



## MINUTES

April 12, 2012

**PRESENT:** Frank Wong, Chair, Elizabeth Craig, Richard Reiter, Dennis Delaney, John Hall, Nick Lee, Elisa Pollino

**ALSO PRESENT:** Patricia Sesto, Director, Environmental Affairs; Liz Larkin, Recording Secretary; Kate Throckmorton, Environmental Land Solutions; Susan DiLoreto, Arthur Morris, Hygenix; Donald Strait, Land Design Studio; Doug Rich, Land Engineering & Surveying; Melanie O'Brien, Attorney for Wilton Bank; Rob Frangione, Frangione Engineering, LLC

### **I. CALL TO ORDER**

Mr. Wong called the meeting to order at 7:31 p.m.

### **II. PUBLIC HEARINGS**

#### **A. WET#2074(S) – WILTON PLAZA CONDO ASSOCIATES, INC – 13-15 Danbury Road – remove contaminated soils adjacent to the Norwalk River (cont.)**

Ms. Sesto read the new documents into the record.

Mr. Morris provided new materials including an enlarged planting plan and a letter from Redniss & Mead. He reported that they revisited the source area and extended it 12 ft. to the north and 2 to 3 ft. to the south to obtain better results. He stressed that the levels of contamination in this expanded area are low and the original plan covered the highest concentrations. He noted that the new plan shows levels at each point out of the hot zone. He added that these levels are relatively low at 420 to 570 parts per billion and their main objective is to remove the contaminated soils above the ground water table. Mr. Delaney stated that he was surprised the contaminate levels drop off immediately as per the plan. He thought it would be more gradual. Mr. Morris confirmed that the contaminants go straight down, not sideways and that their criteria is to remove the hot spot source and compliance will be met over time.

Mr. Morris addressed the comments from Redniss & Mead, including the proximity of the river and the stability of the building during excavation. Redniss & Mead state they should keep 10 ft. away from the Norwalk River and a 45 degree angle with the building. There is no benefit to getting any closer to the building. The compliance goal will be achieved with natural

attenuation. Mr. Delaney asked how long the attenuation takes to which Mr. Morris responded three to five years.

Ms. Craig inquired about introducing bacteria to break down the active contaminants. Mr. Morris responded that the cost is not beneficial. He stated that they need to complete the source removal and then test the area to see if the level of under 100 ppb was achieved. Mr. Reiter asked if the process could be sped up. Mr. Morris stated that they can revisit if their goal is not met, and added that there are regulatory actions for bacteria remediation. Mr. Reiter raised concern about delaying this process and asked for a rough timeframe. Mr. Morris stated that there is eight years allowed by the state.

Mr. Wong asked if there are consequences for their filing timeframe with the state. Mr. Morris responded that there is technical liability but that the owner is anxious to get this remediated. Ms. Sesto inquired about the likelihood of the plume getting larger once the hot spots are removed. Mr. Morris responded that they are only looking to reduce the levels in the ground water which is this commission's purview. Mr. Wong inquired about the monitoring of the site. Mr. Morris confirmed this would be completed by Hygenix based on state regulations.

Ms. Craig asked if the 10 ft. distance to the river is enough to get what they need. Mr. Morris confirmed that Redniss & Mead stated it was enough. Ms. Craig asked if there was any reinforcing of the area to be excavated and he said no, as this is a one-day project. Mr. Delaney confirmed that in one day, they will excavate and backfill the area and continue to sample the outside areas after the removal. Mr. Delaney asked for a specific timetable and plan for what would happen if there was additional contamination identified to be removed. Mr. Morris stated that they would follow the state regulations for this process. He reiterated that the goal is to be below 100 ppb so this is what they are targeting. Mr. Delaney stated that there should be a plan to end the process. Mr. Morris countered that this activity they proposed is normal. They remove the contaminants to the best extent possible, and close out the site with the DEEP. Ms. Sesto noted that the planting plan is missing the proposed sizes but stated that staff can work this out with the applicant.

Commissioner Lee joined the meeting.

With no further questions or comments, Mr. Wong closed the Public Hearing.

**B. WET#2082(S) – FOSTERHOUSE, LLC – 122 Olmstead Hill Road – expansion, restoration, and relocation of a pond and wetland and proposed B100a within a regulated area**

Ms. Sesto stated that the applicant has requested a continuance until the next meeting which requires a vote.

Mr. Lee MOVED to EXTEND the Public Hearing for WET#2082 until the next meeting on April 26, 2012, SECONDED by Mr. Hall and CARRIED 7-0-0.

With no questions or comments, Mr. Wong continued the public hearing.

**C. WET#2097(S) – GARRITANO – 19 Ground Pine Road – “corrective action” to restore wetland, deck expansion, and tree and vine removal**

Ms. Sesto read the documents into the record. Mr. Wong, Ms. Craig, Mr. Reiter, Mr. Lee; Ms. Pollino and Mr. Delaney indicated they visited the site.

Ms. Throckmorton explained the damage to this property from the October snowstorm. The downed trees and limbs were removed and deposited by a third party to the west side of the house into a wetland area. This debris will now be removed from the property via trucks that will pass over the driveway. Ms. Throckmorton plans to redevelop the mid-story vegetation while removing vines. This will allow the existing vegetation to rejuvenate. Ms. Throckmorton added that the homeowners would like to reconstruct and expand a small pool deck on the eastern side of the pool in conjunction with the corrective action.

A discussion ensued about the area of the property that has received the woody deposits as the plan may not accurately reflect the entire area of debris. Ms. Throckmorton confirmed that they would remove all of the storm debris. She stated that the owners would like to create a lawn area in the northwest corner of the property where the removal of scrub and a spruce tree is proposed. She will revisit the plan to ensure the wetland line and tree removals are accurately depicted. In light of the concerns expressed by the conservation commission regarding lawn expansion, Ms. Throckmorton will consult with her client prior to responding.

Mr. Wong asked for details on the pool deck expansion. Ms. Throckmorton stated there would be eight new footings and less than 5 cubic yards of disturbance. The area will be re-seeded and the excess materials will be removed from the site. She confirmed there will be gravel under the deck. Mr. Wong confirmed that the stone wall will be removed as this area is needed for construction access. Ms. Sesto confirmed that there are eight new trees being proposed as per the plant list, not the ten as depicted.

With no further questions or comments, Mr. Wong continued the public hearing.

**D. WET#2098(S) – HUDSON – 532 Danbury Road – “corrective action” to restore plantings adjacent to the Norwalk River, including construction of septic, wall, steps, patio, and driveway within a regulated area**

Ms. Sesto read the documents into the record. Mr. Wong, Ms. Craig, Mr. Reiter, Mr. Lee, Ms. Pollino and Mr. Delaney indicated they visited the site.

Mr. Strait described the property and the clearing of the understory. He stated that the intent of this application is to restore the plantings, install new septic and new steps, restore an old retaining wall, and re-grade without fill. He confirmed that they studied the adjoining property to obtain a natural quantity of understory to complete their proposal. He calculated more than 300 shrubs to be installed. In addition to the restoration plantings, the homeowner would like to add 45 additional plants along the river. He is also proposing a row of trees along the state right of way for screening. He described the foundation plantings, lawn area, and a small patio that he would like to install. There is one tree to be removed behind the house as it is leaning and the fallen tree next to the river will remain for recreational use. Mr. Strait also described a current deposit area of flood sediment and noted he would seed and add a straw blanket to restore.

Mr. Lee noted that the evergreens along the state road may get salt from storms. Mr. Strait confirmed that they would be at least ten feet from the road and at the bottom of the hill, away from the road. Mr. Lee asked for sizes of the plantings proposed. Mr. Strait responded that they

have a \$20,000 budget. Mr. Lee suggested reducing the number of shrubs and increase the individual sizes. He added that these evergreens are not part of the mitigation. She also asked if ferns were included. Mr. Strait stated that he did not include ferns as they are not indigenous but confirmed that he can add cinnamon fern which is a good wetland plant.

Mr. Wong inquired about the proposed stairs and patio. Mr. Strait confirmed that these are considered improvements to the property.

With no further questions or comments, Mr. Wong closed the public hearing.

**E. WET#2102(S) – WILTON BANK – 225 New Canaan Road** – “corrective action” to restore upland areas, remove retaining wall, and install storm filtration system

Mr. Lee recused himself.

Ms. Sesto read the documents into the record. Mr. Wong, Ms. Craig, Mr. Reiter, Ms. Pollino and Mr. Delaney indicated they visited the site. Mr. Lee recused himself from this application.

Mr. Rich reported that there was a cease and desist order on this property as the wetland was being filled. He described the original approval made in 2006 and how the property has changed hands during this process. The issue was discovered when staff requested an as-built on the approved activity as the work was not substantially correct.

Mr. Rich reviewed the boulder wall deficiency as being too far forward on the property. It is too close to the wetlands and excess fill was placed behind it. The driveway was also not constructed per the approved plan. There is a flared entrance and the driveway is wider than originally approved.

The mitigation plantings that were approved in the southwest corner were not completely installed so they plan to complete this work. Mr. Rich also noted that the stone wall stops at the driveway and should continue all the way down to deter wetland disturbance. He estimated 500 cubic yards of excess fill up to 5 ft. behind the existing wall will be removed. They will dismantle the wall and reinstall in the correct place after the stormwater management system has been installed. The existing wall is masonry but the new wall will be dry-laid. He added that the curbing will be removed from the entrance and they will rip out the paved driveway and replace it with a gravel driveway. The grades will be brought back to the approved levels and the planting plan and stormwater retention system will be installed.

Ms. Sesto asked if the soil in the area of the infiltrators has been compacted. Mr. Rich stated that the system has excess capacity but that they could check the soils. Mr. Wong inquired about the fill already being on site. Ms. Sesto stated that she would confirm. She added that the fill at the end of the driveway should be removed and the invasives require monitoring through the bonding period.

Mr. Delaney suggested not moving the stone wall and adding other improvements to offset keeping it as is. He noted that moving this wall can be very expensive and thought there could be trade-offs. Ms. Throckmorton confirmed that they could add more plantings to the top portion and maintain the wall.

Mr. Hall asked if the deck was changing. Ms. O'Brien confirmed there would be no change to the existing structure. Ms. Sesto asked if there was evidence of stress or die-back of two trees in close proximity to the wall. Mr. Rich confirmed that there were some blow downs in recent storms but these trees are healthy. In response to the suggestion to leave the wall as is, Mr. Wong recounted a lengthy discussion about minimizing fill in 2006 when the original plan was approved.

With no further questions or comments, Mr. Wong closed the public hearing.

### **III. APPLICATIONS READY TO BE REVIEWED**

Mr. Lee was reseated.

#### **A. WET#2103(I) – STALLONE – 20 Bobwhite Drive, Westport – “corrective action” to install curtain drain, and cleaning and replanting of rear yard**

Mr. Wong, Ms. Craig, Mr. Reiter, Mr. Lee, Ms. Pollino and Mr. Delaney indicated they visited the site.

Mr. Frangione described the property as having .075 acres in Wilton and the remainder is in Westport. There is an existing 12 in. pipe on the neighbor's property which is substantially clogged and the overflow impacts the subject property. He confirmed the homeowner had contacted the town of Westport and received a letter that there were no wetlands on his property. He assumed he was authorized to clear cut and install a curtain drain based on this letter and his permit which he obtained from them. The applicant was unaware there was a wetland up gradient on a neighboring property.

Mr. Frangione noted the swale that contains overflow from the up gradient wetland will be re-established and direct flows toward the lower wetland. He added that there are no adverse impacts to Wilton's wetland with this activity. Ms. Sesto confirmed that the Wilton wetland is uphill and it is prudent to have a swale as proposed.

Mr. Hall MOVED to APPROVE WET#2103, with the General and Normal Special Conditions, SECONDED by Mr. Delaney, and CARRIED 7-0-0.

#### **B. WET#2074(S) – WILTON PLAZA CONDO ASSOCIATES, INC. – 13-15 Danbury Road – remove contaminated soils adjacent to the Norwalk River**

Mr. Hall stated that the applicant was not as clear as he would have like about the timing of the project. Mr. Delaney suggested contacting the state about the delay to which Ms. Sesto disagreed, citing this was not germane to the application before them. Mr. Reiter stated that he was dissatisfied with the proposal but understands getting what they can out of the soil is better than nothing. Mr. Delaney suggested getting a second opinion on the 10 ft. distance. Ms. Sesto stated that this is not overly wide for the river and the professional judgment of a P.E. is on record for consideration. Ms. Sesto noted that plant sizes are missing and she wants to see the applicant's due diligence with their DEEP filing.

Mr. Wong MOVED to APPROVE WET#2074, with the General and normal Special Conditions and the additional Special Conditions that the plant sizes should be specified at 3 – 4 ft., the

applicant will show due diligence for obtaining the DEEP permit and will provide this commission with the a copy of the permit, and that the work must be completed by the first dry season once the permit is obtained, SECONED by Mr. Hall and CARRIED 6-0-1 with Mr. Lee abstaining.

- C. WET#2098(S) – HUDSON – 532 Danbury Road** – “corrective action” to restore plantings adjacent to the Norwalk River, including construction of septic, wall, steps, patio, and driveway within a regulated area

Mr. Lee MOVED to APPROVE WET#2098, with the General and normal Special Conditions and the additional Special Conditions that the plant sizes will be increased from #1 containers to 2’-3’ and those specified for 2’-3’ be up-sized to 3’-4’, except for the spicebush, to meet the goal of the commission, the bond shall be lengthened or staggered for a 2-step release, and there will be no bonding on the non-mitigation plantings, SECONED by Mr. Hall and CARRIED 7-0-0.

- D. WET#2102(S) – WILTON BANK – 225 New Canaan Road** – “corrective action” to restore upland areas, remove retaining wall, and install storm filtration system

Mr. Lee recused himself.

The commission discussed the need to complete a perc test for soil compaction. The knotweed should be monitored and the trees should continue to be evaluated. These trees should be replaced, if warranted.

Mr. Hall MOVED to APPROVE WET#2102, with the General and normal Special Conditions and the additional Special Conditions that the soil be tested and the knotweed and trees be evaluated, SECONDED by Mr. Wong and CARRIED 6-0-0.

#### **IV. APPLICATIONS TO BE ACCEPTED**

Mr. Lee was reseated.

- A. WET#2106(S) – SAXON – 197 Catalpa Road** – construction of building addition and other site improvements, including future B100a within an upland review area

Mr. Wong MOVED to ACCEPT this new application, SECONDED by Mr. Hall and CARRIED 7-0-0.

#### **V. APPROVED MINOR ACTIVITIES**

- A. WET#2104(M) – BERLAGE – 193 Rivergate Drive** – installation of a generator and buried tank 15 ft. from a wetland

- B. WET#2105(M) – LAINE – 35 Old Kingdom Road** – construction of covered deck 80 ft. from wetlands

Ms. Sesto provided a brief description of the above minor activities that have been approved by staff since the last meeting.

## **VI. CORRESPONDENCE**

### **A. Inland Wetland Commissioner Training Segments 1 & 2**

Ms. Sesto confirmed that commissioners are required to take these courses and circulated the brochure for these courses with the University of CT. Mr. Hall and Mr. Delaney indicated they would like to attend Segment 2 on June 13, 2012 in Bridgeport. Ms. Larkin will go forward with the registration for these members.

## **VII. OTHER APPROPRIATE BUSINESS**

Mr. Lee suggested that the commission speak about the violations that are occurring with Mr. Lato as he is a repeat offender. He asked if it was appropriate to contact the Better Business Bureau or the Norwalk Chamber of Commerce. Ms. Sesto stated that this is a consumer protection function. Mr. Lee noted that Mr. Lato should hold a license and this may be the best course of action. Mr. Reiter suggested that the commission establish a policy for these situations. Mr. Hall stated that the commission is not a consumer watchdog so this is not our purview. Mr. Wong suggested that the commission publish the action. Ms. Sesto will check with legal counsel.

## **VIII. APPROVAL OF MINUTES**

Mr. Reiter MOVED to APPROVE the March 8, 2012 meeting minutes, as drafted, SECONDED by Mr. Wong, and CARRIED 7-0-0.

## **IX. ADJOURN**

Mr. Wong MOVED to ADJOURN at 9:29 p.m., SECONDED by Mr. Lee, and CARRIED 7-0-0.

Respectfully Submitted,  
Liz Larkin  
Recording Secretary