

**CITY OF TORRINGTON
INLAND WETLANDS COMMISSION
MINUTES
APRIL 16, 2019**

Present: Jay Bate, Jr., Chair
Jane Bakker, Secretary/Member
Tom Telman, Member
William Storti, Member
Jonathan Andrews, Member

Also Present: Rista Malanca, Inland Wetlands Enforcement Officer

Not Present: Christine Altman, Vice Chair
Tomasz Kalinowski, Member

1. Call To Order:

Chairman Jay Bate Jr. called the meeting to order at 7:05 p.m.; Torrington City Hall, Room 218, City Hall Auditorium, 140 Main Street, Torrington, CT

2. Roll Call and Announcement:

Mr. Bate announced present and serving this evening will be Commissioners Jane Bakker, Tom Telman, William Storti, Jonathan Andrews and Jay Bate. Also present is Rista Malanca, Torrington Inland Wetlands Enforcement Officer.

3. Minutes for Approval:

a. 2/26/19

Motion by Mr. Storti to approve the 2/26/19 minutes, seconded by Mr. Telman. Motion carried, with abstention from Ms. Bakker.

4. Old Business:

n/a

5. New Business:

n/a

6. Public Hearing scheduled for 7:00 p.m., April 16, 2019, City Hall Auditorium, Room 218, 140 Main Street, Torrington, CT:

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- a. Applicant: TDF Enterprises LLC
 Location: Notting Hill Gate & Wimbledon Gate North
 Assessor Map 219 Block 001 Lots 85 & 48
 Activity: Stream crossing. Portions of Roadway, parking area, retaining walls
 and grading in upland review area.

Mr. Bate read the legal notice which was published in the Republican American on 4/2/19 and 4/9/19.

MOTION by Ms. Bakker to open the public hearing, seconded by Mr. Storti, motion carried.

Ms. Malanca noted for the record that the abutting neighbor notices and proof of mailings have been submitted for the file.

Kenneth Hrica, professional engineer and licensed land surveyor, in Litchfield, CT appeared representing the applicant. Also appearing is George Logan, from REMA Ecological, he is a certified soils scientist and a wetlands scientist. The site plan is formerly known as Greenbriar Phase III. The history is that the original Greenbriar subdivision was approved in the late 1980's and construction took place in the early 1990's, and at that time Phase III was approved for 72 individual house lots. Maps were presented and reviewed. In 2011 another proposal for a 23 lots subdivision came forward, the application was eventually approved for 21 lots with the same access points being proposed now. During the construction of Phase I, there was much storage of materials, from roadway construction, storage of equipment, etc. Previous owners received Inland Wetlands Approvals, but did not go through the Army Corps of Engineers. There were violations of the Army Corps of Engineers permits, Army Corps required the former owner to correct this situation. Open space parcels were donated 15:1, details explained (7:10 p.m.). Box culvert construction was detailed and explained by Mr. Hrica, and this is the only wetlands disturbance within this project, the rest is upland review area permitting.

Mr. Hrica explained the exact same access points/roadway beds are proposed that were previously approved by the Inland Wetlands Commission in January 2013 (now expired for one year). The same drainage mechanisms that were previously approved are once again proposed. Details were given (7:15 p.m.) by Mr. Hrica, on drainage, storage, etc.

Mr. Hrica stated four separate buildings are proposed, with parking around each buildings. Site details were explained. There will be very little run off from each of these building/pad sites. The limited grass areas on this plan were noted by Mr. Hrica. It benefits the wetlands area to not have a lot of lawn area. The previous approval of houses with lawns would mean that each individual homeowner could fertilize and treat their lawns, with accompanying grass clippings disposed of in backyards. The proposed

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project will most likely mean there will be one company coming in to take care of the landscaping, allowing more potential control.

Mr. Hrica noted the recreation area to be provided, accessed by a gravel drive with parking area. The area will include a playscape, picnic spot, and basketball area. None of this recreation area is located within the regulated areas. Mr. Hrica noted the 100' wide area of utility easement, for overhead power lines.

Mr. Hrica responded to various site details questions from Commissioners (7:30 p.m.)

Ms. Malanca read the email from City Engineer Paul Kundzins, who has reviewed the submitted plans. The Engineering Department does see any issues with regard to this application, and therefore endorses this application.

George Logan, from REMA Ecological Services in Manchester, CT appeared. (7:40 p.m.) He stated his credentials, certifications and experience in the ecological field. He presented his findings, he has visited this site this past weekend for seven hours. The tick population is very high. Mr. Pavlak had presented his report with an earlier application, and Mr. Logan had previously worked with Mr. Pavlik. He concentrated on the road areas, pod areas, etc. The focus was on direct impacts, and long term impacts. The vegetation and tree line was described. The direct impact is limited for a project of this size. This project will required robust sedimentation and controls, and management of those controls. The soils are till and compact till. This new plan has shrunk the development envelope. There is a significant amount of sediment that has been deposited in the stream area. There were very few organisms seen that he would expect in a good quality aquatic environment. Whatever is happening uphill has had an impact on this particular stream.

Mr. Logan stated it is his professional opinion that the plans meet the guidelines and criteria for limiting disturbance both during construction and post construction, and therefore there will not be significant adverse impacts to the regulated resources.

Mr. Storti inquired who will maintain the retention basins on site, since this will be a private development. Mr. Logan responded there will be a management company who will have to follow specific items. Best management practices can be followed.

Ms. Malanca stated that through the Planning and Zoning Commission, the applicant will sign a maintenance agreement, for storm water maintenance, whether it is a retention basin, storm water quality, rain garden, etc. A report has to be submitted to the City of Torrington that the site has been maintained throughout the year.

Ken Hrica stated they are available for any questions from the Commission at this point.

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Chairman Bate stated the Commission needs to decide if this is significant activity, or if this is an informational public hearing, because of the lack of significant activity in the wetlands. Ms. Malanca explained this process as well. Mr. Storti said he does not believe this is a significant activity in the wetlands, Mr. Bate stated that was his thought as well, other Commissioners agreed. (Comments from audience that were inaudible. Members of the audience shouting comments all at once, inaudible)

Mr. Bate opened the hearing for public comment at 7:57 p.m. Ms. Malanca noted that since it appears there is an intervener, she should appear first.

Attorney Catherine D. Mollica, and abutting land owner, appeared before the Commission. She believed the notice requirements may not have been met. Ms. Malanca explained the Connecticut General Statutes have been changed, and if notice to neighbors is required, it can be by Certificate of Mailing by the applicant, proof of mailing. In response to questions from Ms. Mollica, Ms. Malanca explained the details of the notification requirement process. (8:00 p.m.)

Ms. Mollica asked for the hearing to be continued to another date as she believes there was not proper notice.

Ms. Malanca and Mr. Bate stated the hearing will move forward tonight.

Ms. Mollica reviewed the notification letters that were in the file for abutting neighbors. Ms. Mollica asked members of the audience to identify themselves if they did not receive a notice and they are an abutting neighbor. Many members of audience spoke all at once, inaudible.

Ms. Mollica stated without proper notice, the City and applicant are putting themselves in jeopardy.

An unidentified woman shouted at Commissioners that they are putting the City in jeopardy of a lawsuit, and as a taxpayer she objects.

Ms. Mollica disputed that proper notification was done. Ms. Malanca stated that is not something that will be discussed at this time. The applicant has complied with the regulations, and sent out notices. The Commission will move forward at this point. (8:10 p.m.)

Mr. Hrica explained that as the applicant's agent, he has sent out all of the notices, in accordance with the Connecticut General Statutes, which is based upon the addresses that the City Assessor has on file. Whether that address is correct or not, it is not the applicant's burden to fix that. The City of Torrington Conservation Commission was notified as well. (8:13 p.m.)

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Mr. Bate asked abutting property owners to come up and state their name and address if they did not get a notice, after Ms. Mollica makes her presentation.

Ms. Mollica inquired of Mr. Hrica, regarding land owned by the Conservation Commission to note where the property is. A map was reviewed. Ms. Mollica presented her objections and asked questions. Ms. Malanca stated the Commission is not here to answer questions; Mr. Hrica as the applicant's agent, can respond afterwards.

Ms. Mollica presented her concerns about a quiet title transfer. There are ownership issues. She noted previous Cease and Desist Orders issued by the Army Corps of Engineers, and she is concerned that those documents were not in this current file. (8:28 p.m.) She presented documents to the Commission for the file. (Inaudible comments from audience.)

Mr. Hrica made follow up comments, noting plans from the Army Corps of Engineers. (8:54 p.m.) All permits from the Army Corps prior to 2017 are now expired. The Army Corps prefers that the local agencies make their decisions before they get involved. Mr. Hrica works with Army Corps extensively. It is up to the Commission at the local level to make a decision. An Army Corps of Engineers permit can be applied for afterwards. He provided details on what he did on the ground to physically note the wetlands flagging, versus the city mapping (8:58 p.m.) Mr. Hrica's mapping is actual verification on the ground, and not from aerial photographs, or a 1970's study. There is no FEMA flood plain on this project, and as a licensed land surveyor, Mr. Hrica certifies that.

George Logan spoke again regarding the wetlands mapping and stated that wetlands do not change over a few years, it takes hundreds of years in most cases. His inspection is accurate. Mr. Pavlik's previous mapping still stands, he spent many days on this site. It must be said that Army Corps of Engineers is a different jurisdiction, it is governed by different Federal Statutes. It is not governed by the Wetlands Act, and therefore in Mr. Logan's opinion, Army Corps of Engineer requirements are not even applicable before this Commission.

Ms. Malanca outlined how the rest of the meeting will proceed.

Ms. Mollica spoke and submitted documents for the record (9:02 p.m.) and read portions of a letter from 1987 regarding wetlands development in the 1980s and how wetlands have previously changed.

Mr. Bate stated the Army Corps of Engineer will review this project, after this Inland Wetlands Commission is done, and at that point the Army Corps of Engineers will determine if the plans meet with the Corps' approval.

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Ms. Mollica stated it is improper to go by the map presented by the developer through his agent, Mr. Hrica, as it is not a correct delineation. Mr. Bate stated that Ms. Mollica's comments are noted. Ms. Mollica stated she would like the Wetlands Commission to ask

for a previous Army Corps of Engineers permit, and any documentation of claims, names on a deed, and what exactly was done to be in compliance with the Army Corps of Engineers, as that documentation is not in the file.

Ms. Mollica asked, as an intervener and neighboring property owner, that an up to date and independent review be done by Kings Mark, as was done in the past. The 1987 Kings Mark spoke to species found on the property, vegetation, Connecticut's definition of wetlands. This Commission needs to receive information on what the impacts will be from an independent body, and not from the developer.

Mr. Bate opened the hearing to the public for comments (9:07 p.m.) Comments will be taken on wetlands issues only, not traffic issues, etc.

George Smalls of 377 Wimbledon Gate North appeared. He had concerns with the developer providing the soil scientist and the surveyor, as this conflictual. He was concerned about culverts, runoff, washouts from the intensive development, culvert collapse, etc.

Mr. Bate instructed that comments address wetlands only issues.

Diane Trivella, 237 Wimbledon Gate North appeared. She expanded on the water runoff problems. Her building lot is flooded. She is concerned that if runoff is not handled properly, it will back up further. Her lot is unwalkable, with standing water on it.

Ron Viola, 68 Wilson Road, Litchfield, appeared. He pointed to his property on the site map. He wanted to discuss the issues of intensive impact of 120 apartments times three people per apartment is too much population impact on the environment with too many people in such a small space, washing cars, garbage disposal, etc. (9:14 p.m.)

(Inaudible name) of Notting Hill Gate appeared. He inquired if there would be a hearing to address, traffic, property values, etc. Ms. Malanca stated once an application is submitted to the Planning and Zoning Commission, a public hearing date will be set.

Will Ambrosio of 14 Wilson Road, Litchfield, also a Torrington property owner, appeared. He inquired about the number of catch basins, he has a bridge on his property that sometimes gets washed out; he expressed concern that the runoff would go into his swamp, and his driveway will be washed out. He stated the twenty foot retaining walls are huge, and had questions about sewage lines, would that go into a catch basin, or pumped into his property. He had questions about the maintenance of the walking trails.

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Jane Crowley, 73 Chelsea Court appeared. She inquired how the silt was mitigated. She has a dry basin, and wetlands animals do not have a space to live. How would they know that this plan will be better than the last plan, and what problems will be caused. There are already many issues in this area. She said previous owner Mark Greenberg destroyed the wetlands. Gasoline and oils can leak into the wetlands, and these roads will contribute. It's a conflict of interest to have the developer provide the soil scientists, etc.

George Sabolcik of 377 Wimbledon Gate North inquired if this Commission should be sending permits to the Army Corps of Engineers first.

Anthony Whitaker, 254 Wimbledon Gate North, appeared and had questions regarding what defines abutting, as he received no notice in them mail. He had concerns with the soil scientists' findings. Roadways in the area have been destroyed, and are extremely icy in the winter from all the water weeping. The disturbance from this proposal will make this situation worse.

Unidentified voice expressed concerns about buckling roads and deteriorating conditions of the roadway.

Rachel D'Ambrosio of Torrington appeared and commended those tonight who have attentively listened to public comments, and stated shame on those who are rude and disrespectful.

(Inaudible voice) of Gate Post Lane appeared, he stated the Homeowner's Association was not notified, and they should have been notified.

Jim Rice, 255 Notting Hill Gate, stated he abuts the property and did not receive notice.

J. Dichiaro 406 Wimbledon Gate appeared, and questioned the parking spaces at the recreational space. He questioned association fees that will need to be paid.

Matt (inaudible last name and address) is an abutter and was not notified. He expressed concerns about wildlife, and destruction to wetlands, and impact on the Gulf Stream. Mark Greenberg abandoned ship, and there appears to be a lot of greed and deception involved in this project.

Ms. Mollica submitted more documents, these documents were not in the files she reviewed in the Land Use Office. (9:35 p.m.) Ms. Mollica read a list of documents submitting for the record, and she will come to the Land Use Office and obtain copies of these documents.

Mr. Bate and Mr. Hrica noted that if this Commission approves this plan, it then goes to the Army Corps of Engineers for their approval. If the Army Corps makes any changes,

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those changes will come back to this Commission for this Commission's approval again. Mr. Hrica verified this is as the correct procedure.

Mr. Hrica said there will be five basins associated with this project and provided details regarding wetlands discharges, flow rates, etc. (9:46 p.m.) Outlet structures release waters slowly so they don't negatively affect water downstream, after the water has built up in the basins. Small pipes are installed to slowly release the water. Mr. Bate inquired if these are designed for zero increase, and Mr. Hrica stated yes, zero increase in storm water flow, and downstream there should not be any more water than what is seen now.

Mr. Hrica stated water from the retaining walls will come into these basins as well, which will come into the basins more slowly.

Mr. Hrica stated there will be seven parking spaces in the recreation areas. Mr. Hrica stated he did not say the trails would brush hogged, just the sewer easements will be maintained by the City.

Mr. Hrica said the roadway design will allow the side of the road, grassy area, to drain back into the roadways, and then into the catch basins, and then into the detention/water quality basins.

Inaudible comments from audience.

Mr. Hrica stated all zoning setback regulations will be followed on this project.

More inaudible comments from the rear of audience.

No more questions. Mr. Bate asked for a Motion to close the public hearing.

MOTION by Ms. Bakker to close the public hearing at 9:53 p.m., seconded by Mr. Andrews.

Voting in favor of Motion to close: Commissioners Bakker, Storti, Andrews and Bate.

Voting against Motion to close: Commissioner Telman.

MOTION to close the public hearing carried 4-1.

Mr. Bate stated any more questions from the public should be addressed to City Staff. This matter will appear at the next Inland Wetlands Commission meeting for a vote. If it is approved, it will then go to the Army Corps of Engineers for approval. Then the project will go to the Planning and Zoning Commission.

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7. Staff Report:

- . Agent Determination, 1847 Norfolk Road, Applicant: Garden Homes; Activity: replace Unit 14 with new manufactured home
- . Agent Determination, 2866 Winsted Road, Applicant: K. Lenarczyk, demolish existing Garage and replace with new garage in upland review area
- . Agent Determination, 264 County Road, Applicant: Darren Bishop, Activity: Construct 10' x 16' shed within 100 feet of a watercourse

Passed to the next meeting.

8. Adjournment:

MOTION by Mr. Storti to adjourn, seconded by Ms. Bakker, unanimously carried (9:57 p.m.)

Land Use Office