

Inland Wetland Permit Application Process for Significant Development Proposals – A Neighbor’s Guide

The process of bringing an application before the Inland Wetlands Commission begins well before the Town or its staff becomes involved and, in some cases, becomes aware that development feasibility is being investigated.

A prospective developer first has a rough layout of a potential subdivision or other development prepared. This is usually done by a licensed surveyor and is based on meeting the basic lot dimensions and other planning and zoning criteria. Working off this first feasibility draft, deep test holes and percolation test holes are dug to investigate potential sewage disposal areas, if applicable. This requires a backhoe to dig the deep test holes and the “perc” holes are dug with a post hole digger. The deep test holes allow the developer’s engineer to “read” the soil profile to determine if and where any limiting features exist. Limiting features such as ledge or high groundwater need to be accommodated for in the design of the proposed leaching fields. The perc test details how fast water is absorbed into the soil. This too is taken into consideration in designing the leaching field. Town staff from the Health Department witness these tests and take notes to verify the accuracy of the final design. Redesign of the draft subdivision may be needed at this time if proposed leaching areas proved to be infeasible.

A second piece of important information gathered at the early stages is wetland flagging. In Connecticut, wetlands are determined by soils only. A soil scientist, contracted by the developer, goes to the site and examines the top 24" or so of the soil profile using a hand auger. The soil scientist hand “drills” a hole roughly four inches across, checking the extracted core sample. Soils inundated with high groundwater for a prolonged period alter the chemical and subsequently physical characteristics of the soil. Wetland soils tend to be more gray in color and have orange polka dots known as mottles. It takes a long time (geologic time) to form these features, so no road drain can form them, nor can you drain a wetland and erase these features. Soils also won’t mislead a soil scientist during the dry season or even a particularly wet year. There are definite surface clues (topography, plants, etc.) that guide the soil scientist. After looking at the soil, the soil scientist uses numbered flagging tape tied to branches and the like to mark the wetland boundary. A surveyor then surveys these flags and transfers the information to a map.

In an effort to satisfy wetland permit application requirements and good design practices, the applicant will also submit the following investigation reports:

Environmental Impact Statement: This report is prepared by a qualified professional with a background in environmental biology. The report describes existing natural resource conditions of both the uplands and wetlands and what impacts to the wetlands are likely to result from the proposed development. Mitigation for these impacts would also be discussed.

Engineering Report: This report describes the septic system design criteria and how the surface hydrology of the area will be affected by the development. The proposed storm drainage system would be spelled out here as well.

Alternatives: The Inland Wetland Regulations require applicants of larger projects to provide maps and narrative describing alternatives that were considered. It is required by statute that, in the case where an application warrants a public hearing, the commission cannot approve an application until they make the finding that there is no feasible or prudent alternative with a lesser impact on the wetlands and/or watercourse. Alternatives can include different development layouts, different grading, house design, driveway configuration, etc. on individually proposed lots, and/or use of methods other than those proposed to limit disturbance.

The above items are the biggest pieces of the application, in addition to the proposed development maps. The commission also has the right to ask for additional information than what is specifically called for on the application form if particular site conditions warrant this. They can also hire consultants on behalf of the town if there is a feeling that a second opinion is needed.

After an applicant has assembled this information the application is made to the Wetlands Commission. The wetland application can run concurrently with the Planning and Zoning application. However, P&Z cannot make its decision until the Wetlands Commission acts in order for P&Z to give due consideration to the Wetlands Commission's ruling. Once the application is submitted to the commission it is put on the agenda as a new application. At this first meeting nothing happens except the application is "received" and scheduled for discussion or a public hearing.

Public hearings are scheduled for four weeks out from the meeting in which the application was received. During this month, the commission will conduct a site walk, notification to adjoining property owners will be made by direct mailing, and notices will be published in the local paper under the "legal notices" section. These notices will inform the recipient of the date and time of the public hearing. At any time after the application is **submitted** to the office, the public is free to come in to the commission's office and review the application. While you do not have to wait for a notice of the public hearing, there is no notification procedure to alert persons that the application has been submitted other than the public hearing notice.

If there is an ongoing concern regarding an anticipated application, one can call the Monday before each Wetlands Commission meeting to check if an application has been made. The Wetlands Commission meets the 2nd and 4th Thursday of each month.

With respect to reviewing the application, people can come in during business hours any day to look over the file. We do not have the in-house ability to copy maps in full size and any copies of pieces of the maps or other documents cost \$.50 per page. Large maps would have to be sent out to be copied at the expense of the requester. Comments by neighbors, their consultants or anyone else can be submitted before the opening of the hearing or at any time during the hearing. These reports and letters will be distributed to commissioners and become part of the hearing record.

During the public hearing, elements of the application, including letters, etc. are read into the record. The applicant then gives a presentation explaining the proposal to the commission and public. The commission and staff ask questions and then the chairman will invite the public to speak. Rarely will public hearings open and close on the same night except when a rather simple project is before the commission. Subdivisions and more complex applications likely need 2-4 meetings to have all questions answered. Once the public hearing is closed, no additional information can be received by the commission. This is important. If the neighbors have something to say or are contracting with their own consultants, all information has to be submitted to the commission before the hearing closes. Anything submitted after will not be part of the record and will not be seen by the commissioners or considered during their deliberations.

The commission deliberates the project based on written and oral testimony given by the applicants and others. Opinions expressed during the hearing will be weighted based on the expertise of the individual providing such information. What this means is that statements/written correspondence given by a person with no particular background in ecology, engineering, or the like will not carry the same weight as information submitted by a licensed professional engineer or a professional environmental analyst for example. If a neighbor has pertinent credentials, these need to be stated on the record or the neighbors et. al. can hire experts of their own to provide opposing expert testimony.

Following the close of the hearing, the commission will deliberate the information in an effort to make a decision. If the application is approved, the resolution will likely include Special Conditions. These are additional directives and/or modifications to the proposal that the applicant must follow. The permit and its conditions "run with the land", so the developer or anyone who takes ownership of the land as a whole or its resulting parcels are bound by the permit. Once the permit is issued, it is the commission's obligation to publish a legal notice of decision. From this date of publication, there is a 15-day period in which appeals to the decision can be made. Appeals are made to the CT Superior Court.