

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION  
PUBLIC HEARING  
TUESDAY, JUNE 19, 2007 AT 7:30 P.M.  
TOWN HALL – 84 SOUTH MAIN STREET  
COUNCIL CHAMBERS**

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**Members Present: Robert de Jongh, Charles Dimmick, Robert Berner, Paul Simonetta, Tod Dixon, Earl Kurtz and Matt Bowman.**

**Staff Present: Suzanne Simone.**

**I. CALL TO ORDER**

The public hearing was called to order at 7:30 p.m.

**II. PLEDGE OF ALLEGIANCE**

The pledge of allegiance was recited.

**III. ROLL CALL**

Mr. Berner called the roll.

Robert de Jongh, Charles Dimmick, Robert Berner, Paul Simonetta, Tod Dixon, Earl Kurtz and Matt Bowman were present. Suzanne Simone was also present.

**IV. DETERMINATION OF QUORUM**

A quorum was determined.

**V. BUSINESS**

Mr. Berner read the legal call to open the public hearings for:

1.	Permit Application	APP	#2007-013
	Town of Cheshire	DOR	05/01/07
	Old Lane Road - DeDominicis property	FT	05/12/07
	Site Plan – Stream Crossing	PH	6/05/07
		PH	6/19/07

MAD 10/22/07

George Noewatne, Deputy Director of the Public Works Department was present on behalf of the applicant.

Mr. Noewatne reviewed the proposed plan for a stream crossing on Old Lane Road – the DeDominicis property.

The public hearing on this application was held open for the submission of additional information including a map detailing the proposed activity.

Mr. Noewatne said that he worked with staff to develop the map of the area showing the three proposed culverts, the construction details and the siltation areas used during the construction.

Dr. Dimmick asked the Mr. Noewatne to give a brief review of the plan for the proposed activity.

Mr. Noewatne said that three culverts are in question; one on the northern part in section one, culvert two is just below the northern culvert and the third culvert is below the second culvert as shown in detail on the plans.

Mr. Noewatne said that culvert number one area has a series of three existing culverts, a 40", a 36" and a 30" that have been washed out by the April 15, 2007 storm.

Mr. Noewatne said that the applicant is proposing to restore the trail in the washed out area, add another culvert and dredge the stream bed to remove the sand bars in the area.

Mr. Noewatne said culvert area number two has an old metal culvert that has been comprised and is rotting away. The applicant is proposing to replace the existing culvert with either a plastic or a concrete culvert material to keep the stream flowing through the area and prevent the trail from washing out in this area again.

Mr. Noewatne said area number three is another area where the existing metal culvert has been comprised. The culvert has been run over and squashed down a little bit. The applicant is proposing to replace the old culvert with a new culvert that can better handle the stream flow and not wash out the trail.

Chairman de Jongh asked Mr. Noewatne when he expected the work to be done and completed.

Mr. Noewatne said that the applicant is looking to do the work during July or August 2007, a time of the least amount of rainfall per the Regional Water Authority suggestions. He said that the applicant does not plan on stirring up anything more than they have to regarding activity in the stream.

Chairman de Jongh asked if all three culverts would be worked on at the same time.

Mr. Noewatne said that all three culverts could be replaced at the same time. He said that he hoped the applicant would be in and out of the area in about a week's time, if not sooner.

Mr. Noewatne pointed out on section one of the map an area where the stock pile would be placed when the silt is dredged out of the stream. He said that the excess material is proposed to be placed on an old logging road located just off the limits of the map and will effectively block off the road and keep people out of the area who might be using the area for motorized recreation. He noted that the excess material will also be used to stabilize the area.

Dr. Dimmick said that he appreciated the fact that the applicant provided the construction sequence and that it helps for the record of what activity is being done.

There were no public questions or comments on this application.

This portion of the public hearing was closed at 7:36 p.m.

2.	Permit Application	APP	#2007-020
	551 West Johnson Avenue, LLC	DOR	06/05/07
	Highland Avenue	FT	6/12/07
	Site Plan	PH	6/19/07
		MAD	10/22/07

Attorney Anthony Fazzone was present on behalf of the applicant 551 West Johnson Avenue, LLC. John Phillips. P.E. and Jack Nubuizer of Borghesi Building and Engineering and Ken Stevens and

Jen Beno from Soil Science and Environmental Services were also present on behalf of the applicant.

Attorney Fazzone said the application is to add three new industrial buildings to Highland Industrial Center located at 1484 Highland Avenue and is part of an industrial condominium complex. All of the property was subject to a previous wetlands application and permit.

Attorney Fazzone stated that there are some drainage facilities located on the site adjacent to the wetlands.

Attorney Fazzone said he was going to call on Jack Nubuizer to explain what is being proposed in terms of the building and then when the engineering portion is through, Ken Stevens and Jen Beno from Soil Science and Environmental Services would discuss the wetlands and impacts.

Jack Nubuizer from Borghesi Builders addressed the Commission.

Mr. Nubuizer stated that this project was part of the original project that was done in 1985-86. He said that he brought with him the original map showing the two previous buildings that were built at the Highland Industrial Avenue site.

Mr. Nubuizer stated that the proposed activity would take place in the back portion of the site.

Mr. Nubuizer said that the property is zoned I-2, the buildings are designed for mixed use –office, manufacturing and warehouse which is a permitted use under the town's planning and zoning regulations.

Mr. Nubuizer said the proposed buildings would tie into the town sewers and water system. The buildings would be served by gas, telephone and electrical.

Mr. Nubuizer said that the property itself is located within the Quinnipiac River drainage basin. The wetlands were flagged on site by Ken Stevens of Soil Scientist of Soil Science and Environmental Services in March 2007.

Mr. Nubuizer explained that the proposed activity would take place in the 50' setback area. He showed on the map the area of wetlands and the proposed activity.

Mr. Nubuizer said that the applicant is proposing to fill 2,700 SF of wetland soils connecting the western portion of the site. The reason for the fill required is to be able to get the driveway from the western portion of the site to the eastern portion of the site to connect buildings A, B and C.

Mr. Nubuizer explained that as part of the wetlands application, Ken Stevens's office was asked to visit the site and conduct an environmental assessment.

Mr. Nubuizer said that an area of wetlands shown on the map was characterized as a low quality wetland. He said that one of the recommendation things to do was to do some mitigation for the fill.

It was suggested that an area (as shown on the map) be filled where there is an outlet which was characterized as wetlands area 3 in the environmental assessment report to mitigate the 2,700 SF of filled wetlands.

Mr. Nubuizer said that the original plan dated May 10, 2007 was reviewed by Soil Scientist and Environmental Services and several recommendations were made to reduce the disturbances which were implemented by the applicant in the plan before the Commission.

Mr. Nubuizer said that he would ask John Phillips, the engineer, to explain the drainage system and the wetland impacts.

John Phillips, professional engineer from Borghesi Building and Engineering addressed the Commission.

Mr. Phillips explained that the site is bisected by wetlands in the central portion with two building being constructed on the west side and one building constructed on the east side. With the bisected wetlands there will be two separate drainage systems, one servicing buildings A and B to the west and one servicing building C to the east.

Mr. Phillips said that water from the driving range spills over land onto the subject site and will be collected by a series of catch basins uphill of a retaining wall located on the site then piped into catch basins that collect run-off in the parking areas. All of the catch basins will be equipped with 4' sumps that collect sediment. From

that point the water will be piped into a detention basin located between buildings A and B.

The water in the detention basin will be detained to reduce the runoff from all storms from the 2, 10, 25, 50 and 100 year storms. The discharge from the detention basin will be piped to other catch basins located on the east side that collect run-off from loading areas on the back side of the buildings, then the run-off would be piped to a Environment 21 treatment system prior to discharge into a rip-rap apron at the edge of the wetlands or about 20' outside of the wetland area.

Mr. Phillips explained that the drainage system for building C collects run-off from the connector that connects the westerly portion to the easterly portion also from the parking and loading areas as well as the building C itself. The run-off will be caught in catch basins equipped with 4' sumps piped through storm water treatment systems to a detention basin located on the north side of building C, from that point the water will be released over a rip-rap plunge pool similarly to what is on the westerly side. This basin is also designed to collect the 2, 10, 25, 50 and 100 year storms.

Mr. Phillips concluded his presentation regarding how the drainage system works.

Attorney Fazzone stated that he wanted to point out that when you look at the map, there is a separate piece of property (he showed on the map the area he was referring to) so that when you look at that overall site plan, basically the property comes back and is somewhat L-shaped.

Attorney Fazzone stated that there is no other access to the upland area other than along the side, shown on the map or to go through a more direct or disturbing route through the wetland.

Jen Beno, biologist from Soil Science and Environmental Services handed out the Environmental Assessment Report Proposed Commercial Development for 1484 Highland Avenue, Cheshire, Ct dated June 18, 2007. Each Commission member received a copy of the report.

Ms. Beno briefly summarized the environmental assessment report details.

Ms. Beno stated that she conducted a site inspection on May 15, 2007 and the inspection was conducted to inspect the existing conditions and the functional qualities of the wetlands and to review potential impacts to the wetlands.

Ms. Beno said that she reviewed the site plan sheet prepared by Borghesi Building and Engineering Company dated May 10, 2007 and information from Borghesi pertaining to wetland acreage.

Ms. Beno stated that Ken Stevens from her office delineated the wetlands and classified the soil types on March 26, 2007 and a copy of that report is included in appendix one of the assessment report.

Ms. Beno reported that generally the site is dominated by second growth woodland and a mowed lawn area within the existing driving range located in the western portion of the property. There is also a maintained gas line right-of-way located in the south eastern corner of the property.

Ms. Beno stated that there is some old fill located on the southern portion of the property and there are three wetland areas. Figure two of the environmental assessment report gives a review of the upland areas and figure three gives the locations of the wetlands on the property.

Ms. Beno stated that there are three wetland areas on the property comprising of approximately 4 acres of the site, approximately 22% of the site.

Ms. Beno explained that wetland one is the large wetland north south corridor located in the central portion of the property. The wetland is approximately 3.87 acres in size and is dominated by a deciduous wooded swamp. The wetland slopes to the northeast and continues off site to the northeast to the north and the east. There are intermittent watercourses that direct flow in a northeasterly direction through the wetland. The wetland also provides some micro-topographic relieve area for animals. There is a dense tree canopy and moderate to dense shrub and herbaceous understory growth.

Ms. Beno stated that she did observe some garbage debris along the southwestern and southern portion of the wetlands and golf balls at

the edge of the wetland. There are some plastic and grass bottles in the area too.

Ms. Beno described wetland area one as providing moderately quality wetland functions because it is fairly large it contains dense vegetation. The slope in the proximity to commercial development limits the potential for the wetland functions. Ms. Beno stated that is why the wetlands are rated with more moderate potential.

The primary function for wetland area one includes wildlife habitat and nutrient and sediment retention and removal functions.

Ms. Beno described wetland two as being across the southern portion of the site, and is approximately 0.089 acres. This wetland is very small and is very narrow. The area is dominated by a shrub swamp and young sapling, young forested area. It is also located in what was a previously disturbed area. There is quite a bit of fill along the northern edge of the wetland. The fill includes old demolition debris, bricks, concrete and asphalt. There is dense vegetation within the wetland and also includes some invasive species including multiflora rose and tartarina honeysuckle.

Ms. Beno said that wetland two, because of its characteristics, provides low quality wetland functions because it is very narrow and very small and contains some invasive species. The primary function that wetland two provides in wildlife functions and wildlife habitat.

Ms. Beno stated that wetland three is located along the southwestern edge of wetland one. She stated that this wetland is a manmade detention basin consisting of 0.034 acres in size and is dominated by a shrub sapling swamp. This wetland receives storm water run-off from the parking lot area near the existing buildings and some sediments were observed within the wetland area. Water discharges from the wetland over rip-rap and through the rip-rap and percolates into wetland one.

Ms. Beno stated that the vegetation for wetland three is dense and provides low moderate to moderate quality wetland functions including sediment and nutrient removal, some flood control and some wildlife habitat.

**Ms. Beno said that she did check the Natural Diversity Database map and no State of CT or Federally listed Threatened or Endangered Species or Species of Special Concern were found on this property.**

**Ms. Beno stated that there is something in fairly close proximity located to the east of this property. Ms. Beno said that she did send a letter up to the Natural Diversity Database just to verify and confirm her findings that there is something on that site.**

**Ms. Beno said that while at the site, she did not observe anything on the property as far as any listed species.**

**Ken Stevens, a registered soil scientist from Soil Science and Environmental Services addressed the Commission.**

**Mr. Stevens reviewed the history of the site. He explained that to the southwest of this property is a commercial condominium industrial site now approaching twenty years in age. When he worked on the approval for the site, the subject parcel was actually also addressed.**

**Mr. Stevens said the fill that was installed in the interior portion of the site was actually permitted by the Commission at the time for the driveway back to the site.**

**Mr. Stevens explained that there is a culvert that is in place and is properly constructed as far as he could tell.**

**Mr. Stevens stated that the fill in the area he is referring to has not been totally leveled off and contains some concrete but is mostly acceptable fill for a driveway. He stated that the work done was as a permitted use.**

**Mr. Stevens explained that the wetland number three detention basin was actually built as part of the industrial condominium complex. It was built 20 years ago and not quite to the standards that are used today. Mr. Stevens said that he has some suggestions on how to improve the basin and that would include cleaning the basin out of the 2-3' of sediments that are in it right now. The trees and shrubs are pretty much low quality specimens, some invasive species including cottonwood, so there is no great loss there.**

**Mr. Stevens said the rip-rap berm appears to be substantially engineered correctly but there might be some repair that is needed.**

He said the berm is a level spreader type berm. He suggested that a forbay be installed so it could be cleaned out because there area a lot of sediments coming off of the road and parking lots. He explained that the disturbance in this area could be viewed as a positive impact from the positive standpoint of protecting the wetland area number one, a larger higher quality wetland.

Mr. Stevens said that in regard to wetland number two, the fill was just not extended far enough; it left a very small piece of wetland that should have been filled.

Mr. Stevens said comparing his original flagging from 18-20 years ago, he actually included a little bit more of an area and he thinks what happened was some water dammed up. He said that in March 2007 the area was totally flooded and he could not get a good look at the soils but the vegetation indicated that it was a wetland species, so the line is a fairly conservative line. He said that the narrow wetland remaining was an area intended to be filled by permit at the time of the original application. In order to extend the road back to the industrial site, the narrow of wetland will have to be filled.

Mr. Stevens said that as it was mentioned, the applicant is proposing an additional area of wetlands next to the detention basin area, that has moderately well drained soils and sapling type growth and nothing of any great quality that would be of benefit to the whole project to have that compensation.

Mr. Stevens said that a meeting was held in this office and the plan that Jack Nubizer prepared was reviewed. Mr. Stevens said that he would add his suggestions as feasible and prudent alternatives and make the changes following the public hearing.

Mr. Stevens said what actually happened was that Borghesi went ahead and made the recommended changes and added them to the plans presented. One of the recommendations was the detention area; the other was the detention area behind the existing detention area. He said the other area of concern was behind the building in the southeastern corner of the property.

Mr. Stevens said there was a detention basin built down a slope and had a berm; the construction of the berm was right up against the wetland. He said that he did not feel the berm could not be constructed without disturbance to the wetland, so what the

detention basin was pulled right back to the foundation of the building itself but not in such a manner that would cause any problems to the foundation. Mr. Stevens said in doing that, the applicant was able to pull the whole thing back and have at least some good separation from the wetland directly to the north. To the west of the detention basin the activity is still very close to the wetland.

Mr. Stevens said that one of his suggestions is that, every place there is wetland regulated areas within 50's of the wetland, the area is planted at the edge of the disturbance with a buffer planting of shrubs. He stated that this suggestion has not been incorporated to date but could be stipulated and could be checked by the town's environmental planner if the Commission chooses to.

Mr. Stevens said other than what he has presented; the plan is pretty much in conformity as to what he saw as fairly minor problems to the original plan. He said that the he thought the plan before the Commission was a good feasible plan.

Dr. Dimmick said when he visited the site he saw a great deal of run-off from the truck repair facilities across bare ground and little bits of oil and rust going into wetlands but wetland two that was trapping most of it. He said it seemed to him that water from wetland two going into wetland one is not of the best quality.

Dr. Dimmick asked what could be done at wetland two to trap as much of the flow as possible before going into wetland one.

Mr. Stevens said there would be ways to handle that if the applicant had more room between the driveway and the southern property boundary. It would be ideal if that applicant installed some forbays to be able to hold the water a little bit longer.

Mr. Stevens said when he visited the site the water running was perfectly clear. When Ms. Beno visited the site in May 2007, she did see the same rust color.

Mr. Stevens said in his opinion the problem is probably off the truck terminal area in part and that it could also be coming from the industrial condominium. He said that he thought it would be one of those two sources.

Dr. Dimmick said that he was able to see water coming across the parking lot from the truck terminal which is essentially bare ground. The water was not of great quality when it was coming across but that is outside the applicant's control.

Dr. Dimmick said that he did see the activity discussed as a function of wetland two and that it is doing some good along that line.

Mr. Stevens said that on the truck terminal property there could be some very simple remediation to take care of part of the problem. A vegetative swale could cleanse the water before the water is released.

Mr. Stevens stated that the issue Dr. Dimmick addressed is in the environmental assessment report.

Chairman de Jongh asked Mr. Stevens about the maintenance schedule for the sediments basins along the westerly side of the property.

Mr. Nubuizer said there is a maintenance schedule for the annual cleaning of the sumps.

Dr. Dimmick said he also wanted to mention the plantings of shrubs along the border for building C. He said that the border is uncomfortably close to the wetland based on the Commission's standards.

Dr. Dimmick said that he would like to see no contact with activity going on at the property and the wetland after things go in. He said in the absence of the 50' buffer which seems impossible given the conditions; the alternative is something that totally blocks anything from going that way.

Mr. Stevens asked Mr. Nubuizer if he would be willing to install shrubs along the 50' disturbance.

Mr. Nubuizer said that Mr. Stevens is going to make the recommendation to install the shrubs along the 50' border.

Chairman de Jongh asked about the detention basin in the southwest corner that was created as part of the existing buildings on site as part of the permitted work 18-20 years ago. He asked if

there was any way will the calculations used in designing that detention basin be impacted negatively by the new development and if so are there going to be any attempts to make sure problems are not going to be created by the existing buildings that are there.

Mr. Phillips said if anything, the new development would be an improvement based on what Mr. Stevens suggested. There would be a slight enlargement of the area and the cleaning of the sediment that would have a positive affect on the sediment area.

Attorney Fazzone stated for the record that while the plans and the survey show it, one of the conditions is that the applicant is working on for the site is existence of the gas transmission line that runs along the eastern boundary.

Dr. Dimmick said that it seems like the applicant has designed the plan as close to the boundary line as possible.

Attorney Fazzone said that the building cannot be moved any further to the east both by local municipal and other regularity restrictions.

Attorney Fazzone said that there would be no objection to install a complete line of plantings along the 50' non-encroachment line.

Ms. Beno suggested installing a dense line of evergreen shrubs closest to the wetlands and also deciduous shrubs.

Dr. Dimmick said that based on the high ground water levels the applicant is going to have to be careful as to which evergreens they choose. Dr. Dimmick noted that arborvitaes also make for good cover.

Dr. Dimmick asked how the applicant is going to prevent the golf balls from accessing entering the edge of the swamp.

Mr. Stevens said that there will be no more golf balls.

Mr. Simonetta asked if he could get more description regarding the drainage system, the Environment 21 system and the oil-sediment system.

Mr. Phillips explained that the drainage system does both jobs as reviewed in the detail sheet presented as part of the plans. There

are two chambers; water enters the first chamber from the side of the bay and draws the water from the center of the basin. The first chamber is for sediment separation, the second chamber is for the floatable.

Mr. Philips reviewed the details of how the sediment chamber worked. He noted that the system handle both functions, the sediment in the first chamber and the floatable in the second chamber.

Mr. Simonetta asked if there is a maintenance schedule for the sediment chamber.

Mr. Phillips said that if the Commission looks at sheet SBD-1 it provides information about the detailed inspection program. Mr. Phillips review what the maintenance schedule would be.

Mr. Simonetta asked if the proposed activity was in the town's aquifer protection area.

Attorney Fazzone stated that the proposed activity was in the town's aquifer protection area.

Mr. Simonetta asked about the plan for potential industrial activities coming onto the site.

Attorney Fazzone said that the applicant was certain that one of the comments from the Regional Water Authority that they addressed to the Planning and Zoning Commission was that the uses only be uses that area allowed in the aquifer zone. He noted that the applicant was positive that this would be a stipulation of approval from the Planning and Zoning Commission.

Attorney Fazzone stated that be believed that the Commission received a copy of the Regional Water Authority comments.

Attorney Fazzone said there area has definite limitations on the types of use that cannot go into the aquifer.

Dr. Dimmick asked who checks the uses if you have one tenant and then another tenant comes in; he wanted to know who reviews the use.

**Attorney Fazzino said that the last comment from the Regional Water Authority's letter is that pursuant to the Public Health code, the Regional Water authority now has the right to make inspections on the property at anytime.**

**Attorney Fazzino noted that if no one else conducts use inspections then the Regional Water Authority would be there inspecting the property.**

**Chairman de Jongh opened the public hearing for questions and comments from the public.**

**There were no questions and comments from the public.**

**Chairman de Jongh closed this portion of the public hearing at 8:12 p.m.**

**VI. ADJOURNMENT**

**The public hearing was closed at 8:12 p.m. by the consensus of Commission members present.**

**Respectively submitted:**

**Robert Berner, Secretary  
Cheshire Inland Wetland and  
Watercourse Commission**

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION  
REGULAR MEETING  
TUESDAY, JUNE 19 2007 AT 8:12 P.M.  
TOWN HALL – 84 SOUTH MAIN STREET  
COUNCIL CHAMBERS –*Immediately After The Public Hearing***

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**Members Present: Robert de Jongh, Charles Dimmick, Robert Berner, Paul Simonetta, Tod Dixon, Earl Kurtz and Matt Bowman.**

**Ms. Simone was also present.**

**I. CALL TO ORDER**

**The regular meeting was called to order at 8:12 p.m.**

**II. PLEDGE OF ALLEGIANCE**

**The pledge of allegiance was recited at the public hearing.**

**IV. ROLL CALL**

**The roll was called at the public hearing.**

**Commission members present at the public hearing were still in attendance for the public hearing.**

**Robert de Jongh, Charles Dimmick, Robert Berner, Paul Simonetta, Tod Dixon, Earl Kurtz and Matt Bowman were present.**

**V. DETERMINATION OF QUORUM**

**A quorum was determined at the public hearing.**

**VI. APPROVAL OF MINUTES – June 5, 2007 Regular Meeting  
June 5, 2007 Public Hearing**

**The approval of the minutes was deferred to the end of the meeting.**

**VII. COMMUNICATIONS**

- 1. Show Cause Hearing Information  
Re: Sudol Court, Lot #6**

**Ms. Simone stated that the first communication is for a show cause hearing for Sudol Court Lot 6.**

- 2. PZC Letter to Anthony Napolitano  
Re: Grading and Retaining Wall at 25 Sudol Court (CIWWC Lot 6)**

**Ms. Simone stated that the second communication is from the Planning and Zoning Commission to Anthony Napolitano regarding grading and retaining wall at 25 Sudol Court (CIWWC Lot 6).**

- 3. Letter from RWA  
Re: PZC Site Plan Application for 1484 Highland Ave**

**Ms. Simone stated that a communication was received from Regional Water Authority regarding the Planning and Zoning Commission application for 1484 Highland Avenue.**

- 4. Letter from Connecticut Professional Timber Producers Assoc., Inc.  
Re: Information about the Organization**

**Ms. Simone stated that a letter was received from the Connecticut Professional Timber Producers Assoc., Inc. regarding information about their organization.**

- 5. Letter to Francis Switajewski  
Re: Removal of fill from wetland area at 1143 Summit Road**

**Ms. Simone stated that the fifth communication was a letter to Francis Switajewski regarding the removal of fill from wetland area at 1143 Summit Road.**

- 6. Site Plan – Lot 11 Woodland Hills Subdivision**

**Ms. Simone stated that a site plan for Lot 11 Woodland Hills Subdivision was received by staff but was not included in tonight's packet. Covered under new business.**

- 7. Ms. Simone stated that handed out at this meeting is a communication from Anthony Napolitano. The communication is Mr. Napolitano's response to the show cause hearing scheduled for tonight.**

8. Letter from Town Manager to Roger Kennedy, 1720 Old Waterbury Rd.

Ms. Simone stated that this communication was handed out to Commission members. The communication was a letter from the Town Manager to Roger Kennedy regarding a stream complaint.

9. Copy of the Approved Site Plan & Proposed Modification from Anthony Napolitano regarding 25 Sudol Court (CIWWC Lot 6).

Ms. Simone stated that this item would be covered under New Business.

10. Attorney Anthony Fazzone Question

Attorney Fazzone asked Chairman de Jongh if the Commission would be acting on the application for 551 West Johnson Avenue tonight.

Chairman de Jongh stated that no further action would be taken tonight.

Dr. Dimmick stated that the Commission may or may not comment on the application was that it was certain that they (the Commission) would not act on the application tonight.

10. Other – none.

## VII. INSPECTION REPORTS

1. Written inspections

- a. Ms. Simone stated that a written inspection report was submitted for 1143 Summit Road regarding a follow-up site visit on June 8, 2007 to the property.

- b. Ms. Simone stated that she had written information regarding the Ranno appeal. She stated that she had been in a discussion with Town Attorney Mike Zizka regarding the status of the case.

Ms. Simone reported that the Town filed the paperwork as they were required to do in the time frame they were required to do it in.

Ms. Simone stated that the Applicant's Attorney has not filed papers back with the court. The applicant missed the deadline and they did not ask for an extension.

Ms. Simone stated that the Town Attorney is going to follow-up with the Plaintiff's Attorney so see where they plan on going next.

Mr. Bowman asked if this item should be taken up in an executive session.

Ms. Simone stated that the information she was sharing was a written communication that staff had back and forth with the Town Attorney.

c. Other – none.

## 2. Staff Inspections

a. Ms. Simone stated that a staff inspection was conducted at 1143 Summit Road.

b. Ms. Simone stated that a staff inspection was conducted at 31 Harvest Court – the Roscoe property as a follow-up to the last meeting.

c. Ms. Simone stated there was a site visit for Highland Industrial Park application that was before the Commission tonight.

d. Ms. Simone stated that a staff inspection was conducted of the emergency by-pass of the Ten-Mile River. Ms. Simone stated that the by-pass is complete and the area is seeded, hayed and secured.

e. Other –none.

## VIII. ENFORCEMENT ACTIONS

1. Monitoring: Remediation Approvals: 02/01/05

**Francis H. Switajewski**  
Summit Road

11/01/05 #2005-051

Ms. Simone stated that on June 8, 2007, she and Dr. Dimmick went to the site to see the recently removed fill. There is still a small area that needs to be pulled back.

Ms. Simone stated that Mr. Switajewski stated that he would be getting the rest of the work completed in the next couple of months and that he (Mr. Switajewski) was be sending in another status report in late August or early September 2007.

Ms. Simone stated that Mr. Switajewski informed her that he planned on planting native grass and shrubs in the wetland edge.

Dr. Dimmick said that he needed to emphasis that the work is definitely more than 90% done but that there is a small area that needs to be pulled back.

Dr. Dimmick said in his opinion, the right piece of equipment needs to be used to complete the rest of the work that cannot be done by hand.

Chairman de Jongh asked staff to advise Mr. Switajewski the types of plantings that would be appropriate for the site.

This item was remain of the agenda until the all the work has been completed.

2. **Monitoring: Remediation Approval:** 07/18/06 #2006-038  
**Mr. Walter Galko**  
740 Peck Lane

This item would remain on the agenda pending a inspecting the site in mid-August to see how the plantings are surviving.

3. **Unauthorized Activities in a Regulated Wetland Area**  
**Mr. Robert Roscoe**  
31 Harvest Court

Ms. Simone stated that she and Dr. Dimmick went out to the site yesterday, June 18, 2007, to take a look at the area that the Commission had the original concern about.

Dr. Dimmick stated that the area that had saplings cut was not actually wetlands.

Dr. Dimmick explained that the boundary between the area cut and where there is wetland is "about as blurred as any I have ever seen."

Dr. Dimmick stated that he dug a bunch of holes and he could not tell for certain where the wetland end and where the non-wetland area begins.

Dr. Dimmick stated that the soils found show wetland characterizes but that the soil is too red to be wetlands, so in his opinion, the area is and isn't wetlands.

Dr. Dimmick suggested that the property owner get a certified soil scientist out to the site to establish an official wetland line to show where activities are allowed and not allowed so avoid any future problems.

Dr. Dimmick stated that Mr. Roscoe was amenable to having the soils tested and the area of wetlands determined.

Dr. Dimmick stated that having the wetland area determined would be good for everyone in the long run.

Dr. Dimmick stated that as far as he could tell the cutting that Mr. Roscoe did was not in the wetlands and did not disturb wetlands.

Dr. Dimmick stated as far as the complaint goes, there is no problem.

Dr. Dimmick and Ms. Simone both stated that Mr. Roscoe is supposed to get back to the Commission regarding the area being flagged.

#### **SHOW CAUSE HEARING**

Modification to CIWWC approval #2006-021 without Commission approval  
A.M. Napolitano, LLC  
Sudol Ct., Lot 6

Darin Overton, P.E. of Milone & MacBroom was present on behalf of the applicant.

Mr. Overton explained that he was present on behalf of the applicant to go over some of the changes made to the site plan as well as the reasons why the applicant has been called in for the show cause hearing.

Mr. Overton stated the first plan shown is the plan that was approved by the Commission for Lot 6 at Sudol Court. He stated that plan was prepared by Berkshire Engineering.

Mr. Overton stated that the plan shows the orientation of the house, the driveway and the silt fence (limit of disturbance) that was approved as part of that plan. The wetlands are also highlighted on the plan.

Mr. Overton stated that the plan shows the grading behind the house, on the west side of the house, was planned as a walkout. He said that it was his understanding that the home buyer desired to bring the grade up in the back to the first floor elevation. To do that, a wall had been placed on the site and some fill was placed behind the house.

Mr. Overton stated that the next plan shows the plan submitted for application modification. The plan shows as actual as-built survey, topography around the house, the actual house location and the actual location of the retaining wall constructed on the site.

Mr. Overton stated that he also transposed on the plans, similar to the previous plan, the limit of disturbance line, as shown previously and was previously approved. Mr. Overton stated that there is no disturbance beyond the limit of disturbance line shown on the plan especially where the wetlands end.

Mr. Overton stated that the wall was put in place and some fill was placed behind the home. Mr. Overton stated that these activities were the only changes to the plan that was previously approved.

Mr. Overton stated that he was aware that one of the Commission's typical conditions is that any modification to the plan requires subsequent approval from the Commission.

Mr. Overton stated that the applicant did not recognize that constructing a wall and placing some additional fill behind the house, as long as it was not going beyond the limits of disturbance, needed to be brought before the Commission.

Mr. Overton stated that the applicant was advised that he needed to appear before the Commission for such a modification and that is why he is before the Commission tonight.

Dr. Dimmick asked about a stream on the adjacent property that goes not to far from the wall.

Mr. Overton said that the wetlands on the site are part of a larger wetland.

Mr. Overton showed on the map the area of wetlands and the stream being discussed. He said that as part of the original subdivision, a non-encroachment line was installed to protect the wetlands. He explained that there is a stream that runs through the site that runs down a narrow wetland corridor, turns and then heads west between a couple of existing homes further to the west.

Mr. Overton explained that because the wetlands extend off the property, there was no prior mapping of how the wetland line extends off of the property.

Dr. Dimmick said, if he remembered correctly, the wall was definitely within 50' of the stream before it makes its bend.

Mr. Overton stated that it was difficult to tell from the plan but that could be the case. He said again, that the wall is not beyond the prior limit of disturbance. The only difference is the fill and the wall being construction up above the area previously planned to be disturbed as part of the grading of the house.

Dr. Dimmick asked when the first site plan was approved.

Mr. Overton stated that the first site plan had a date of May 5, 2006.

Dr. Dimmick said that his copy says May 16, 2007.

Ms. Simone and Mr. Overton stated that the May 16, 2007 date was an error.

Mr. Overton said he had a copy of the original application. The date on the application is April 11, 2006.

Chairman de Jongh stated that issue is not really on what was permitted in terms of the site but what was done in proximity to the adjacent wetlands on the property outside of what was permitted. He said the installation of

the wall and the fill within 50' of the stream was not on the applicant's property but the stream is on the adjacent property is really the issue.

Mr. Overton said there has definitely been a modification to the original plan that was approved. He said the modification is a vertical modification.

Mr. Overton stated there is no expansion of disturbance to the wetlands, the modification is only a vertical modification to construct the wall and place the fill.

Dr. Dimmick said that an additional factor is that the revised proposal plan also shows a footing drain outlet that has been shifted from the footing drain outlet on the original approved plan.

Mr. Overton agreed that the orientation of the footing drain outlet had been changed. He said that the revised location makes more sense because the drain will discharge towards the bottom of the slope closer to the stream channel.

Dr. Dimmick said now that you have the retaining wall in place, it makes it difficult to install it in its original location.

Dr. Dimmick said what is missing here for the Commission to make a really good judgment on this modification is to see just where the watercourse goes on the adjacent property. He said it seems to him, that a few Commission members met with owners of the adjacent properties who were concerned about the stream at the time. He said the Commission needed to know if the change would have any affect on the adjacent properties or the stream.

Dr. Dimmick said that it would makes things easier if the stream was plotted on the plan to see where the stream was.

Mr. Overton said that he was not such, regardless of where the stream is, how this would change any of the impact of what was previously approved.

Mr. Overton stated that the run-off patterns as far as the surface water are going to stay the same. The ground does not generally travel through fill, its going to follow the natural contours as it did before.

Mr. Overton stated he did not see any changes as to the ground water or surface water towards the stream. He stated that the change is just a vertical change as far as the depth of fill.

Dr. Dimmick asked Mr. Overton if his company's calculations in terms of the drainage and run-off have not changed as a result of the modification.

Mr. Overton stated that no new computations have been prepared for the modification other than observation of how the area is graded and how the surface water was headed and how the drainage patterns are as what was previously approved to what is shown now.

Mr. Overton said that there is not much change as far as the lawn area and the amount of impervious surface as part of the previous approval. He said that without any computations, it was just a judgment call as far as review of the plan.

Dr. Dimmick asked if Planning and Zoning required the applicant to submit the modification plan in regard to the building of the retaining wall.

Mr. Overton said that there has been notice sent to the applicant regarding issues with the retaining wall but that he was not sure how that was going to be handled with Planning and Zoning Commission. Mr. Overton said he did not know if the change would go through as an administrative approval or if the change would require going back to the Commission.

Ms. Simone said she spoke to the PZ staff and the medication would have to go back before the PZ Commission.

Dr. Dimmick said that he wanted to make sure that there was proper communication between Commissions regarding this change and that there is proper coordination going on to make sure that one Commission is not saying something different than the other.

The Commission and staff had no other questions.

Mr. Kurtz said that there might be members of the audience that have something to say but was not sure that was allowed in this situation.

Dr. Dimmick said that because this is a show cause hearing and not a public hearing. The Commission could vote to allow public input but public input is not required.

Chairman de Jongh suggested that the Commission entertain question of clarity and not to get into a public hearing scenario.

Chairman de Jongh recommended that questions be asked only to clarify what is being done at the site.

**Motion: To allow questions from the public for clarifications purposes only.**

**Moved by Mr. Dixon. Seconded by Mr. Simonetta. Motion approved unanimously by Commission members present.**

Carolyn Vallone of 410 Spring Street addressed the Commission. Ms. Vallone stated that Tom Norback built her home and 408 Spring Street. She noted that she is the rear property and in her opinion directly affected with the wall and or the wetlands. Ms. Vallone said that she was not an engineer by any sort and that she was just going by what was esthetically in her view. She continued by saying her question was that when Mr. Norback but a gulley, what she calls a gulley (she asked that the Commission excuse her ignorance, referencing the term gulley) into the property she has had consistent water issues since the homes were built.

Ms. Vallone stated that she lives in a beautiful neighborhood, but she is questioning the fact that the wall is going to impede the flow of the water. She said the flow of water has increased significantly and her concern is for the water aspect.

Chairman de Jongh asked Mr. Overton if he would address Ms. Vallone's question now or after all the questions are asked.

Mr. Overton said he would address all of the questions at one time.

Michael Fienberg of 408 Spring Street addressed the Commission. Mr. Fienberg stated that he echoed Ms. Vallone's comment. He explained that the earth was first moved in March of 2006, his property at 408 Spring Street, which is adjacent to Lot 6 and Lot 7, experienced run-off. He said that he has a swing set in the back and used to have grass threw that area but the run-off has washed away the grass and now you can see roots that are exposed through the dirt.

Mr. Feinberg said in April and May when the rainy season comes you can see quite a bit of run-off/water that comes from the dirt piles that are currently there onto his property and in Ms. Vallone's term "the gulley" or stream that is adjacent to their properties.

Mr. Feinberg said that since the retaining wall has been built, there really has not been a strong rain, maybe one occurrence about a week ago there

was a strong rain. Mr. Feinberg said his question was that he wanted to see some form of study to show the difference between the amount of run-off with the retaining wall there opposed to what it was previously and if it would flow the natural contours of the landscape.

Mr. Feinberg stated that he had other concerns about lot 7 which is adjacent to Lot 6 because there is quite a difference in the level of the land. He said in his opinion that this was something to think about as applicants move forward in the process.

Roger and Suzanne Roscoe, the purchasers of the Lot 6 were present. Mr. Roscoe said he had a few questions. He said that he wanted to follow all of the rules.

Mr. Roscoe said he and his wife have been town residents for ten years. He asked how the process works and how it would play out from here because they did sell their home and they are looking to have their new home built and move into that property. He said his question is how does the process work and what is the timeframe to get some of this stuff resolved.

Mr. Roscoe said that Ms. Vallone mentioned that there were some issues before the lot was even touched, so there may be prior issues but not issues with a vertical erection of a wall.

Mr. Roscoe said that he did not want things to be overly confused with one another. He wanted to know what the time frames were until these things get settled out.

Chairman de Jongh stated that Lot 6 has been permitted to be built and that Mr. Roscoe, his wife and family can move into the home that was permitted to be built. He said the issue is that work is being done outside of what was permitted and what impact that additional work is going to have on what the Commission had before them to make the decision as a Commission.

Chairman de Jongh said that how long the process is going to take – he said that he wished he had an answer for that. He said it may take no time at all for the Commission to satisfy themselves with the information presented tonight and rule on their findings in two weeks or it may take slightly longer than that.

Chairman de Jongh said if there are concerns raised tonight that require additional work to be done, they that would not be decided tonight and it would be several weeks before there is a decision was rendered by the Commission.

Mr. Overton said the question from Ms. Vallone regarding will the wall impede water, the answer is no.

Mr. Overton stated that the wall construction will have free draining material behind it so that any ground water or surface water that seeps into the ground behind the wall will continue pass through the way it currently does under existing conditions with the slope going down towards the watercourse.

Mr. Overton explained that the wall is not being built in the watercourse so it is not going to block the flow of the stream at all, if that was part of the concern.

As far as the increase in run-off questioned asked by Mr. Feinberg, Mr. Overton stated that as he stated earlier, his observation of how the final plan was approved, as opposed to what was approved as part of the final subdivision, there is very little change in the size of the house foot print, the orientation of the driveway or the surface grading on the lot. Although the fill is being placed to bring the backyard up, the surface water is going to continue to flow in a similar manner as what was approves as part of the subdivision and subsequent site plan.

Dr. Dimmick asked if there was any engineering review before the wall was built or did some contractor just go in and built it.

Mr. Overton said that he was not aware of any engineering review. He said that the applicant has asked Milone and MacBroom to go out and review the wall construction. He stated that the wall has been reviewed and some recommendations have been made regarding modifications.

The applicant has been provided with the details for the proposed changes and the changes have been reviewed by a structural professional engineer.

Mr. Overton said that it was his understanding that the applicant is going to incorporate the appropriate changes recommended.

Dr. Dimmick asked if there was any testing of the foundation soils before placement of the blocks.

Mr. Overton said he was not aware of any the foundation soils.

Dr. Dimmick asked if the applicant knew what the bearing strength of the soils underneath for the weight of the wall.

Mr. Overton said that there was a review of the types of soils that exist at the site as far as the available mapping.

Mr. Overton stated that typically the block footprints that are shown, if you put a good granular fill with modular type of walls, the load is spread out pretty well because they have a relatively wide base.

Mr. Overton said that although he did not review the structural analysis, he did not think is high enough that it is really going to have much loading for the bearing pressure to be a concern.

Chairman de Jongh asked how high the wall was.

Mr. Overton said that the blocks are 3' high and they are three blocks high, so about 9'.

Mr. Simonetta asked when the application was originally approved, the drainage was calculated. He asked if the results of the drainage study were no loner the same under current conditions or would they be the same. He said that based on the construction of the wall and the contours of the site, that the original drainage calculations would not be the same as previously reported.

Mr. Simonetta explained the reasons why he thought the drainage calculations might have changed. He attributed changes in sheet flow, infiltration and contour changes as factors.

Mr. Overton said that the contours are relatively similar to what existed. He explained that as you move further to the east, the slope was a little bit steeper across the hayfield that was there. As you move down towards the stream the area flattens out more, so there was a much flatter slope.

Mr. Overton stated that all the applicant is doing as far as the proposal, is raising the grade, placing the fill from the grade up to the elevation of the first floor. He said that based on the contours the backyard is still sloped towards the wall.

**Mr. Bowman asked if any flow was being concentrated.**

**Mr. Overton stated no.**

**Mr. Overton said that essentially there is a similar slope condition as before but now it is elevated.**

**Chairman de Jongh said what was essentially done was that 8' of fill was added to the rear of the house and then sloped it to the contours that were already in existence.**

**Mr. Overton stated that Chairman de Jongh's statement was generally correct.**

**Dr. Dimmick said that the maps also show different contouring in relationship to the drainage area – infiltration trench area towards the property. He said that originally, the 210 contour went to the west of the infiltrator and now the 210 contour goes to the east of the infiltrator.**

**Mr. Overton said that he did not review the infiltration area and he suspected the changes are because the grading on Lot 6 is not complete.**

**Dr. Dimmick said the plan is showing present and proposed contours for Lot 6 and the proposed contours for Lot 6 from what was approved in May 2006 and what is being proposed now seem to be quite different in relation to the infiltrator trench.**

**Dr. Dimmick reviewed the plans and commented about the differences in what was approved and what is now being proposed.**

**Mr. Overton said the new field topography map does carry all the way to show what the as-built condition is. He said it looks like the engineer just tied into the grades the best they could based on the new field survey.**

**Dr. Dimmick said there was going to be drainage from the west going into the infiltrator trench and now there will no longer be drainage coming from the west going into the infiltrator trench. He said that there would be more water running off to the west with the new contours and the water not going into the infiltrators from the looks of things.**

**Mr. Overton said that the original design and the whole site including the hillside basically sloped in a westerly direction. He said that the infiltration area and small depression that was created there was to collect water from**

the discharge by a couple of catch basins in the cul-de-sac and during a heavy flow water would be stored in the depression.

Dr. Dimmick said that the depression is missing from the proposed plans and now there would no longer be any storage causing an increase to runoff to the west. Dr. Dimmick said he though the applicant had a serious problem with this.

Mr. Overton said that he was not sure the field topography went far enough to show the details or not.

Chairman de Jongh said that two things need to be done; one is that information regarding the drainage calculations as they exist on the site now are needed to validate the comments that were made tonight. He stated that the information was needed by the Commission and to appease some of the homeowners if the information shows that the calculations are pretty much the same.

Chairman de Jongh stated that the Commission needed to go visit the site to see what the site looks like presently as well as what the drainage looks like now. He said that based on the two maps it looks like the topography has changed dramatically based on the topography lines.

Chairman de Jongh expressed concerns about the changes in sheet flow going off of the property and how the flow would affect adjacent property owners.

A field trip was set for June 30, 2007 at 8:00 a.m.

Further action was deferred being the receipt of additional drainage calculation, contour information and the results of the field trip.

## **IX. UNFINISHED BUSINESS**

- |  |                      |
|--|----------------------|
| <b>1. Permit Application</b>                 | <b>APP #2007-012</b> |
| <b>Peter &amp; Lisa Samenfink</b>            | <b>DOR 05/01/07</b>  |
| <b>Mount Sanford Road</b>                    | <b>FT 05/05/07</b>   |
| <b>Site Plan – Addition/In-Law Apartment</b> | <b>PH 06/05/07</b>   |
|  | <b>MAD 08/08/07</b>  |

Dean Gustafson was present on behalf of the applicants.

**Mr. Gustafson submitted revised site plans.**

**Mr. Gustafson gave a quick recap from the public hearing presentation on this application.**

**Mr. Gustafson stated that the applicant went through the plans and addressed all of the Regional Water Authority comments, discussed and reviewed the prudent feasible alternatives, the plan revisions made through the process to further minimize encroachment in the upland review area; he addressed the mitigation for the unavoidable work in the upland review area that includes the planting of a native buffer enhancement area and a variety of native shrubs and ferns suitable for the area and to enhance the wildlife habitat value and the buffering and stream and also the construction of a wildlife brush pile.**

**Mr. Gustafson stated that the revisions concluded with how the proposed project would not result in the likely adverse impact to the nearby wetland resources.**

**Mr. Gustafson said following a discussion with the Commission there was an additional request to establish a non-encroachment area using a split rail fence between the proposed stone walkway and the buffer enhancement plantings.**

**Mr. Gustafson said that at 50' increments and on wooden posts, the applicant would install plaques identifying the non-encroachment area.**

**Mr. Gustafson stated that all the changes reviewed were made in the revised plans and submitted this evening.**

**Mr. Gustafson showed on the plans presented the revisions that were made since the last meeting.**

**Mr. Gustafson said that following the last meeting the applicant coordinated with staff and the applicant is willing to offer a notification of wetlands buffer area to be recorded on the land records identifying the limits of the non-encroachment area depicted on the revised plan presented this evening.**

**Mr. Gustafson said that with the additional protective measures, the applicant feels that the project properly protects the interest of the Town's wetland regulations and that they ask for the Commission's approval on this project.**

Chairman de Jongh thanked Mr. Gustafson for his help on the project.

Mr. Bowman thanked the applicant for working with the Commission and staff and coming to the conclusion to help the Commission. He said in his opinion, the applicant did a wonderful job on the project.

Mr. Gustafson thanked Mr. Bowman for his words. He said that he thought that the applicant had a decent plan and with the Commission's and staff's help the applicant now has a better plan this evening.

**Motion:**

That the Cheshire Inland Wetlands and Watercourses Commission, having considered the factors pursuant to Section 10 of the Inland Wetlands and Watercourses Regulations of the Town of Cheshire, Commissioners' knowledge of the area, site visitations, and after review of written information provided by the applicant on this application finds the following:

1. That this application is for the construction of an approximately 2100 square foot addition, the majority of which is in the 50' upland review area.
2. That this application was the subject of a public hearing on June 5, 2007.
3. That a certified soil scientist has investigated and concluded that there are wetlands and a watercourse on the property.
4. That there are no direct wetlands impacts associated with the site plan activities, as proposed.
5. That the proposed site plan activities will not have a significant adverse effect on adjacent wetlands or watercourses.

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2007-012, the permit application of Peter and Lisa Samenfink for site plan approval as presented and shown on the plans entitled:

**“Proposed Addition, Prepared for Peter and Lisa Samenfink  
401 Mount Sanford Road, Cheshire CT**

Prepared by Christopher Danforth, P.L.S  
Scale 1"=20', Dated May 14, 2007, Revised June 19, 2007."

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

1. Any lack of compliance with any condition or stipulation of this permit shall constitute a violation of the Cheshire Inland Wetlands and Watercourses Regulations, and an enforcement order shall be both issued and recorded on the Town of Cheshire Land Records.
2. No changes or modifications may be made to the plans as presented without subsequent review and approval the Cheshire Inland Wetlands and Watercourses Commission.
3. Prior to any commencement of activities covered by this permit grant and prior to request of a building permit, the applicant shall have the following items both completed by a qualified party and verified as complete by Commission Staff:
  - a) the proper installation of all sediment and erosion controls indicated on the above referenced plans. Staff may insist on additional controls if warranted by field conditions.
  - b) the installation of permanent wetland buffer markers along the non-encroachment line indicated on the above-mentioned plans.
  - c) the recording of the wetland non-encroachment language on the land record for 401 Mount Sanford Road.
  - d) the posting of a sediment and erosion control and planting bond, the total amount to be determined by Commission staff.
4. The established Non-Encroachment Line shown on the above-referenced plans, shall be maintained in a natural state. No disturbance of any kind, including a lawn, shall be allowed beyond the non-encroachment line.
5. Ongoing monitoring of the plantings detailed in the above referenced remediation plan will be conducted for a period of 2 years from the

last planting date. The cost of such monitoring will be borne by the applicant. Written reports shall be supplied to the Commission within 7 days of the applicant's receipt of such reports.

6. Throughout the course of conducting construction activities covered by this permit grant, and per Section 11.2K of the Cheshire Inland Wetlands and Watercourses Regulations, the applicant shall be responsible for ensuring the following:

- a) That all maintenance and refueling of equipment and vehicles is performed as far as practical from all wetlands and watercourses, at least 100' if possible. All oil, gasoline, and chemicals needed at the site shall be stored in secondary containment to prevent contamination of any wetlands or watercourses from possible leaks.
- b) That all disturbed areas on the site not directly required for construction activities are temporarily hayed and seeded until the site is permanently stabilized.

7. Prior to application to the Building Department for a Certificate of Occupancy, and per Section 11.12 of the Cheshire Inland Wetlands and Watercourses Regulations, the applicant shall provide the Commission with the following:

- a) an as-built map (A2 survey) by a licensed land surveyor, at a suitable scale, showing, at least, all buildings and setbacks from the property lines, wetland boundaries and acreage, wetland non-encroachment lines and markers, limits of clearing, utility locations, and all paved driving surfaces.
- b) written verification from the owner/applicant/agent that all conditions and stipulations of this permit grant have been generally met, that all yard areas are properly stabilized, and that all non-encroachment lines and associated restrictions are recorded on the Cheshire Land Records and will be recorded in the deed of the lot upon transfer of property.

Moved by Mr. Dixon. Seconded by Mr. Bowman. Motion approved 6-0-1 with Dr. Dimmick voting in opposition of the motion.

Dr. Dimmick said his reasons for voting in opposition of the motion is that if you look at the record of the public hearing he expressed himself at length that in his opinion the size of the proposed addition is greater than

what is warranted and one of the alternatives that was never seriously considered was reducing the size of the proposed addition.

2. Permit Application	APP	#2007-013
Town of Cheshire	DOR	05/01/07
DeDominicis property	FT	05/12/07
Site Plan – Stream	PH	6/05/07
	PH	6/19/07
	MAD	08/08/07

This item was subject of tonight's public hearing.

**Motion:**

That the Cheshire Inland Wetlands and Watercourses Commission, having considered the factors pursuant to Section 10 of the Inland Wetlands and Watercourses Regulations of the Town of Cheshire, Commissioners' knowledge of the area, site visitations, and after review of written information provided by the applicant on this application finds the following:

1. That this application is for the replacement of drainpipes at two stream crossings and installation of concrete culvert at a third crossing.
2. That erosion controls will be utilized to minimize the impact to the watercourse and that the proposed activities will not negatively impact water quality or color.
3. That all equipment used to conduct the proposed work will travel on existing hiking/horse trails.
4. That the proposed site plan activities will not have a significant adverse effect on adjacent wetlands or watercourses.

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2007-013, the permit application of the Town of Cheshire for site plan approval as presented and shown on the plans entitled:

**“DeDominicis Stream Crossing Restoration Project  
Scale 1”=100’, Date June 19, 2007  
Prepared by Cheshire Public Works Department”**

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

1. Any lack of compliance with any condition or stipulation of this permit shall constitute a violation of the Cheshire Inland Wetlands and Watercourses Regulations, and an enforcement order shall be both issued and recorded on the Town of Cheshire Land Records.
2. No changes or modifications may be made to the plans as presented without subsequent review and approval the Cheshire Inland Wetlands and Watercourses Commission.
3. Prior to any commencement of activities covered by this permit grant and prior to request of a building permit, the applicant shall properly install all sediment and erosion controls as indicated in the application and as warranted by field conditions. Staff may insist on additional controls at any time during the project activities.
4. Throughout the course of conducting construction activities covered by this permit grant, and per Section 11.2K of the Cheshire Inland Wetlands and Watercourses Regulations, the applicant shall be responsible for ensuring the following:
  - a. That all maintenance and refueling of equipment and vehicles is performed as far as practical from all wetlands and watercourses, at least 100' if possible. All oil, gasoline, and chemicals needed at the site shall be stored in secondary containment to prevent contamination of any wetlands or watercourses from possible leaks.
  - b. That all disturbed areas on the site not directly required for construction activities are secured to allow for site stabilization.

Moved by Mr. Bowman. Seconded by Mr. Dixon.  
Motion approved unanimously by Commission members present.

- |    |                                |     |           |
|----|--------------------------------|-----|-----------|
| 3. | Permit Application             | APP | #2007-019 |
|    | Cornwall Avenue                | DOR | 05/15/07  |
|    | Arthur David McMellon, Jr.     | MAD | 07/18/07  |
|    | Site Plan –Culvert Restoration |     |           |

**Ms. Simone stated that staff has not had any follow-up with AJ McMellon.**

**Ms. Simone stated that he has not contacted the office to discuss the matter further but that she did clarify with Public Works that they are just going to be taking the debris out of the stream channel and they are not going to be doing work on the bank.**

**Ms. Simone said that under communications for 510 Cornwall Ave to see what the history was for permits. She said there was a question about the two car garage as well as fill being brought onto the site.**

**Ms. Simone said the only permits that she saw were three permits that were granted by the Wetlands Commission for John Romonik and none of the permits had anything to do with fill or a garage.**

**Ms. Simone said that the last site plan submitted by Mr. Romonik was in 1999 and it did not even show that as an existing condition.**

**Ms. Simone said that she did not know when the property was transferred.**

**Mr. Bowman asked how new the garage looked. He said that anything over three years can be acceptable non-conformity per zoning regulations.**

**Dr. Dimmick said the garage looked about 2-3 years old.**

**Ms. Simone said that the three year rule applied to zoning but she did not know if that applied to wetlands.**

**Chairman de Jongh said the question that needs to be dealt with is if the restoration of the area would create a bigger problem. He said at this point he was inclined to think that the restoration would create a much larger problem in terms of the integrity of the stream bed.**

**Dr. Dimmick said the reason why the bank is being under-cut is because it was never built right in the first place.**

**Chairman de Jongh said that if it was the Commission's pleasure, a letter could be sent to Mr. McMellon and suggest to him that there are no permits in the file for the work that was done for the creation of the garage and the extension of the blacktop driveway, the presence might have created the undercutting of the bank that exists now and that it would be in Mr. McMellon's best interest to come up with a plan to strengthen or reinforce the stream bank.**

Dr. Dimmick said that he remembers the bank being 2' lower and at a 45 degree angle.

Mr. Simonetta said it sounded like it was Mr. McMellon's intention that he was not going to do anything unless he absolutely had to.

Mr. Bowman said that he thought Mr. McMellon was willing to do whatever the Commission suggested.

Chairman de Jongh said that it would be in both parties interest that it be on record that the Commission recognizes that there were no permits for the work that has been done and that it doesn't seem to enhance the stream bed if the Commission asks Mr. McMellon to take the structure down because it was not permitted to be put up. He said that sooner or later something is going to have to be done because the under cutting of the stream is cutting into the bank.

Chairman de Jongh said that Mr. McMellon needs to come up with a plan to reinforce the stream bank.

Ms. Simone agreed to notify Mr. McMellon regarding what needed to be done.

- |           |                                     |                      |
|-----------|-------------------------------------|----------------------|
| <b>4.</b> | <b>Permit Application</b>           | <b>APP #2007-020</b> |
|           | <b>551 West Johnson Avenue, LLC</b> | <b>DOR 06/05/07</b>  |
|           | <b>Highland Avenue</b>              | <b>PH 6/19/07</b>    |
|           | <b>Site Plan</b>                    | <b>MAD 10/22/07</b>  |

This item as subject of tonight's public hearing.

The public hearing on this item was closed.

Further action on this item was deferred pending staff review and recommendation.

- 5.** Other – none.

- X.** NEW BUSINESS

1. Permit Application  
George Fletcher, Jr.  
Plank Road  
Site Plan-House

APP #2007-021  
DOR 6/05/07  
MAD 08/08/07

George Fletcher, Jr. was present.

Mr. Fletcher addressed the Commission. He stated that he is a live-long resident of Cheshire.

The Commission reviewed the plans.

Mr. Fletcher handed out a copy of a document explaining who he is and what he does.

Mr. Fletcher said he purchased lot 4 from Diversified Builders. He said that he would like to make no changes to the site plan; he would like to go with the application as it was approved at the subdivision level.

Mr. Fletcher said what he would like to do is give the Commission some information about himself. He explained that he is an arborist and a horticulturist. He said that in 1998 he went before the Town Council to ask for help with the reduction on construction damage and save trees after homeowners are in their homes. He said that he gets calls from homeowners when the trees on their property start dying due to damage in their root zones.

Mr. Fletcher said he owns Lot 4, the lot with the pipeline easement going through it.

Mr. Fletcher said he is using his case/property as an experiment for himself. He said he is building the house on the property and he is really going to take care to preserve the look of the land especially the trees.

Mr. Fletcher said that he tagged all the trees over a 10" diameter in the construction area. Mr. Fletcher after the trees were tagged he placed posters on each tree and put fencing around the tree root zone. He said he is going to try hard to protect the trees.

Mr. Fletcher said he is interested in making sure the trees survive and remain healthy. He said he also plans to go back to the Town Council after the home is built to see if he can help Cheshire with trees.

Mr. Fletcher went on to say that at one point town staff did show some interest in working on making regulations to protect trees.

Mr. Fletcher said he is going to take care of the trees and he is going to try to have very little disturbance.

Mr. Fletcher said he does not plan on changing the topography that much.

Chairman de Jongh said it looks like the driveway at the closest point to the wetlands is about 20' away.

Mr. Fletcher said that is correct. He said the area between the two wetlands areas where the non-encroachment overlaps. He said the area is very ledgie and the contours get steep. He said it was his observance that the area is rocky, heavy, ledgie area.

Mr. Fletcher stated that he is proposing to install a gravel driveway, there will not be an asphalt driveway going through the wetland area.

**Motion:** To accept the application as complete.

**Moved by Dr. Dimmick. Seconded by Mr. Berner. Motioned approved unanimously by Commission members present.**

Dr. Dimmick said that when the subdivision was approved he thought the driveway was shown on the subdivision application in the approximately location as it is shown presently.

Mr. Simonetta asked about the 50' upland wetland line where the driveway comes in.

Mr. Fletcher said that area has pretty much stagnate water. He said that he noticed in a heavy storm, a few weeks ago, when the roads were closed, where there is some run-off where the driveway is proposed; but the run-off is only during a heavy storm and installing a gravel driveway should be okay.

Mr. Bowman said that there should not be a concentration of flow across the gravel otherwise the rain will move the gravel.

Dr. Dimmick said that what he would want to do is to build an under drain and wrap a lot of gravel in engineering cloth and then put the layer of

gravel on top of that. He said rather than having a culvert that is going to concentrate the flow, a gravel blanket of some sort would be better and the property would have less trouble in the long run.

Mr. Fletcher said he would be willing to follow the Commission's suggestion. He said even in a heavy rain there is very little flow going over where the driveway would go.

Mr. Fletcher said he bought the property because there is a brook on it and he wants to keep it just as it is.

**Motion: To declare the application not significant within the context of the Commission's regulations.**

**Moved by Dr. Dimmick. Seconded by Mr. Dixon. Motioned approved unanimously by Commission members present.**

**Further action deferred pending staff review and recommendation.**

**2. Permit Application  
David & Linda Kissh  
Heritage Drive  
Site Plan –Pool**

**APP #2007-022  
DOR 6/19/07  
MAD 08/22/07**

**David Kissh was present.**

**The Commission reviewed the plan for the proposed installation of a pool.**

**Mr. Kissh shared some pictures of the site where he is proposing to install the pool.**

**Chairman de Jongh said he recalled that Mr. Kissh had decided at a previous meeting that he was going to construct an addition instead of a pool.**

**Mr. Kissh said he came before the Commission for both the addition and the pool but that the Commission recommended that he break-out the application. He explained that the addition is just about complete and he is now here to move forward with the placement of the above ground pool.**

**Chairman de Jongh said if he remembered correctly one of the comments from the Commission was that "you can have your addition but not your pool." He said that he thought that was the gist of comments based on the**

nearness of the proposed pool from the marsh area behind Mr. Kissh's house.

Dr. Dimmick said that there is a sharp drop-off into the marsh area.

Mr. Kissh said it was his recollection, based on the construction, that the construction did not change the position of the site of the pool.

Mr. Kissh said what he is trying to indicate in the pictures that the site is not changing and the replacement pool is going back in the exact same footprint as before.

Mr. Kissh said he is looking for an approval to move forward and to have the activity "grandfathered in" to include a replacement for what he had before.

Mr. Bowman asked if the pool was going back exactly where it was before.

Mr. Kissh stated that it was.

Dr. Dimmick asked if there was a sketch in the file showing the placement of the pool is the exact location as it was before.

Ms. Simone stated there was a sketch in the file.

Mr. Kissh said that he provided the original plan that was approved and the new plan.

The file was reviewed to verify the comments made by Mr. Kissh.

Mr. Kissh stated that the original pool was oval in shape. Mr. Kissh said the original pool was a buttress pool and the new pool would not have buttressing.

Mr. Kissh said the new pool can be moved to be closer to the structure that the existing pool was. He said that it is possible to move the pool further away from the wetland area. He said that moving the pool away from the wetland would be the only change to the plan he would intend on having.

Mr. Kissh said the new structure is in place and the decking is going in. He said that he is in the process of putting the railing on the decking and he needs to have a 48" railing if the pool is going in.

Mr. Bowman asked again that the proposed pool is going to be no closer to the wetlands than it was before.

Mr. Kissh stated that Mr. Bowman's comment was correct; the proposed pool is going to be no closer to the wetlands than it was before.

**Motion: To accept the application as complete.**

**Moved by Dr. Dimmick. Seconded by Mr. Berner. Motioned approved unanimously by Commission members present.**

**Motion: To declare the application not significant within the context of the Commission's regulations.**

**Moved by Mr. Bowman. Seconded by Mr. Simonetta. Motioned approved unanimously by Commission members present.**

Chairman de Jongh asked about the discharge from the pool. He asked how the discharge was going to be handled and what discharge capabilities would the pool have.

Mr. Kissh said typically what he has done was to take the discharge hole up on a level area of lawn away from the wetlands and discharge out on the lawn, allowing the water to seep into a filter fabric bag on the grass. He said that he used a DE filter in the previous pool and his plan was to use the same for the new pool.

Chairman de Jongh said that there is a cartridge filter that can be used for the pool to avoid any back wash.

Chairman de Jongh suggested looking into a filter that did not require back washing.

Mr. Simonetta said that staff has recommendations from DEP about discharges and certain systems.

Ms. Simon said as standard language for approvals from this Commission, the language refers to DEP swimming pool water waste management. She said with that, you would have to get the PH to a certain level prior to discharge.

Ms. Simone stated that she would provide Mr. Kissh with the DEP regulations regarding swimming pool water waste management.

Further action deferred pending staff review and recommendation.

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|---|----------------------|
| <b>3. Permit Application</b>                        | <b>APP #2007-023</b> |
| <b>Diversified Cook Hill, LLC</b>                   | <b>DOR 6/19/07</b>   |
| <b>Summit Road</b>                                  | <b>MAD 8/22/07</b>   |
| <b>Site Plan –Woodland Hill Subdivision, Lot 11</b> |                      |

Mr. Bowman recused himself from this portion of the meeting at 9:15 p.m.

Ryan McEvoy, P.E. from Milone and MacBroom was present on behalf of the applicant.

Mr. McEvoy said that the proposed activity is for Lot 5, Woodridge Subdivision that was originally approved as part of the Woodland Hill Subdivision known as Lot 11 in October 2005.

Mr. McEvoy stated that the lot is zoned R-80 and is located on the west side of Summit Road. The lot is surrounded by residential properties.

The lot is about 5.7 acres in size and the only wetlands on the property are located in the extreme western edge of the property with about 3,600 SF of wetlands.

Dr. Dimmick said there are some wetlands on the adjacent properties but they are not within 25'-30' of the proposed activity.

Mr. McEvoy said the wetlands on the adjacent property are not near this lot.

Mr. McEvoy said the only upland review areas associated with the wetlands area located to the west.

Mr. McEvoy said that there is a gas easement that runs through this property shown on the plans.

Mr. McEvoy said that the proposed home and driveway are shown almost in the exact spot as they were in the approved plans.

Mr. McEvoy said the septic system is located down slope of the closest area of disturbance which is about 300' away. Haybales and silt fencing is proposed down slope of the septic system.

Mr. McEvoy said that the applicant is proposing the installation of non-disturbance markers on the upland review area down by the wetland pocket.

Motion: To accept the application as complete.

Moved by Dr. Dimmick. Seconded by Mr. Berner. Motioned approved 6-0-1, with Mr. Bowman recusing himself from the vote.

Motion: To declare the application not significant within the context of the Commission's regulations.

Moved by Dr. Dimmick. Seconded by Mr. Simonetta. Motioned approved 6-0-1, with Mr. Bowman recusing himself from the vote.

Further action was deferred pending staff review and recommendation.

Mr. Bowman returned to the meeting at 9:20 p.m.

4. Town of Cheshire  
School House Road  
Drainage Project

George Noewatne from the Public Works Department was present on behalf of the applicant.

Mr. Noewatne said as part of the on-going road construction projects, the Town is proposing to mill and overlay the pavement from Route 10 to the stream crossing just beyond the railroad tracks.

Mr. Noewatne said that about 3,000' of road work is being proposed in the area.

Mr. Noewatne said that drainage is also being proposed as part of the project from Reinhardt Road going to the west as well as existing drainage upgraded that is currently in place which goes down the hill all the way to the railroad tracks.

Mr. Noewatne said the biggest deviation from the original drainage is shown on page one of the plans.

Mr. Noewatne said that there is currently an outlet that dumps into a wetland to the east side of the railroad tracks. Mr. Noewatne said that the wetland is slow moving and is quick to rise and slow to drain.

Mr. Noewatne said that there is an existing pipe that runs under the railroad tracks that is north of the road.

Mr. Noewatne explained that the Town is proposing to remove the outlet and move the drainage down closer to the brook that runs under to the west side of the railroad tracks and discharges directly into the brook.

Mr. Noewatne said that the Town is proposing a sediment chamber discharge in before the discharge makes it to the brook. He talked about past problems with the discharge building up and overflowing the area on the low side of the road.

Mr. Bowman said that he would like to see a sediment chamber, that would be required of the other developers if they were to construction this project, prior to the flow discharging into the canal.

Mr. Noewatne said there is a sediment chamber just upstream of the last discharge east of the tracks.

The location of the sediment chamber was discussed and viewed on the map.

Mr. Bowman said he wanted to make sure that the sediment chamber is marked on the map.

There was discussion regarding the height of the water table in this area and the use of a Glastonbury structure (the combination of a sedimentation chamber and catch basin).

Mr. Noewatne said that the applicant could consider the use of a Glastonbury structure.

Ms. Simone said that a formal application was submitted.

Motion: To accept the application as complete.

Moved by Mr. Simonetta. Seconded by Mr. Berner. Motioned approved unanimously by Commission members present.

**Motion: To declare the application not significant within the context of the Commission's regulations.**

**Moved by Mr. Simonetta. Seconded by Mr. Bowman. Motioned approved 6-0-1 with Mr. Kurtz abstaining for the reason that he owns property in the area where the applicant is proposing to dig.**

**Further action deferred pending staff review and recommendation.**

**5. Modification – A.M. Napolitano – Sudol Court**

**Ms. Simone stated that an application from Anthony Napolitano for a modification for Lot 6 Sudol Court was received.**

**Ms. Simone stated that Mr. Napolitano would like to keep the retaining wall.**

**Motion: To accept the application as complete.**

**Moved by Mr. Simonetta. Seconded by Dr. Dimmick. Motioned approved unanimously by Commission members present.**

**Declaration of significance would be deferred pending the results of the field trip on June 30, 2007.**

**6. Approval of Minutes – June 5, 2007 Public Hearing and Regular Meeting**

**Motion: To accept the minutes of the June 5, 2007 public hearing and regular meeting with corrections.**

**Public Hearing: Pg. 1: change PUBLCI to PUBLIC; the meeting started at 7:30 p.m.: 17 change regular to public; Pg. 2 fist paragraph should read, "Society of Soil Scientists...the Connecticut Association of Wetland Scientists ...Wetland Scientists; L15 proposed to purpose, L36 RWC to RWA, L38 location to locate, L40 boarder to border; Pg. 3: L24 There is to As you, Pg. 7 L5 model to sketch, L13 photograph to photographs; Pg. 20 L11 addition to adding; Pg. 12: L35 do to due, L35 fee to feel; Pg 13 L14 concern to consider, Pg. 14: L6-7 delete after difference, L10 as to of; Pg. 15: L26 delete underneath; Pg. 17: L17 deed to deep, L45 rivets to rivulets.**

**Regular Meeting: Pg. 7: L16 chair to chain, L24 is to in, Pg: 14: L26 stored to scoured, L36 culvert to bank; Pg,: 15: L15 add tell after cannot; Pg. 19: L15 wait to want, L16 applicant to application; Pg. 22: L17 was to would, L33 add date after action, Pg. 23: L17 aha to has, L26 delete the, L32 & 33 sub sequentially to subsequent, and to any, L41 it to is, L43 sent to send; Pg. 24: L5 the to they.**

**Moved by Mr. Bowman. Seconded by Mr. Dixon. Motion approved unanimously by Commission members present.**

**XII. ADJOURNMENT**

**The meeting was adjourned at 9:41 p.m. by the consensus of Commission members present.**

**Respectively submitted:**

**Robert Berner, Secretary  
Cheshire Inland Wetland and  
Watercourse Commission**