



Joseph L. Hammer
Attorney at Law

jhammer@mrglaw.com
T: 203.777.1001
C: 860.992.3130
F: 860.547.1191

March 6, 2024

VIA EMAIL

Wilton Water Pollution Control Authority
Wilton Town Hall
238 Danbury Road
Wilton, CT 06897

Re: 131 Danbury Road - Application of 131 Danbury Wilton Dev AMS LLC

Dear Authority Members:

We are writing to you on behalf of our client, 131 Danbury Wilton Dev AMS (“AMS”), regarding its application for additional capacity at 131 Danbury Road in connection with its proposed residential development on the property. The property is currently developed with an office building and connected to the Wilton sanitary sewer system. The application was heard at your meetings of January 10, 2024 and February 14, 2024, and will be continued on your March 13 meeting agenda.

Set forth below is a summary of the proceedings to date on the application:

- AMS submitted its application on November 17, 2023. The application was originally scheduled to be heard at the Authority’s December 13, 2023 regularly scheduled meeting, which was cancelled.
- The application was continued to the Authority’s January 10, 2024 meeting.
- An application for additional capacity which was submitted to the Authority by ASML on January 5, 2024, through its consultant Tighe & Bond, in connection with construction of a building addition at 77 Danbury Road was also heard at the January 10 meeting. The ASML application was listed on the January 10 meeting agenda ahead of the earlier submitted AMS 131 Danbury Road application.
- At the January 10 meeting, both the AMS and the ASML applications were presented by their respective project engineers. The Authority and its staff discussed flows in the system and capacity. Action was deferred on both applications to the WPCA’s regularly scheduled February 13 meeting, which was postponed to February 14.
- At the February 14 meeting, the ASML 77 Danbury Road application was again listed prior to the earlier filed AMS 131 Danbury Road application.
- Shortly prior to the February 14 meeting, a proposed amendment to the WPCA regulations was posted on the WPCA’s website and included on the February 14 meeting agenda. The proposed policy was discussed at the February 14 meeting prior to resumption of consideration of the

AMS and ASML applications. Paragraph 1 of the draft policy would afford priority status for allocations of sewer capacity to certain companies/businesses located in Wilton which are engaged in manufacturing and research with respect to scientific and technical equipment and which the WPCA deems to be “critical to the well-being of the Town, State and United States.” Allocation requests related to an expansion of such a company would be moved to the front of the sewer capacity allocation cue ahead of allocation requests previously filed by others. During the Authority’s discussion of the proposed policy, it was noted that the proposed draft policy was intended to apply to and benefit ASML. The language of paragraph 1 was modified during the course of the meeting and approved by the Authority.

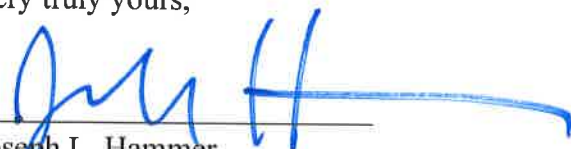
- Following the approval of Paragraph 1 of the policy, the ASML application was again considered prior to the earlier filed AMS application, and the ASML application was approved. The approved application requested a total of 18,883 gallons per day of flow spread over two phases of construction. The first phase, with an anticipated completion date of late 2025, is expected to generate 11,233 gallons of additional flow. The second phase, with an anticipated completion date of approximately 3-5 years after completion of phase 1, is expected to generate 7,650 gallons of additional flow. (See Tighe & Bond letter dated January 5, 2024 and testimony of Tighe & Bond).
- Following the approval of the ASML application, the AMS application was discussed further by the WPCA, and then continued to the March 13 WPCA meeting without a decision.

A critical fact in making your decision on the AMS 131 Danbury Road application is that it was filed prior to the ASML 77 Danbury Road application and prior to the consideration and adoption of Paragraph 1 of the amendment to your regulations. It would not be appropriate if the approval of the later filed ASML application, including its projected flow, were to negatively impact the determination of the AMS 131 Danbury Road application in any respect. Such an outcome would be arbitrary, unfair and unreasonable, and would also have the effect of selectively approving the later filed 77 Danbury Road application based on the identity of the applicant to the detriment of the earlier filed 131 Danbury Road application, and applying a new allocation preference policy retroactively to the 131 Danbury Road application.

Another relevant circumstance is that the Interlocal Agreement with Norwalk simply provides that Wilton and Norwalk shall meet for discussion within 6 months of Wilton’s annual average daily flow exceeding 90% of the current contractual maximum flow volume. There is nothing in the agreement stating that Wilton may not continue to approve additional connections in the meantime. Further, the contract does not include a provision applying a penalty in the event that the Wilton flow were to exceed the current contractual flow volume prior to an amendment of the agreement.

We look forward to meeting with you on March 13.

Very truly yours,



Joseph L. Hammer