

TOWN OF FARMINGTON
INLAND WETLANDS COMMISSION
MEETING MINUTES

July 6, 2022

Present for the online web conference was Chair Hannon, Commissioners Berlandy, Fox, Isner, Kelsey (in at 8pm), Statchen and Alternate Commissioner Canto. Town Planner Rutherford, Sr. Assistant Town Planner Cyr and Clerk Michaud were also present. The meeting was called to order at 7:00 p.m.

Present in the Development Conference Room were Town Planner Rutherford, Sr. Assistant Town Planner Cyr and Clerk Michaud. All others were present online.

Alternate Commissioner Canto was appointed to vote in place of absent Commissioner Simpson.

NEW BUSINESS

402 Farmington Ave LLC – Lots 40 & 40B1 Farmington Avenue (a.k.a. 8231 & 9249 Farmington Avenue

Regulated activity within upland review area consisting of proposed driveway, parking lot, garage building, associated grading/clearing and stormwater management basins associated with multifamily development. Superior Court Decision in the Appeal known as Zeytoonjian, et al v. Farmington Inland Wetlands and Watercourses Agency, et al., CV-21-6142707: Consideration and Possible Action on the Superior Court Remand of the April 7, 2021 Approval, including possible Modification of the Approval Resolution. In response to the Court's remand back to the Commission to address feasible and prudent alternatives, the Commissioners reviewed and commented on the draft revised resolution of approval.

Commissioner Statchen moved and Commissioner Isner seconded the following resolution:

Whereas the Farmington Inland Wetlands and Watercourse Commission (Commission) received an application to permit regulated activity within the 150-foot upland review area (roadway, sidewalk, utilities, parking lot, retaining wall and storm water detention basins) at 8231 & 9249 Farmington Avenue (a.k.a. Lots 40 & 40B1 Farmington Avenue) as displayed on plans entitled "*Proposed Residential Development*" dated November 2, 2020 and revised through January 4, 2021 (sheets 1 through 14, prepared by SLR Consulting (formerly known as Milone & MacBroom)), Lot Line Revision plan revised through 1.4.2021 by SLR Consulting, Site Planting Plan revised through 12.21.2020 by CR3, Photometric Plan revised through 12.29.2020 by Lighting Affiliates, Wetland Delineation and Impact Assessment dated 11.02.2020 by SLR Consulting, Drainage Report dated November 2, 2020 by SLR Consulting and all other technical reports and documents submitted by the applicant in support of the application submitted throughout the hearing (collectively referred to herein after as Application); and

Whereas the Commission accepted the application at its November 4, 2020 meeting, conducted a site visit on November 8, 2020, determined that the project was significant at its December 2, 2020 meeting and scheduled a public hearing for January 6, 2021; and

Whereas the Commission conducted a properly noticed public hearing on the request in accordance with state and local regulations on January 6, 2021, February 3, 2021, February 17, 2021 and March 3, 2021, where all interested parties were heard; and

Whereas the Commission closed the hearing on the application at the March 3, 2021 meeting; and

Whereas the Commission evaluated the Application and considered all technical reports, documents and testimony and determined the project is not a significant activity that would have a significant impact on the wetlands and watercourses based on the definition of those terms in the Farmington Inland Wetland Regulations at the March 17, 2021 meeting; and

Whereas the Commission evaluated the Application in accordance with state statutes and its regulations, specifically Sections 7 and 8 of the Farmington Regulation for Inland Wetlands and Watercourses; and

Whereas the Commission approved the Application on April 7, 2021 with conditions; and

Whereas the Approval was appealed by Douglas and Kimberly Zeytoonjian in a Superior Court Action entitled, Douglas N. Zeytoonjian and Kimberly R. Zeytoonjian v. Town of Farmington Inland Wetlands & Watercourses Commission, et al, Docket No. HHD-CV-21-6142707-S (“the Zeytoonjian Appeal”); and

Whereas on May 31, 2022 the Superior Court (Budzik, J.) released its Decision on the Zeytoonjian Appeal; and

Whereas, the Court remanded the Approval back to the Commission for further proceedings pursuant to General Statutes §8-8(1); and

Whereas this Revised Resolution is intended to comply with the Order of Remand issued by the Superior Court in its decision dated May 31, 2022.

Now therefore be it resolved that the Commission finds that the proposed activities, described within the Application and in particular displayed on the engineered drawings entitled “*Proposed Residential Development*” dated November 2, 2020 and revised through January 4, 2021 (sheets 1 through 14, prepared by SLR Consulting), Lot Line Revision plan revised through 1.4.2021 by SLR Consulting, Site Planting Plan revised through 12.21.2020 by CR3, Photometric Plan revised through 12.29.2020 by Lighting Affiliates, Wetland Delineation and Impact Assessment dated 11.02.2020 by SLR Consulting, Drainage Report dated November 2, 2020 by SLR Consulting and other technical reports and documents submitted throughout the hearing are in conformance with the requirements found in Section 6 of the Inland Wetlands Regulations; and

Be it further resolved the Commission having found that the project, as defined in the Application, is not a significant activity and will not result in an adverse impact upon the wetlands or watercourse, finds the applicant is not required to provide feasible and prudent alternatives under General Statutes §22a-41(b); and

Be it further resolved that the Commission finds that the public hearings on the Application were held in the public interest pursuant to Commission Regulations Section 6(F); and

Be it further resolved that, pursuant to General Statutes section 22a-41(b) and Section 8B of the Commission Regulations, the Commission makes the following specific findings as set forth below regarding feasible and prudent alternatives to the original Application as proposed by the

Applicant and accepted for consideration by the Commission:

- (a) that the final site plan as presented by the Applicant will not result in an adverse impact to any wetland or any watercourse;
- (b) that the Commission considered alternatives and concluded that no alternative would result in a further reduction of any adverse impact to a wetland or watercourse; and
- (c) that the Applicant's suggested alternatives to the original submitted plan reduced any potential adverse impact to the wetlands and Upland Review Area as follows:
 - Relocate garage "F" to the north, out of the upland review area, thereby reducing/eliminating concerns for the potential storage of contaminants in the garage located within the upland review area;
 - Delete the future curb cut off of Quarry Road, resulting in a reduction of approximately 3,835 feet of disturbance in the upland review area and 1,250 square feet of impervious coverage;
 - Reduce the tree clearing limits and grading near Quarry Road;
 - Inclusion of a hydrodynamic separator for greater water quality near Quarry Road;
 - Installation of Cape Cod curbing along Quarry Road and a 24-inch-high decoy fence around the stormwater basins;
 - Placement of a conservation easement around the two vernal pools and the immediately adjacent upland review area – minimum 100-foot width by approximately 880 ft length; and
 - Granting of 4.639ac of land to the Farmington Land Trust.

Therefore, be it further finally resolved the Commission finds that the above-referenced feasible and prudent alternatives proposed by the Applicant and accepted by the Commission meet the requirements of regulations Section 8B and hereby reaffirms the April 7, 2021 Resolution of Approval of said Application including the proposed activities depicted therein with the 23 conditions as set forth in the April 7, 2021 Resolution.

The motion passed unanimously.

CPD Properties – 342 Colt Highway LLC – 342 Colt Highway

Regulated activity within upland review area for development of site (fuel station with convenience store, bank and office building). The applicant has submitted revised plans on June 29, 2022. They have been reviewed by staff and updated comments have been provided. These comments can be included as conditions of approval and the remaining comments can be addressed during the Town Plan & Zoning Commission process. The Commissioners did not express concern with the plans as revised and some felt the project as presented will not adversely impact the small wetland area. Other conditions recommended by staff for consideration were buffer plantings including pollinator plants and placing a conservation easement over the wetland area. The Commission suggested staff work out the details of the conservation easement limits with the applicant and suggested the applicant/property owner retain the ability to access wetland area to conduct maintenance of catch basin.

Upon a motion made and seconded (Canto/Fox) it was unanimously

VOTED: To make the determination the CPD Properties-342 Colt Highway LLC application for regulated activity within upland review area for development of site (fuel station with convenience store, bank and office building) at 342 Colt Highway is a non-significant regulated activity and does not require a public hearing.

Upon a motion made and seconded (Statchen/Canto) it was unanimously

VOTED: To approve the CPD Properties-342 Colt Highway LLC application for regulated activity within upland review area for development of site (fuel station with convenience store, bank and office building) at 342 Colt Highway as presented and on file in the Planning Office with the following conditions:

- a. Address Engineering Comments to the satisfaction of Town Staff;
- b. Install transitional plantings between the edge of retaining wall and wetlands/limit of tree clearing. Plantings shall include some pollinator plants;
- c. Conservation Easement boundary shall be worked out with staff; and
- d. An Integrated Pest Management Plan shall be implemented.

Bill Aston – 100-110 Hyde Road

Regulated activity within upland review area to replace existing sidewalk and install covered walkway. Bill Aston, Jr., ebm-papst Inc., stated they have an existing asphalt walkway between their buildings at 100 Hyde Road and 110 Hyde Road. They are proposing to replace the walkway with concrete and to install steel columns with a roof deck for a covered walkway. The walkway is primarily for person passage between the two buildings, but they occasionally have the need to move product between the buildings. Mr. Aston stated the roof height will match the height of the receiving doors on the two buildings and the width of the walkway will also match the width of the receiving doors. Photos were provided for clarification. Per the plans all structure steel will be hot dipped galvanized. There was a brief discussion on roof runoff and how this will be addressed to prevent erosion of the surrounding lawn area. Bill Aston Sr., Buck & Buck, discussed tying into an existing drainage system. He and Sr. Assistant Town Planner Cyr discussed installing drainage pipe in stone approximately two feet deep by two to three feet wide. In addition, erosion control should include a combination of straw wattle and silt fence.

Upon a motion made and seconded (Statchen/Fox) it was unanimously

VOTED: To accept the Bill Aston application for regulated activity within upland review area to replace existing sidewalk and install covered walkway at 100-110 Hyde Road.

Upon a motion made and seconded (Canto/Berlandy) it was unanimously

VOTED: To make the determination the Bill Aston application for regulated activity within upland review area to replace existing sidewalk and install covered walkway at 100-110 Hyde Road is a non-significant regulated activity and does not require a public hearing.

The Commissioners agreed no site walk is needed.

Byron Rodriguez – 9 Apple Tree Lane

Regulated activity within upland review area for addition to home, enclosed inground pool and detached garage. Mr. Rodriguez would like to construct a 960 sq. ft. detached garage approximately thirty-three feet from the rear property line, an approximately 428sf addition off the rear (west) of the home, and an enclosed inground pool and pool house approximately 114' from the rear property line. Sr. Assistant Town Planner Cyr added the applicant also proposes to enclose the pool, add onto the back of the house and extend the driveway to the detached garage. Mr. Rodriguez indicated the proposed pool house will not have any sewer facilities and will not be connected to the home septic system. Due to the proximity to wetlands Jackson Environmental was hired to locate the wetlands and watercourse boundaries. The report dated June 30, 2022 states the drainage channel flows along the northerly property line and draining in a southerly-southeasterly direction to a 15-inch RC Pipe under the driveway and along the front yard, discharges to a small area at the southeast corner of the property, and then into an 18-inch RC Pipe connecting to the stormwater system in Apple Tree Lane. There was also discussion in the report regarding a drainage ditch along the southerly property boundary. The ditch appears to have been excavated within upland soils and sloped in an easterly-southeasterly direction towards Apple Tree Lane to the existing stormwater drainage system in Apple Tree Lane. The report indicates the drainage ditch does not contain significant evidence of scour or deposits of recent alluvium or significant hydrophytic vegetation. The drainage ditch did not appear to qualify' as an intermittent watercourse per the Town of Farmington Inland Wetlands and Watercourses Regulations. The Commissioners asked for clarification on the type of pool enclosure. Mr. Rodriguez responded glass walls and wood roof. Sr. Assistant Town Planner Cyr commented per the Town's Expanded Homes Zoning Regulation, this project will also require a special permit with the Town Plan & Zoning Commission. The Commission asked if the area of the proposed new driveway to the detached garage is currently lawn. Sr. Assistant Town Planner Cyr responded yes. The Commission asked for the use of the proposed detached garage. Mr. Rodriguez responded storage. The Commission commented the proposed garage is rather large for storage to which Mr. Rodriguez elaborated on the types of business equipment/tools he plans to store in the garage. Commissioners expressed concern with fluid from car maintenance and washing of equipment or vehicles leaching into the wetlands. After some discussion Mr. Rodriguez was asked if he considered expanding the existing garage. Mr. Rodriguez commented he could. The Commission also expressed concern with the storage of chemicals/automotive materials in the proposed garage and commented on how this has been addressed with other applications. Although the plans provided are not complete, it was suggested the applicant formally remove the garage from the plan so the home expansion and pool portions of the project could move forward.

Upon a motion made and seconded (Isner/Berlandy) it was unanimously

VOTED: To accept the Byron Rodriguez application for regulated activity within upland review area for addition to home, inground pool and detached garage at 9 Apple Tree Lane.

The Commissioners commented they are not ready to make a determination. If the detached garage remains part of the application, then they will conduct a site walk. If the detached garage is removed from the application a site walk may not be necessary.

OLD BUSINESS

Carrier Group Inc. – Lots 8517 & 8518 Morea Road

Regulated activity within upland review area associated with proposed 25-lot cluster subdivision. The public hearing was closed May 18, 2022. The Commissioners were provided proposed resolutions for approval and denial of this application. After reviewing some changes were suggested by Commissioner Fox to the draft approval resolution. Commissioner Fox reviewed the suggested changes. He and Chair Hannon commented on the lesser buffer, although a shorter distance than they typically are comfortable with, the preservation of a substantial portion of both parcels and their connection to other preserved land is an acceptable trade off. Commissioners Berlandy, Canto, Isner and Kelsey were generally in agreement. Commission Statchen expressed a concern and was not in favor of the proposed draft approval resolution, specifically with the number of homes proposed, potential impact to the vernal pool and wildlife habitat.

Commissioner Isner moved and Commissioner Berlandy seconded the following resolution:

Whereas, the Farmington Inland Wetlands and Watercourse Commission (Commission) received an application to permit regulated activities within the 150 foot upland review area (homes, yards, tree removal, grading, utilities, driveway, roadway and storm water detention basins) at Lots 8517 & 8518 More Road as displayed on plans entitled “Proposed Cluster Subdivision 8517 & 8518 Morea Road”, dated March 16, 2022 and revised May 9, 2022, prepared by SLR Consulting, excepting survey map entitled “Map Showing Land of Marian D. Cardone and Kathryn E. Lattizori 8518 Morea Road, dated February 23, 2022, prepared by Neriani Land Surveying LLC”; “Test Pits Logs” by SLR dated 3/12/2021 and 3/15/2021, floodplain compensation calculation entitled “Proposed Floodplain Compensation, dated May 8, 2022”, “Wetlands Assessment/Impact Analysis” dated March 31, 2022 prepared by JMM Wetland Consulting Services LLC, “Vernal Pool Survey” dated May 16, 2022 by REMA Ecological Services LLC; Drainage Report dated March 16, 2022 by SLR Consulting; “Response Comments” dated May 17, 2022 from Thomas J. Daly P.E. in response to Town of Farmington Engineering Comments dated May 13, 2022; Natural Diversity Database Letter (NDDDB), dated April 22, 2022, from Shannon B. Kearney of the Connecticut Department of Energy & Environmental Protection; and all other technical reports and documents submitted by the applicant in support of the application submitted throughout the hearing (collectively referred to herein after as Application); and

Whereas, the Commission accepted the application at its April 6, 2022 meeting, conducted a site visit on April 30, 2022, determined that the project was sufficiently significant to warrant a public hearing at its April 6, 2022 meeting and scheduled a public hearing for May 18, 2022; and

Whereas, the Commission properly noticed a public hearing on the Application on May 5, 2022, May 12, 2022, and May 13, 2022 in accordance with state and local regulations, and conducted the hearing on May 18, 2022 where all interested parties were heard, and closed the hearing on the Application at the May 18, 2022 meeting; and

Whereas, the Commission evaluated the Application and considered all technical reports, documents and testimony and determined the project is a significant activity that would have a significant impact on the wetlands and watercourses based on the definition of those terms in the Farmington Inland Wetland Regulations; and

Whereas, the Commission evaluated the Application in accordance with its regulations, specifically Sections 7 and 8, of the Farmington Regulation for Inland Wetlands.

Whereas, the Commission finds that although the proposed activities avoid wetlands, construction and disturbance within the 150' regulated area are significantly more extensive than is typically found to be acceptable (half of the houses are within the regulated area and the 25 ft buffer to wetlands is narrower than most approved projects). However, the Applicant has proposed a cluster development, with approximately 66 acres to be deeded to the Town of Farmington, preserving over 75 percent of the combined two parcels as open space, including all the wetlands on the site as well as adjacent upland areas within the Scott Swamp Brook watershed.

Now therefore be it resolved that the Commission finds that the proposed activities, described within the Application and in particular displayed on the engineered drawings entitled "Proposed Cluster Subdivision 8517 & 8518 Morea Road" dated March 16, 2022 and revised May 9, 2022, prepared by SLR Consulting and other technical reports and documents submitted throughout the hearing are in conformance with the requirements found in Section 6 of the Inland Wetlands Regulations; and

Be it further resolved that the Commission having found that the project, as described in the Application, is a significant regulated activity, and finds the applicant is required to provide feasible and prudent alternatives, one of which had been depicted on "Sheet SP / Conceptual Conventional Subdivision Plan" of the "Proposed Cluster Subdivision 8517 & 8518 Morea Road", dated March 16, 2022 and revised May 9, 2022, prepared by SLR Consulting; in addition, the Applicant's suggested alternatives to the original submitted plan reduced any potential adverse impact to the wetlands and Upland Review Area as follows:

- property lines were redrawn to reduce and, in some cases, eliminate regulated wetlands extending into the private lots, so that they are incorporated into preserved open space, and
- redrawn property lines also include the entire 100' vernal pool envelope within preserved open space, and
- a Wildlife Management Plan was added that incorporates all the mitigation measures recommended by the Department of Energy and Environmental Protection's Natural Diversity Data Base to further protect State listed species; and

Therefore be it finally resolved that the Commission approves said Application including the proposed activities depicted therein with the following conditions:

1. Engineering Comments dated May 13, 2022 shall be addressed to the satisfaction of the Farmington Engineering Division.
2. Final signed and stamped plans addressing all outstanding staff and commission comments, and conditions, as well as commitments and any representations made by the applicant provided during the hearings, shall be submitted to the Farmington Planning Division prior to scheduling a preconstruction meeting.
3. Open Space to include Lot 8517 and all Open Space Area depicted on Lot 8518, to be deeded to the Town of Farmington at the time of filing the mylars for the subdivision.

4. Conservation Easements shall be provided as depicted on the “Proposed Cluster Subdivision 8517 & 8518 Morea Road”, plans dated March 16, 2022 and revised May 9, 2022, prepared by SLR Consulting.
5. Conservation Easement medallions as depicted on the approved plan set shall be installed along all common property lines with the open space prior to the issuance of the first Certificate of Occupancy. Conservation medallions shall be installed 50 feet on center along the open space boundary.
6. A preconstruction meeting shall take place with Town staff prior to initiating any construction activities. The applicant / contractor will be responsible for providing a construction sequence plan.
7. The term ‘construction activity(ies)’ includes the removal of trees to access the site prior to full mobilization. Construction activity is not limited to earth disturbance.
8. Prior to removal of vegetation, the wetland boundary shall be clearly delineated and the clearing limits and proposed conservation easements shall be staked by a licensed surveyor. The line shall be reviewed with the Town staff before removal can begin.
9. Prior to the clearing of vegetation, orange construction fencing shall be installed along the proposed clearing limits near the wetlands, or as approved by Town Staff.
10. No mass earthwork shall begin until perimeter erosion controls and orange construction fencing has been installed
11. The Engineer has stated phased clearing and construction cannot be achieved due to the approximate relative balanced cut/fills on the property and has proposed to use Eco Aegis Bonded Fiber Matrix (or approved equal) on all disturbed lots if a home is to be started withing 30-days of the completion of mass earthwork.
12. All sediment and erosion control measures shall be implemented in accordance with the approved plans and as may be directed by the Project Engineer or Town Staff.
13. The applicant / contractor shall notify the Planning Division once all erosion control measures are in place and prior to the start of any clearing or construction activity for Town staff to review and inspect the installation of all measures.
14. Erosion and sediment controls shall be monitored regularly by the project soil scientist, project engineer, or an individual with comparable education and experience with weekly reports submitted to Town staff. Inspections shall include review of the stormwater maintenance and operations throughout construction. Inspections shall be conducted every two weeks and after rain events of a half-inch or greater. Reports shall include photographs of the general condition of the site and all erosion control. Reports shall include corrective measures needed to bring all erosion control measures into compliance. Applicant / contractor is obligated to implement corrective measures.
15. Provide a construction dewatering plan for review and approval by Town Staff prior to construction.

16. Stormwater detention basins are not to be utilized as temporary sedimentation basins. Separate temporary stormwater basins shall be designed as depicted on the approved plans and in accordance with the 2002 CT DEEP E&S Guidelines.
17. All work shall be performed in accordance with the NDDDB Letter, dated April 22, 2022, from Shannon B. Kearney.
18. During construction, catch basins shall be cleaned at least twice per year and the road shall be swept at a minimum once per month.
19. Invasive species removal shall be by mechanical means, no chemicals shall be used. The applicant shall be responsible for invasive species removal within work limits for the duration of construction or for a minimum of three-years, whichever is longer. An annual report shall be prepared by the project soil scientist, biologist, or landscaper documenting removal efforts. The report shall be provided to the Town Planning Division by December 31st of each year.
20. A habitat enhancement plan shall be developed for the area around the vernal pool by a professional wetland scientist, approved by Town Staff, and implemented during construction. Upon completion of the homes on Lots 21 and 22, the professional wetland scientist shall review the new and existing plantings along with the final development of these two lots, and provide a letter indicating whether additional plantings are required and provide a plan for implementation within 6-months after a certificate of occupancy has.
21. A wetland scientist shall annually inspect the storm water basin plantings and general wetland quality for a period of 5 years following the date of the basins completion. Following each inspection, the wetland scientist shall submit an annual report to the Town, including the function the storm water basin and its plantings. All recommendations from the wetland scientist shall be implemented by the applicant as soon as possible.
22. Provide an as-built of the stormwater detention basins to the Town upon initial completion of the basins. A professional engineer shall inspect the storm water system upon initial completion and at the end of the project to confirm it has been installed in accordance with the approved plans. A letter shall be submitted at each time to the Town. The as-built shall be revised and updated as part of the full roadway and improvement as-built to be submitted to the Town for review and approval prior to road acceptance.
23. Include as part of individual lot and property deeds the following restrictions:
 - a. Plantings in the area of the wetlands and storm water basin shall be native species only.
 - b. A turf management plan and an Integrated Pest Management Plan.

The motion passed by a vote of 6 in favor (Berlandy, Canto, Fox, Hannon, Isner, Kelsey) to 1 opposed (Statchen).

Members voting in favor of the application felt the plan as presented and on file in the Planning Office preserves the remaining area that is developable.

PLANNER'S REPORT

Municipal Inland Wetlands Agency Comprehensive Training Program

Reminder to Commissioners about the CTDEEP reactivating the Municipal Inland Wetlands Agency Comprehensive Training Program.

Site Visit

Reminder about a site visit this Saturday, July 9, 2022 at Lots 8120 & 8122 Colt Highway.

MINUTES

Meeting Minutes

Upon a motion made and seconded (Berlandy/Statchen) it was unanimously

VOTED: To approve the June 15, 2022 Inland Wetlands meeting minutes.

The meeting adjourned at 8:25 p.m.

SJM