showed slides of the current wetland areas and described in detail the trees and vegetation on the property. Mr. Popp stated it has a young sparse understory due to deer browsing. Mr. Popp stated that Wetland A is populated with wood frogs. A 3-foot high stone wall is located on the border of the wetland area and is significant for providing a barrier for wood frogs.

Mr. Popp stated that the function of the wooded western wetlands provides ground water discharge for water that seeps out of the hillside which will provide wild life habitat. The function of the smaller wetlands is to provide drainage for storm water runoff.

Mr. Popp stated there are no endangered species on the site.

The landscape plan shows a variety of native plants. Mr. Popp is proposing a number of shade trees along the perimeter of the site which will offer shade over the parking areas. The lighting in the residential areas will be low-lit and soft. The fixtures will be 12-14 feet in height. The commercial lights will be brighter but will not be placed in the back of the buildings so not to impact the wildlife or wetlands.

Mr. Popp stated there are no direct impacts to the wetlands other than the foot trail. The foot trail will not be graded and will not have wood chips or stone dust. The foot trail will be soil based.

The closest building to the wetlands is 115 feet away.

Mr. Popp stated they will be using Best Management Practices (BMP). The catch basins will catch sediment before discharging into the underground galleries.

The rain garden is 1,200 feet from the wood frogs which is far enough away not to lure the wood frogs for breeding. The rain garden in the grass swale will collect sediments which provide wild life habitat. Mr. Popp is proposing having the Japanese knotweed pulled by hand on a continual basis. Mr. Popp is also proposing that owl boxes be added to the wooded areas. Mr. Popp stated that the stonewalls being disturbed during construction will be relocated to the rear of the buildings to provide wildlife habitat.

Mr. Popp reiterated there will be no significant impact to the wetland system. There will be 16 undisturbed acres which means half of the site is being kept in its natural state.

Mr. Smith, for the record, stated he served on a wetland commission for 13 years in North Branford and served on the General Assembly Wetlands Task Force in 1995 and 1996.

Ms. Salling had concerns with the ground water recharge. Ms. Salling questioned the treatment for the impervious surfaces and the roof run-off. Ms. Salling would like more information on how the roof water run-off will be treated in accordance with the LID guidelines. Mr. Swift stated that the roof water run-off will be treated through the storm water infiltrator system. Mr. Swift will prepare calculations for the next IWC meeting.

Ms. Salling had concerns with the water quality in the rain garden and its failure rate due to lack of maintenance. Mr. Popp explained it's not a stand-alone system and it is better to have the rain garden than not to have it as part of the system. Mr. Popp confirmed the rain garden has the appropriate soils.

Mr. Ferris questioned the peak run-off rates and the temperature of discharge over time. Mr. Ferris also questioned if the total volume of storm water will be greater. Mr. Swift stated it will temper the rate of discharge over time.

Mr. Ferris questioned whether the ground water discharge that maintains the wetlands will be diminished. He also questioned if the total volume during a storm has more run off than normal.

Mr. Swift replied yes it is conceivable. The total volume would be more post-development. Mr. Ferris would like an evaluation done. Mr. Swift will give more detailed information at the next IWC meeting.

Mr. Maguire questioned whether any soil testing has been done below the infiltrator areas. Mr. Swift stated the soils are acceptable and appear to have a good infiltration rate. Mr. Swift will get more information regarding infiltration rates.

Mr. Sibley requested the following:

- provide infiltration records associated with the infiltrator systems
- provide perk test rates and perk test dates
- provide original copy of 2013 soils report
- provide the details of the distance between pipe elevation and velocity
- provide the rip rap design around the stone wall
- provide the calculation of the amount of water discharged at the end of the swale into the wetlands
- questioned, for the record, why the infiltration system was chosen over the LID system. Mr. Swift stated the infiltration system was specifically chosen to enhance the water back into the ground.
- provide volume calculations
- quantify the amount of impacted area in the upland review area
- questioned, for the record, how far will a wood frog travel to breed
- questioned whether the proposed project will have a detrimental impact on the presence of the wood frogs
- questioned whether the Best Management Practices will have an adverse effect on the wood frogs, for example the impacts from the snow and ice removal, pesticides and fertilizers
- provide the actual excavation numbers for the cut and fill

## Public Questions and Comments

James McManus, 23 Horseshoe Ridge Road, questioned whether test pit data was done for the soils. Who performed the tests? Where is the septic system going and how are those soils? Mr. McManus is concerned with the soil types.

PJ Zeller, 27 Old Farm Road, wanted to verify the licenses and bios of James Swift and Mathew Popp. Mr. Zeller challenged the hydraulic assessment and questioned the impact on the wildlife and the aquifer.

Duane Jones, 16 Walnut Tree Hill, questioned whether an assessment has been done on the neighboring wells. He stated that the letter he received mentioned 50,000 cubic yards of material will be removed. This information is different from the presentation and is misleading. Will there be blasting and what impacts will that have on the environment?

Virginia Zimmermann Gutbrod, 4 Walnut Tree Hill Road, had concerns with the black bear and bobcat living on the property. Ms. Gutbrod has concerns with the till soil depths and her well.

Attorney Peter Gelderman, Berchem Moses P.C., Westport, CT, submitted a report by Steven Trinkaus, Trinkaus Engineering, LLC, for the record. Atty. Gelderman stated that Mr. Trinkaus disagrees with a lot of the information and feels there will be significant impacts on the wetlands. Atty. Gelderman submitted a petition signed by 500 people and stated that the applicant shouldn't assume a sewer will be hooked up.

Beth Koschel, 20 Evergreen Road, is concerned about the wells and requests the applicant to be responsible for the cost of the sewer hook-ups if the wells run dry.

Kevin Koschel, 20 Evergreen Road, has concerns with his drinking water, water flow in the wells, questioned whether the aquifer is well protected, has concerns with the impervious surfaces and the contaminants and fluids from cars. Mr. Koschel also questioned the watershed area and would like experts hired to evaluate.

Allison James, 59 Elizabeth Circle, had questions regarding the Vortex system on other projects.

**It is recommended that the Public Hearing be continued to allow time for the public and Commission to review newly submitted information. The next Public Hearing is scheduled for March 14, 2018 at 7:30 pm in the Lecture Hall at Newtown High School, 12 Berkshire Road, Newtown, CT.**

## PENDING APPLICATION

**Application IW #18-01 (Modification #08-43) by Michael Burton**, property located at 10-22 Washington Avenue, for construction of eleven buildings and associated parking, drainage and utilities.

James McManus, MS, CPSS, JMM Wetland Consulting Services, LLC, Sandy Hook, CT, introduced Alan Shepard, PE, Nowakowski, O'Bymachow, Kane and Associates, Shelton, CT, who spoke on behalf of the applicant. Mr. Shepard stated this application is a modification of an existing permit which was previously approved in 2015.

Mr. Shepard reviewed the project. Mr. Shepard stated that the project is the same project with the buildings shuffled around. There are no substantial changes. The project will be completed in three phases.

Impervious surfaces changed from 2.7 to 2.9.

Mr. Shepard stated multiple testings have been done on the recharge galleries.

Mr. Maguire noticed on the Sediment and Erosion plan that Building J had the silt fence going through the middle of the wetlands. Mr. Shepard responded that the silt fence will not go past the existing lawn area.

Mr. Maguire also noted that Building F and K are tighter to the wetland area and Mr. Maguire would like to know the difference in the grading as well as the impact from the drain pipe.

Mr. Maguire noted that he didn't see the anti-tracking pad in the phase one construction. Mr. Maguire also questioned if the basins will be shared or if there is a basin for each phase or if they will be overlapping. Mr. Shepard stated that the draining systems will be separate for each phase.

Mr. Maguire questioned whether a revised storm water management plan has been submitted for the new system or is the management plan staying the same. Mr. Maguire requested Mr. Shepard to submit storm water calculations. Mr. Shepard stated that the plan will be staying the same but he will recalculate the flow.

Mr. McCabe requested to see the overlap map which shows the difference between the approved plan from 2015 and the current proposed plan. The Commission discussed that the current proposed plan is very similar to the 2015 plan.

Mr. Shepard reiterated that the project has a similar concept and that "they moved a lot of things around on the plate but the plate is still the same".

Mr. McManus will continue with the 2015 plan which was invasive species removal and mitigation.

The Commission will review the materials and will meet at the next regularly scheduled IWC meeting on February 28, 2018.

#### **APPROVAL OF MINUTES for January 24, 2018**

Mr. Davin moved to accept the minutes from January 24, 2018. Mr. McCabe seconded. All in favor. The minutes from January 24, 2018 were approved.

#### **OTHER BUSINESS**

Ms. Salling reviewed the letter regarding the State Project No. 96-192 on Edmond Road and Route 6 and had no comments. Ms. Salling will send out the letter stating no opposition

Ms. Salling distributed FOI Meeting Notice information to the Commission.

#### **ADJOURNMENT**

With no additional business, Mr. Ferris moved to adjourn. Mr. McCabe seconded. All in favor. The meeting of February 14, 2018 was adjourned at 10:00 pm.

*Respectfully Submitted, Dawn Fried, Clerk.*