

**MINUTES
WESTPORT CONSERVATION COMMISSION
APRIL 10, 2019**

The April 10, 2019 Special Meeting of the Westport Conservation Commission was called to order at 7:00 p.m. in the auditorium of the Westport Town Hall.

ATTENDANCE

Commission Members:

Anna Rycenga, Chair
Paul Davis, Vice-Chair
Donald Bancroft, Secretary
Tom Carey
Mark Perlman

Staff Members:

Alicia Mozian, Conservation Department Director
Colin Kelly, Conservation Analyst
Keith Wilberg, Town Engineer

This is to certify that these minutes and resolutions were filed with the Westport Town Clerk within 7 business days of the April 10, 2019 Special Meeting of the Westport Conservation Commission pursuant to Section 1-225 of the Freedom of Information Act.

Alicia Mozian
Conservation Department Director

Special Meeting: 7:00 p.m., The Auditorium

1. **20-26 Morningside Drive South:** Continuance of Application #IWW,WPL/E-10768-19 by Morningside Drive Homes LLC on behalf of Green Farms Developers LLC & Morningside Drive Homes LLC for a set-aside development pursuant to CGS Section 8-30g of 16 townhouse-style condominiums and related site improvements. Portions of the work are within the upland review area setback.

Ms. Rycenga read in an Order of Business for the evening as follows:

"I just want to go over the Order of Business for this public hearing tonight to keep this meeting on track. There are agendas if anyone needs them to follow along.

Order of Business will be as follows:

- 1) The Chair will open the public hearing
- 2) Staff will present some Housekeeping Items
- 3) Applicant's will provide their presentation – (Ask applicant how long presentation will be?)
- 4) Staff will provide their Report and Input – (Town Engineer, Director & Analyst)
- 5) Peer Review Team will provide their presentation
- 6) Public Comment
 - Attorney Pat Sullivan and her team of experts will give their full presentation.
 - Also, if anyone present here who did not speak at the last meeting because they had to leave may do so first and then others will speak.
- 7) Commission's Input and More Questions
- 8) Applicant's Rebuttal or Closing Remarks
- 9) Recess the hearing to a later date or close the hearing. If recessed, it may require an extension.
 - If the applicant doesn't extend, the Commission will make its decision based on what it has in front of them or call a special meeting within the statutory time limit.
- 10) Adjourn the public hearing

If the Commission Members and Staff present this evening would like to ask any questions, please do so after each speaker is done with their full presentation at the podium.

I want to give a reasonable opportunity for everyone to speak and be heard.

We are requesting members of the public to kindly "sign in" on the sign-up sheet that is on the desk outside the auditorium. I will call upon you to speak at this meeting. The sign in sheet will also assist us in keeping the meeting in order for public comment and the secretary in preparing the minutes.

Also, it is expected that this meeting will run approximately 3 hours or longer and hope not to go past our deadline of 11:00 pm.

For all speakers tonight, please refrain from using the word "here" and identify the specific location by a wetland flag number, unit number, easterly portion of the site, etc. including identifying the

sheet or plan number. If you have a question or comment related to a specific report, please make reference to that report, with a date and who has prepared it.”

Mr. Kelly itemized the material added into the record since March 20, 2019. He noted that the list he prepared on Friday, March 5, 2019 needs to be updated with more that has been submitted into the record since then.

Ms. Rycenga added that photos she took on April 9, 2019 showing wetland flags, 8, 9 and 10 were e-mailed today.

Atty. David Hoopes addressed the Commission, referencing in particular, Amrik Matharu's memo of March 22, 2019 stating the plan meets the Town's drainage standards. However, they have revised the plans again to now exceed the Town's standards. Most significantly, the revisions result in no water being discharged to Muddy Brook thus making conditions better than they are now. Mr. Hoopes also clarified what the meaning is of a "setback, which triggers an automatic review by the Commission. It does not necessarily mean there is an impact. He feels they have demonstrated there is no impact to the wetland.

Annette Perry, representing the owner, spoke about the tree issue to differentiate between what she took down versus what the previous owner took down. She clarified that the trees she took down were dead and dying. She submitted documents from the Building Department from 2010 of work done as a result of fallen trees that were removed by the previous owner. She also noted that some of the aerials submitted by concerned citizens were for marketing purposes when the lot was for sale. She does not know the date or who took them.

Ms. Rycenga re-inspected the site and counted trees that were removed and noted their location relative to the setbacks. She compared that to the proposed planting plan.

Louis DeMarzo, PE noted that changes were made to the drainage plan but everything else remains the same, i.e. location of the buildings and driveways. Time of concentration for drainage design purposes was resolved for 3 minutes. They are maintaining a 25-year storm event design. Water drains in the same location. There are 14 individual infiltrators, an increase of 6 to 8 fitted, with an area drain for high overflow. He noted the location of the new galleries. There is no outflow from systems 1 through 5. They raised the basement elevations of Units 6 through 15 by 6 inches. All sump pump flows are accounted for in the runoff calculations. They have decreased runoff to Muddy Brook by 37% from the previous 33%. The sediment and erosion controls have been revised. Dewatering measures have been added. He believes the plan complies with the Town drainage standards.

Ms. Rycenga thanked Mr. DeMarzo for responding to all her questions thus far. However, she noted that wetland flag #10 needs to be put on the plans.

Mr. Bancroft thanked Mr. DeMarzo for raising the basement elevations. However, he asked about the stone based engineered soils and how the base for the gallery installation is prepped.

Mr. DiMarzo stated there will be 2 feet of engineered soil, 6 inches of crushed stone and then the concrete gallery.

Mr. Carey asked for an explanation of the Time of Concentration.

Mr. Perlman asked about existing versus proposed conditions.

Mr. DeMarzo stated the existing conditions are 7,185 s.f. and the proposed conditions are 50,203 s.f.

Ms. Perry noted that Emergency Power will provide 80 hours of back up energy.

Mr. Perlman asked if this is adequate for the sump pump operation.

Jay Fain, wetland and soil scientist, noted his response document is over 100 pages. He realizes the peer consultant has not had a chance to review it. The building and parking lot lighting detail was reviewed. Light will be extinguished within 6 feet from the source. The shed will be locked and nothing will be stored in it. It is remaining for aesthetic purposes. He discussed the soil designation. He stated the NRCS is supposed to be referenced when designing the drainage system. However, the soils mapping he did to delineate the wetland also revealed enough to know the difference between the outwash soils and the till soils. He did disagree with the NRCS mapping. He originally believed it is a Hinckley soil. He went back to the site and did more investigation. He now believes it is a Haven soil and not a Hinckley soil because of the presence of silts. He also believes much of the area was disturbed through the original construction of the house and similarly with the building of the studio.

Mr. Fain discussed the riparian buffer plan. They will be removing invasives and heavily planting the buffer. All grasses will be low managed turf. They will plant 121 trees and 171 shrubs for a total of 292 plantings. A turf management plan will be submitted for consultant review. The planting buffer will be much more robust than what is there now. No pesticides will be used. He discussed the source of existing pollution in the watershed. He noted that any watershed with impervious cover over 12% will be impaired. He believes the source of pollution is septic. The counts are high in both high flow and low flow conditions. Nitrogen is a concern to Long Island Sound but feels high fecal coliform is the main source of pollution. He believes that the cutting of the trees is not the cause of the flooding. He submitted 2018 monthly rainfall data collected by the CT Agricultural Experiment Station.

Mr. Fain discussed the Sediment and Erosion Control Monitoring. He stated that copies of the reports should go to the contractor and the Town. He noted records should be kept. For example, he was at the site at the end of March and noticed a problem coming from 1141 Post Road East. This was reported to the Conservation staff and addressed.

Mr. Perlman asked for clarification of the size of the #3 plant containers.

Mr. Fain stated a #3 plant container is a 3 gallon plant.

Ms. Mozian asked about the nutrient removal via the draining soils.

Mr. Fain believes that the Aeolian layer (silt layer) will act as nutrient renovation.

Mr. Kelly asked to clarify the well draining soils ability to restore the aquifer.

Mr. Fain confirmed that these soils will help keep the aquifer replenished.

Ms. Rycenga asked Keith Wilberg, Town Engineer, to summarize the GZA reports' role in this application.

Mr. Wilberg stated that the GZA report began in 2014 and was submitted in October or November 2018. The study has not been formally adopted. He has taken their data and compared it to FEMA, the Leonard Jackson study and the 1964 studies. He looked at Hillandale Road to Post Road East. GZA study designed for a 25 year storm.

Ms. Rycenga clarified with Mr. Wilberg whether test pit data taken in 2017 submitted by the applicant is still acceptable.

Mr. Wilberg stated yes. The Town uses 10 years to ensure site changes disturbances have not occurred. He noted that other development work in the area does not affect this.

Ms. Rycenga asked about the impact of other projects on this application.

Mr. Wilberg stated that each site is expected to retain its own runoff on its own property. The Town takes a conservative approach in design of no development on the site as the starting point.

Mr. Perlman asked how can the Town be certain that each site is, in fact, retaining all its own runoff and if it is possible.

Mr. Wilberg stated it is possible but the Muddy Brook watershed is about 1,800 acres, mostly located north of the Post Road. He added, in the 1964 study, there was flooding and the study identified the Hillendale culvert as a problem. Therefore, the activity on the Post Road is not the only cause since many of these developments were not there was still flooding reported in the 1964 study. He believes many sites upstream do not have drainage.

Ms. Rycenga asked Mr. Wilberg to talk about the culvert collapse on March 30, 2019. She asked if it had been a problem and had he inspected it.

Mr. Wilberg stated he had no reports and had not inspected that culvert before the storm. He was not aware it was in danger of collapse. Yes, he was aware it was undersized but he was not aware it was in danger of collapse.

Ms. Rycenga asked if he believes that Connecticut was in a drought between 2000 and 2017.

Mr. Wilberg stated it is more likely that it was between 2012 and 2017. He referenced the rainfall data collected by NOAA.

Ms. Rycenga asked what the plans are for the culvert replacement.

Mr. Wilberg stated the collapse will be fixed right away but the culvert will be replaced within the next couple of years.

Ms. Rycenga questioned the Center Street pump station vulnerability, noting the sounding of the station's alarm recently.

Mr. Wilberg stated that in speaking with Bryan Thompson, the Town's WPCA Coordinator, the sewer pipe is not in danger of leaking because it is buried too low. However, the groundwater pressure may have triggered the alarm.

Ms. Rycenga referenced Mr. Matharu's March 22, 2019 memo about Time of Concentration noting 3 minutes versus 5 minutes.

Mr. Wilberg stated they are advocating for 3 minutes.

Ms. Rycenga noted the Intervenor's engineer advocated designing for the 100-year storm as recommended by the CT Stormwater Manual rather than the 25 year storm per the Town's drainage standard. She asked Mr. Wilberg to elaborate.

Mr. Wilberg stated that over time the Town has found that the Connecticut standards are generally good but do not always fit a suburban area like Westport. It is too constricting because land availability is less than in other parts of Connecticut. The State itself has not mandated its manual be followed. Instead, the State has found that the Town's drainage standards have proven to work.

Ms. Rycenga asked if all members of staff are PE's.

Mr. Wilberg stated Mr. Ratkewich and he are. Mr. Matharu just took his test.

Ms. Rycenga asked if he believes this project meets the Town's standards.

Mr. Wilberg stated yes.

Mr. Bancroft noted we are seeing large rainfall swings. He asked if Mr. Wilberg believes the culverts should be upgraded.

Mr. Wilberg noted that if all culverts were removed that may be ideal but he would not want the roads and bridges collapsing. However, they do provide storage. So, the question is where will the water be stored?

Ms. Rycenga asked where the Town's drainage standard stands insofar as being updated.

Mr. Wilberg stated they are using 6.4 inches for a 25-year storm event as a standard. He indicated that it will most likely be increased.

George Logan, wetland and soil scientist with REMA Ecological Services, noted they just received the updated material yesterday. He did a quick review and is glad that their concerns and questions were addressed. However, the drainage galleries are retaining more runoff and there is no runoff to Muddy Brook. With regard to soils, Haven soils is probably a better fit; the upper strata is finer. Infiltrating the water too fast. They will now retain 3 inches/hour instead of 5 inches, which is better. The drainage galleries will be underlain by certain media. His question remains if the soils or galleries now are draining more, is it depriving the wetland fringe from being fed? Now they will shed water due to that silt layer. Unless it is a large storm event, the wetland fringe is fed by smaller storms. He would like to visit the site with Mr. Fain and do a transect in the vicinity of the buildings. He noted the galleries are below the level of the riparian corridor so it could pop up somewhere else. The new riparian plantings will also rely on this surface runoff. He added they wanted to know about the raingarden collection.

Ms. Rycenga asked if he had reviewed Mr. Gibbons report.

Mr. Logan stated he had not but will do so.

Segrun Gadwa of REMA stated nitrogen is important to the riparian buffer. Bacteria does not affect the animal life in the stream. A tree with a healthy canopy absorbs 50% of water. She still does not believe the tree cutting affected the local flooding. The water table rises when trees are cut. The trees are more vulnerable to wind throw.

Ms. Rycenga asked if she has reviewed the proposed landscape plan and if she believes it is good.

Ms. Gadwa stated yes, it is good, but trees could also be added within the wetland to lower the water table.

Mr. Perlman noted the Engineer said the plan exceeded the Town standards. However, Mr. Fain and Atty. Hoopes said people are the problem in the watershed. It is their response to add 60 people in 16 townhouses, which has 7 times the amount of impervious surface. He asked if this is an issue.

Ms. Gadwa stated you really need to look at the impact and analyze it more scientifically with a cause and effect chain.

Mr. Logan added you have to look at the design as a closed system.

Stuart Manley of GHD stated they have not had time to look at the new material but it seem to be moving in the right direction. He indicated that they really need report 4 to 5 days prior to the next meeting.

Ms. Rycenga asked if he can confirm groundwater flow.

Mr. Manley stated yes. It is east to west topography but will tend to bend in a downstream direction.

Ms. Rycenga asked about time of concentration and the fact that the applicant is now using 3 minutes. She questioned whether this is acceptable.

Mr. Manley stated this is. Any lower would not make a difference. 3 minutes is conservative.

Ms. Rycenga noted the 4-foot sumps.

Mr. Manley stated they will give more sediment storage and also allow for contingency if not maintained in a timely manner.

Ms. Mozian differentiated between quantity and quality.

Pat Sullivan, attorney for the intervenors, stated that if the wetland/soil scientists visit the site, their expert would like to join. Also, she noted they just received the documents and need time to review.

Stephen Benben, PE with Triton Environmental, stated he would be looking at the new submission.

Ms. Rycenga asked for comments on the plan's compliance with the Town's drainage standards but not in compliance with the Connecticut Stormwater Manual.

Mr. Benben stated that many towns do not have drainage standards. The Connecticut Stormwater Manual are guidelines meant to assist designers and reviewers. The Town is within its rights to determine what is best for its town.

Betsy Higgins, Intervenor, 3A Iris Lane, asked questions into the record including:

- If the townhouse basement's sump pumps are running, would the calculations change if the galleries are full;
- Why were additional test pits not done;
- If private homes were proposed, would that be the equivalent of 8, 6-bedroom houses insofar as coverage is concerned;
- Raingarden locations – will they survive? How will they be planted;
- How long will the trees in the riparian buffer take to mature;
- What is the fuel source for the sump pumps?

Mr. Carey noted the generators will be fueled by batteries and Ms. Perry testified they will be able to function for 80 hours when fully charged.

Ms. Higgins submitted an article by Dan Woog dated April 8, 2019 regarding the historic value of the property. She submitted an e-mail of the Hillandale culvert with a photo today, April 10, 2019. She is concerned that the development will cause more harm and stress on the culvert.

Aurea DeSousa, 5 Iris Lane, submitted pages from public web page of photos, which included photos taken recently in drier conditions. She spoke of the tree cutting issue. She estimates that 36 trees were taken down as calculated from observing from their own properties. She questioned that the developer attests to being an advocate of the environment then the first thing they do is cut down the trees.

Ms. Rycenga noted Ms. Perry testified they cut 17 trees because they were dead. Additionally there is the building permit data submitted today.

Ms. DeSousa noted the condos will be sold. She asked who will be responsible for the long-term maintenance of the raingardens and the sump pumps.

Ms. Rycenga stated that a Homeowners Association will have to be established to maintain these.

Ms. DeSousa asked if the HOA will be responsible if they fail. The rainfall data showed when the drought occurred. She questioned whether the test pits need to be done again since they were done in 2017 during a time of drought. She submitted photos showing evidence of streamside erosion. She showed the site plan showing the location of the 75-foot upland review area relative to the buildings and patios within 50 feet.

Mark Melhuish, 10 Center Street, submitted a site plan relative to the 75-foot upland review area.

Ms. Mozian asked about the structural integrity of moving the house.

Ms. Perry stated the house is structurally sound but the foundation is not. When they move it, the basement will be eliminated and the house should stay intact.

Ms. DeSousa stated at the April 9, 2019 Historic District Commission's meeting, they said the basement has to be retained because it too is historic.

Atty. Hoopes stated the basement comments are not correct. Any house can be moved.

Ms. Rycenga asked that Ms. Higgins' concern about the sump pumps discharging into full drains be addressed.

Mr. DeMarzo stated that the plan meets the Town drainage standards.

Ms. Rycenga asked if the test pit data is still good.

Mr. DeMarzo stated yes and indicated he is willing to redo the test pits but it is not necessary.

Ms. Rycenga asked where the batteries will be located.

Ms. Perry stated the batteries will be located next to the sump pumps. She noted that she only cut down 17 trees. These were cut for insurance purposes.

Atty. Hoopes noted that whether this is a condo association or not, if there is a violation, a Cease and Desist Order can be issued. The form of ownership does not matter. It is the type of enforcement.

It was noted the Flood and Erosion Control Board meets on May 1, 2019. The on-site meeting with the soil scientist will need to coordinate with Roger Gibson, the intervenor's soil scientist. Also, the peer reviewers and Intervenor's need time to review the recently submitted information.

With no further comment from the public, the hearing was continued to May 9, 2019.

Motion:	Rycenga	Second:	Perlman
Ayes:	Rycenga, Perlman, Bancroft, Carey, Davis		
Nayes:	None	Abstentions:	None
		Vote:	5:0:0

Work Session: - None

The April 10, 2019 Special Meeting of the Westport Conservation Commission adjourned at 10:07 p.m.

Motion:	Rycenga	Second:	Davis
Ayes:	Rycenga, Davis, Bancroft, Carey, Perlman		
Nayes:	None	Abstentions:	None
		Vote:	5:0:0