

**GLASTONBURY CONSERVATION COMMISSION
(INLAND WETLANDS & WATERCOURSES AGENCY)
REGULAR MEETING MINUTES OF THURSDAY, JULY 13, 2017**

The Glastonbury Conservation Commission (Inland Wetlands & Watercourses Agency), along with Mr. Tom Mocko, Environmental Planner, in attendance held a Regular Meeting in Council Chambers, second floor of Town Hall located at 2155 Main Street, Glastonbury, Connecticut.

ROLL CALL

Board Members - Present

Mrs. Judy Harper, Chairman
Mr. Dennis McInerney, Vice Chairman
Mr. Frank Kaputa (Acting Secretary)
Mrs. Helen Stern
Mr. Mark Temple

Board Members - Excused

Mrs. Kim McClain, Secretary
Vacancy

Chairman Harper called the meeting to order at 7:31 P.M. and seated Commissioner Kaputa as Acting Secretary.

I. FORMAL ACTIONS & RECOMMENDATIONS

- 1. Continued Public Hearing for the application of the 26 Cedar Street Associates, LLC (Peter D'Addeo, Managing Member) for an inland wetlands and watercourses permit concerning a proposed athletic club (Edge Fitness) at 2855 Main Street (west of Chili's Restaurant) – BL Companies, C.E. – Attorneys Meghan Hope and Peter Alter – A & F Main Street Associates, LLC, landowner**

Motion By: Acting Secretary Kaputa

Seconded: Commissioner Stern

MOVED, that the Inlands Wetlands and Watercourses Agency opens the continued public hearing for the application of the 26 Cedar Street Associates, LLC (Peter D'Addeo, Managing Member) for an inland wetlands and watercourses permit concerning a proposed athletic club (Edge Fitness) at 2855 Main Street.

Result: Motion passes unanimously. (5-0-0)

Chairman Harper read correspondence into the public hearing record from **Bill Mogensen, General Partner, Fifth Somerset Associates Limited Partnership**, who wrote in opposition to the application in an email dated July 13, 2017. He was involved in the original development and his company is the continued owner of the office building at 80 Glastonbury Boulevard. Mr. Mogensen stated that their property abuts the proposed athletic club and he believes this proposal will adversely affect their site. He noted that he also submitted a letter dated May 5, 2017 to the Town Plan and Zoning Commission indicating that the developer asked them to provide access through their parking lot to Glastonbury

Boulevard for this development and that the request was declined. Mr. Mogensen said he had requested that the developer install and pay for a substantial landscaped buffer on its property along the edges of their property abutting the athletic club site, including fencing to prevent their patrons from using their parking lots and crossing through the buffer. He explained that he had also asked the applicant to research whether an easement had been granted to permit the 2855 Main Street site to drain into the 15" pipe the partnership had installed on its property at the time the office building was constructed, and the research indicated that no such easement was granted. Mr. Mogensen stated that he believes the drainage pipe was constructed for runoff from their roof and impervious surfaces on the south side of 80 Glastonbury Boulevard and it was not intended to be used by future developments such as the intense project being proposed.

Attorney Robin Pearson, Alter & Pearson, LLC, representing the applicant, replied that parking is the Town Plan and Zoning Commission's purview and noted that letters with no new information presented from Wetland/Soil Scientist Michael Klein and Attorney Evan Seeman have been submitted since the last meeting as well as a response from Attorney Peter Alter. She stated that the proposed stormwater system has the capacity to perform as designed with no negative impacts to adjacent properties and no change in flow of water off the site; this has been demonstrated by clear scientific evidence, a peer review, and a review of the plans by both the Environmental Planner and Town Engineer. In addition, the bioswale detention system will provide water quality improvement over current conditions

Michelle Carlson, P.E., BL Companies, C.E., commented on Michael Klein's letter dated July 7, 2017. She explained that no significant changes in the plan have occurred. The proposed water quality volume exceeds DEEP's regulations, the ability of the site to accept a greater amount of flood storage than currently exists has not changed, and the outlet from the site has not changed.

Wayne Violette, Landscape Architect, reviewed the proposed bioswale plantings, noting that he worked with Mr. Mocko and the plants selected are appropriate for the environment into which they will be planted.

Tom Pietras, Wetland/Soil Scientist, Pietras Environmental Group, also commented on Mr. Klein's letter of 7/7/17. He testified again that he believes the proposed stormwater system will function as designed even with seasonal high groundwater conditions, and he is confident that a good vegetative mix can be established throughout the bioswale. Mr. Pietras noted that there are conditions in the draft motion that afford Mr. Mocko the option to require a variety of alternative plants and seed mixes to meet existing and anticipated field conditions, and, after two growing seasons, he will also have the authority to direct that additional plantings be supplemented as needed to provide continued proper function of the water quality basins and bioretention swales.

Mr. Mocko stated that he has no remaining concerns that the water quality basins and swales will operate as intended, and he believe that any ponding on the site would be very short in duration based on the evidence presented.

Attorney Pearson read portions of Attorney Alter's letter dated July 12, 2017 into the public hearing record. Overall, though the applicant does not dispute Healthtrax's right to seek intervenor status, they feel that the intervenor has not actually raised any significant environmental concerns. She said the applicant would be happy to follow up with Mr. Mogensen regarding his comments.

Chairman Harper called for public comment. **Attorney Evan Seeman, Robinson & Cole, representing Healthtrax**, thanked the Commission for the opportunity to provide input and reviewed his letter dated July 7, 2017. He referenced a legal case (251 Conn. 269 (1999)- Branhaven Plaza, LLC, et al. v. Inland Wetlands Commission of the Town of Branford et al.) and stated that the applicant needs consent from offsite properties that will be accepting discharge of stormwater from this site via overflow or from the 15" pipe. Additionally, he commented that the applicant did not provide a response regarding whether it possesses a drainage easement or any right to discharge stormwater onto other sites. Attorney Seeman then submitted a memo from himself to the Conservation Commission dated July 13, 2017 into the public hearing record and reviewed its contents. Noting that the burden of proof concerning feasible and prudent alternatives lies with the applicant, he stated that the applicant has failed to provide a sufficient feasible and alternative analysis study. He presented Exhibit A (legal case 226 Conn. 579 (1993)-John A. Samperi et al. v. Inland Wetlands Agency of the City of West Haven et al.) and Exhibit B (the applicant's presented feasible and prudent alternatives). Attorney Seeman said the Commission should require the applicant to consider what he believes to be an obvious alternative: reducing the size of the proposed building and relocating the building beyond the wetlands buffer area.

Ms. Carlson responded that Attorney Seeman's suggestion that the surrounding sites will be inundated with ponding from the Edge Fitness site is completely inaccurate and she confirmed that the project will not increase flooding offsite for any storm event. Regarding his comments about feasible and prudent alternatives, Ms. Carlson noted that the site is very challenging due to the flood elevations and the best plan is proposed. Attorney Pearson remarked that the site plan alternatives were not found to be prudent and the plan being presented meets the zoning requirements.

Commissioner Temple inquired about notifications that were sent to abutting property owners, and Attorney Pearson confirmed that legal notices were sent to all abutting property owners including Mr. Mogensen, so he had every opportunity to respond earlier in the public hearing process. Peter D'Addeo, applicant, noted that he had reached out to the abutters at 80 Glastonbury Boulevard and Maggie McFly's and presented them with the plans.

Commissioner Temple asked for further details on the history of the 15" pipe, and Mr. Mocko explained that the developer of Somerset Square removed the existing farm ditch system on its property and installed the pipe with its inlet on the subject property; it may be assumed that in the Somerset Square application the Commission approved the removal and underground piping of the stormwater formerly conveyed by the system of farm ditches.

Commissioner Temple asked for clarification on whether the Commission requires additional information on feasible and prudent alternatives, and Mr. Mocko responded that the Commission had previously decided that this application did not present a significant impact to the wetlands, so a study is unnecessary per their regulations.

Commissioner Temple wondered what types of water quality benefits would take place in the bioswale during the winter, and **Michael Klein, Wetland/Soil Scientist, Environmental Planning Services, also representing Healthtrax**, replied that mostly physical filtration would occur. Mr. Pietras echoed Mr. Klein's comments. Ms. Carlson described the system further, noting that it is a preferred low impact development method.

within the wetlands' upland review area, all associated with the proposed Edge Fitness facility at 2855 Main Street, in accordance with plans and submitted materials on file in the Office of Community Development, and in compliance with the following conditions:

1. Adherence to the Town Engineer's memorandum dated May 25, 2017.
2. Installation of soil erosion and sedimentation control and stabilization measures shall be the Permittee's responsibility. Once installed these measures shall then be inspected by the Environmental Planner prior to land disturbance activities. Afterwards it then shall be the Permittee's responsibility to inspect these control measures during, and immediately following, substantial storm events and maintain and/or replace the control measures, when needed, on a regular basis until the site is vegetatively stabilized. Hay bales shall be replaced every 60 days. The Environmental Planner is hereby authorized to require additional soil erosion and sediment controls and stabilization measures to address situations that arise on the site.
3. Tree stumps shall not be buried at the site.
4. A qualified person shall be kept on retainer by the applicant to provide direction to or oversee the construction and restoration of the various proposed stormwater quality structures (rain garden landscape garden islands within the parking lot, swales and basins).
5. Prior to the issuance of a Certificate of Occupancy, certification from a professional engineer shall be required confirming that the stormwater management system was constructed in conformance with the approved design.
6. Prior to the issuance of a Certificate of Occupancy, certification from a landscape architect shall be required confirming that landscape plants were installed in accordance with the approved landscape plan.
7. Underground fuel storage tanks shall be prohibited to reduce the potential of contamination to wetlands, watercourses, and groundwater resources.
8. The Permittee shall be fully responsible for damages caused by all activities undertaken pursuant to this permit that may have a detrimental effect on wetlands and/or watercourses, and all such activities that cause erosion and sedimentation problems.
9. In the development of the water quality basins and bioretention swales as provided on the plans, the final location of the various plants and seed mixes shall be specified in the field by a wetland scientist, in consultation with the Environmental Planner, based on springtime observations of water table elevations and other field conditions existing at the time of installation. The Environmental Planner shall have the option of requiring a variety of alternative plants and seed mixes to meet existing and anticipated field conditions.
10. After two growing seasons, the wetland scientist shall report on the status of the water quality basins and bioretention swale plantings to the Environmental Planner who shall have the continued

authority to direct that additional plantings be supplemented as needed to provide continues proper function of the water quality basins and bioretention swales.

The Inland Wetlands and Watercourses Agency considered the entire record, including staff reviews and expert evidence, testimony and documentary evidence presented at the public hearing; therefore, the bases of this decision and the Agency's finding that a feasible and prudent alternative does not exist are as follows:

- a. The area of wetlands is comprised of a historic, manmade agricultural drainage ditch in which Aquents wetland soils were found in the bottom of this ditch; this area of wetlands: is not a significant wetland in size or function, lacks value as a wetland, and performs very limited wetland (namely conveyance and storage of stormwater) functions;
- b. The existing wetlands' small size and linear nature (long and narrow), in association with the adjacent surrounding intensively urbanized land areas and the quality of stormwater draining into the site's wetlands, has previously impaired the quality and functional values of these wetlands and overall, degraded them;
- c. The wetlands are isolated or disconnected from other wetland, watercourse or other natural systems, and thus, not essential to the health and ecological integrity of such systems;
- d. The proposed activity of the removal of the drainage ditch is not an activity that will have a significant impact as defined in Section 2.1 of the Regulations;
- e. The proposed water quality basins and bioretention swales (that are designed mitigation measures for the stormwater generated from the project site) represent a feasible and prudent alternative to the retention of the drainage ditch wetland area in that such structures were designed to perform multiple wetland functions of much higher value than the small existing wetland area comprised of the drainage ditch;
- f. The project's proposed environmental mitigation measures will result in providing more wetland functions and functional values than the site's existing wetlands once such measures are constructed and their prescribed plantings are established; and
- g. That the Agency has reviewed the proposed plan with respect to the standards of Section 10.2 of the Regulations and the Agency has concluded that the Criteria for Decision are satisfied by the proposed development.

Discussion: Commissioner Kaputa stated that he will be abstaining based on the concerns he expressed earlier and he is not comfortable voting on this motion because the applicant has not provided ample evidence on the groundwater issue.

Result: Motion carries by the following vote. (4-0-1)

For: Chairman Harper, Vice Chairman McInerney, Commissioner Stern, and Commissioner Temple

Against: None

Abstain: Commissioner Kaputa

2. Recommendations to the Town Plan & Zoning Commission concerning a Section 4.11 (Flood Zone) Special Permit and a Section 12 Special Permit with Design Review for the above-listed athletic club, Edge Fitness at 2855 Main Street – Flood Zone and Planned Business & Development Zone

Motion By: Acting Secretary Kaputa

Seconded: Commissioner Stern

MOVED, that that Conservation Commission recommends to the Town Plan & Zoning Commission approval of a Section 4.11 (Flood Zone) Special Permit and a Section 12 Special Permit with Design Review concerning 26 Cedar Street Associates, LLC's proposed Edge Fitness facility at 2855 Main Street, in accordance with plans and other submitted materials on file in the Office of Community Development, and in compliance with the following conditions:

1. Adherence to the Town Engineer's memorandum dated May 25, 2017.
2. Installation of soil erosion and sedimentation control and stabilization measures shall be the Permittee's responsibility. Once installed these measures shall then be inspected by the Environmental Planner prior to land disturbance activities. Afterwards it then shall be the Permittee's responsibility to inspect these control measures during, and immediately following, substantial storm events and maintain and/or replace the control measures, when needed, on a regular basis until the site is vegetatively stabilized. Hay bales shall be replaced every 60 days. The Environmental Planner is hereby authorized to require additional soil erosion and sediment controls and stabilization measures to address situations that arise on the site.
3. Tree stumps shall not be buried at the site.
4. A qualified person shall be kept on retainer by the applicant to provide direction to or oversee the construction and restoration of the various proposed stormwater quality structures (rain garden landscape garden islands within the parking lot, swales and basins).
5. Prior to the issuance of a Certificate of Occupancy, certification from a professional engineer shall be required confirming that the stormwater management system was constructed in conformance with the approved design.
6. Prior to the issuance of a Certificate of Occupancy, certification from a landscape architect shall be required confirming that landscape plants were installed in accordance with the approved landscape plan.
7. Underground fuel storage tanks shall be prohibited to reduce the potential of contamination to wetlands, watercourses, and groundwater resources.
8. In the development of the water quality basins and bioretention swales as provided on the plans, the final location of the various plants and seed mixes shall be specified in the field by a wetland

scientist, in consultation with the Environmental Planner, based on springtime observations of water table elevations and other field conditions existing at the time of installation. The Environmental Planner shall have the option of requiring a variety of alternative plants and seed mixes to meet existing and anticipated field conditions.

9. After two growing seasons, the wetland scientist shall report on the status of the water quality basins and bioretention swale plantings to the Environmental Planner who shall have the continued authority to direct that additional plantings be supplemented as needed to provide continues proper function of the water quality basins and bioretention swales.

Result: Motion passes unanimously. (5-0-0)

II. APPROVAL OF MINUTES - Regular Meeting of June 29, 2017

The minutes of the regular meeting of June 29, 2017 were accepted as presented.

III. COMMENTS BY CITIZENS ON NON-AGENDA ITEMS

No citizens came forward to speak.

IV. OTHER BUSINESS

1. Chairman's Report – NONE

2. Environmental Planner's Report

Mr. Mocko asked the Commissioners for their availability for the scheduled August meeting and then informed them it's likely that meeting may be cancelled.

With no other business to discuss, Chairman Harper adjourned the meeting at 10:40 P.M.

Respectfully Submitted,
Amy M. Pallotti
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Recording Secretary
Recording Clerk