

**I. PLEDGE OF ALLEGIANCE****II. ROLL CALL****III-A. OLD BUSINESS**

1. APPLICATION #14-05, MJS BUILDERS LLC – MIDDLE AVENUE. Proposal to construct single family dwelling involving driveway construction and grading across regulated area and construction within upland review area.

2. APPLICATION #14-06 WATERS EDGE OF SHELTON LLC – 500 RIVER ROAD/41 FANNY STREET. Proposal to create a 14-unit multi-family development involving construction and grading within upland review area to Housatonic River.

3. PERMIT #12-24, SHELTON COVE - 560 RIVER ROAD. Excessive cutting and trimming violation. Review of restoration plan.

**III-B. NEW BUSINESS**

1. APPLICATION #14-08, OFFICE BUILDINGS – 561 BRIDGEPORT AVENUE. Proposal to construct two small office buildings of 5,000 square feet each involving construction within a regulated area and grading and construction within upland review area.

2. APPLICATION #14-09, MCGINNIS PROPERTY – 41 BIRCHBANK ROAD. Proposal to create beach area along Housatonic River after-the-fact and deck within upland review area.

**III-C. MISCELLANEOUS**

1. APPLICATION #14-07, HOPKINS PROPERTY – 19 INDEPENDENCE DRIVE. Proposal to construct shed and fencing within upland review area.

**VI. MINUTES**

1. April 10, 2014

**V. ADJOURNMENT**



**CITY OF SHELTON  
INLAND WETLANDS COMMISSION  
REGULAR MEETING MINUTES  
Thursday, May 8, 2014  
7:00 P.M., Room 302**

Chairman Zahornasky called the Regular Meeting of the Inland Wetlands Commission to order at 7:00 P.M.

**I. PLEDGE OF ALLEGIANCE**

All in attendance recited the Pledge of Allegiance.

**II. ROLL CALL:** Joseph Benanto, Commissioner  
Robert Dunford, Commissioner  
Michelle Kawalautzki, Commissioner  
Ken Nappi, Commissioner  
Charlie Wilson, Vice-Chairman  
Gary Zahornasky, Chairman

Absent: Jack Goncalves, Commissioner  
Tom Vorio, Commissioner  
Charlie Wilson, Vice-Chairman

Also present: John Cook, WECO  
Brittany Gannon, Interim Clerk

**III-A. OLD BUSINESS**

1. APPLICATION #14-05, MJS BUILDERS LLC – MIDDLE AVENUE. Proposal to construct single family dwelling involving driveway construction and grading across regulated area and construction within upland review area.

Fred D'Amico  
Engineer  
9 Park Road  
Oxford, CT

Basically, it explains everything on John's review of plans. I assume you're just accepting the plan for review tonight, I wasn't sure if you could actually act on it tonight or not. What we're proposing is a construction of a single residential dwelling on an area that's adjacent to wetlands. The wetlands are highlighted in orange and the house is outlined in pink. The driveway is crossing the wetlands, it's outlined in yellow. Basically the driveways crosses the wetlands at approximately a 50' crossing where we're putting in approximately 2' of fill so it's about 25-30 yards and it's also adjacent to a detention pond that's in this area here. It's an existing lot, the lots were 250x100 lots and we're combining the 2 lots into a single lot of 100x100. It's obvious we can't get more than 1 dwelling on this lot.

Basically we have the proposed silt fence, the proposed galleys to mitigate any increased runoff for the dwelling and the driveway, the cross sections are shown

up on the top and I believe that about covers it. I can answer any specific questions that you may have tonight.

WCEO REPORT  
May 8, 2014

PERMIT- APPLICATION #14-05, MJS BUILDERS LLC – MIDDLE AVENUE/BIRCH STREET. Proposal to construct single family dwelling involving driveway construction and grading across regulated area and construction within upland review area.

STATUS: 1. Clock starts April 10, 2014  
2. 65-day clock to decide action or schedule public hearing expires June 14, 2014

PLANS: M.J.S. BUILDERS  
Site Plan Dec. 13, 2013 rev. 3/21/14

COMMENTS: In reviewing the site plan and discussions with the Engineering Department it is apparent the choice of pines in the location shown will not be desirable for the long term. The pines will spread directly over the driveway area. Though the planting effort is appreciated, a different location for the pines, or different plant species at this location would be recommended. It is not a major issue but is believed could be improved upon.

COMMENTS FROM APRIL: The proposal entails the construction of a driveway and home within upland review area and culvert installation to cross a small watercourse. The site is adjacent to parcels subdivided in 1997 known as Cappiello Estates whereby a small detention basin was constructed and overflows to the small system.

Cross sections are provided along with details of erosion and sedimentation controls. In addition three white pines are proposed along the driveway adjacent to where the culvert crossing begins.

Lastly, the parcel historically was laid out as two 50x100 foot parcels but is combined to be one 100x100 foot parcel.

Recommend receipt for review.

Commissioner Nappi asked John Cook if he had any suggestions on any species he would like to see. John Cook responded there is a pine that is more palmer in nature, it's a certain species called vestigial, it stays very narrow. If they are looking to try to bring in some separation around the curb of the driveway, then actually some shrubberies would suffice. There are some other species which are evergreens and they are very narrow and lower maintenance. Commissioner Nappi asked if he would be willing to work with the applicant and John Cook responded yes.

**Commissioner Dunford motioned to accept APPLICATION #14-05, MJS BUILDERS LLC – MIDDLE AVENUE. Proposal to construct single family dwelling involving driveway construction and grading across regulated area and construction within upland review area with the stipulations of John Cook meeting with the applicant for suggestions on plantings. Commissioner Benanto second the motion.**

**A voice vote was taken; motion passed unanimously.**

2. APPLICATION #14-06 WATERS EDGE OF SHELTON LLC – 500 RIVER ROAD/41 FANNY STREET. Proposal to create a 14-unit multi-family development involving construction and grading within upland review area to Housatonic River.

Dennis McMorrow  
Berkshire Engineering & Surveying  
143 Bantam Lake Road  
Bantam, CT

We presented the plan last month and I'll review it but first I'm going to hand out a soil scientist report. I'm not sure if everyone was here last month or not but the site has access off of River Road right across from Petroment, it's a long access way down into the site and bordered by the Housatonic River. Fanny Street is right here, Anna Street is right here, we have access off of Fanny and we have frontage on Anna but no access and then an existing driveway coming off of River Road. The areas that are shaded on this map is the existing condition and demolition plan, we're planning on removing the 9,000 square foot of commercial block building on there with the associated flat top and we will be creating a new town house style development. This is the existing house that's on Fanny Street. The house will become 2 of the 14 units and then we have 5 buildings with a total of 12 new units on there. The access way off of River Road will be entrance only and an emergency access and then this is Fanny Street with a 2 way access, here a teardrop shaped cul-de-sac and the 14 units.

Commissioner Nappi asked did that stay the same that Fanny was going to be the main access. Mr. McMorrow replied we've had no revisions to the plan from last meeting to this meeting. On Michael Klein's report, the last paragraph states that there is no work in wetlands. The report is attached.

Mr. Cook was also good enough to forward to us the memorandum from your City Engineer, the review of the plans and the drainage and in summary of that if I'm collecting the water on the roofs in the parking area and we have 1 central detention system right around this center island because the soil is so accessibly drained we're using an infiltration system and I have a secondary infiltration system underneath this parking area just to the east of unit 5. Those 2 areas and a little bit of the roof drainage that we have in between 1-5 in the river, we not only meet 100% retention on site up to the 100 year event but also meet the 2004 storm water quality manual for the water quality volume and also meet the requirements of your ordinance #854 for the City of Shelton which is the criteria that your City Engineer uses when he's reviewing these plans. His other comment was if it was possible to move units 1-5 a little bit farther away from the Housatonic, when we had presented these plans to the Board last month the solid orange is the existing 9,000 square foot block building on site and then the dash orange line is the existing parking area, all of this presently discharges directly into the Housatonic, the parking lot without any type of basin discharges straight into the river. Our concept when we developed this plan was to try and keep the development no closer than the present building. If you look some of the buildings are farther away from the development some are a couple of feet in so we're +/- a couple of feet with the new buildings versus the old building and the parking lot. With the memorandum that we received I tend to look at the driveway length, I didn't want to diminish the turning radius of the cul-de-sac. Unit 1 I don't feel like I could move, unit 2 I can move a foot or two, unit 3 would be about 3', unit 4 would be about 4', and unit 5 would be 0. We could fluctuate a little and maintain a 20' driveway; I want to maintain the radius I have in that cul-de-sac. What I think most importantly is that looking at the site there, we're essentially right where it's developed, we're adding a tremendous amount of water quality to the site and I think it's going to be a benefit to the river than what's presently there with a commercial building and parking.

WCEO REPORT  
May 8, 2014

PERMIT- APPLICATION #14-06, WATERS EDGE of SHELTON LLC – 500 RIVER ROAD/41 FANNY STREET. Proposal to create a 14-unit multi-family development involving construction and grading within upland review area to Housatonic River.

- STATUS:
1. Clock starts April 10, 2014
  2. 65-day clock to decide action or schedule public hearing expires June 14, 2014
  3. City Engineer report received May 2, 2014

PLANS: WATER'S EDGE OF SHELTON

Property Survey 1/1	Feb. 14, 2014
Existing Condition and Demolition Plan EC1	Apr. 2, 2014
Overall Site Development Plan S1	"
Site Development & Grading S2, S3	"
Site Utility Plan S4	"
Site Layout Plan S5	"
Conservation Restriction Plan CR1	"
Erosion & Sediment Control Plan E1	"
Details & Notes D1-D3	"
Regulated Activities Plan 1/1	"

COMMENTS: The applicant's engineer has forwarded (2) copies of the presentation map to our office and one has been sent to City Engineer. A copy of his report is attached for review. Staff review indicates a small area of fill for parking and much larger areas of excavation along the level bench south of the existing building from approximately 2-feet in several locations to as much as 10-feet in the SW corner of the parcel for a retaining wall.

Staff reiterates the fourth paragraph from the April Comments in that any encroachments over and beyond the existing condition are a direct result of this particular site design and it is this design that limits the ability hold the existing line. The layout in similar fashion on the next parcel downstream of the adjacent property limited ability to maintain better buffers.

COMMENTS FROM APRIL: The proposal entails the construction of twelve new multi-family units and conversion of an existing single family into a 2-unit building along with a marina office addition to the building.

Six units along with parking and grading and the marina office are within the 100' upland review area of the Housatonic River. Underground infiltration is proposed with overflow discharge to the Housatonic River.

Recommend receipt for review, referral to City Engineer.

Though the site has an old existing building and pavement on it, staff suggests that the new buildings and pavement should be shifted so as to be no closer than the existing encroachments. The new encroachment and development is simply a product of this particular design and not of necessity.

If construction of new facilities is shifted back and designed accordingly the grass areas could then be maintained or planted to improve on the riparian condition along the Housatonic River.



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**City of Shelton**  
Office of the City Engineer  
54 Hill Street  
Shelton, Connecticut 06484-3207

14-06

Robert F. Kulacz, P.E.  
City Engineer

Rimas J. Balsys  
Assistant City Engineer

May 1, 2014

John R. Cook  
Wetlands Coordinator  
City of Shelton  
54 Hill Street  
Shelton, CT 06484



Re: Water's Edge of Shelton, 500 River Road and 41 Fanny Street;  
1) Property Survey dated 2/14/14  
2) Existing Conditions and Demolition Plan dated 4/02/14  
3) Plan Sheets S1 through S5 all dated 4/02/14  
4) Plan Sheet CR1 and E1 both dated 4/02/14  
5) Detail Sheets D1 through D3 all dated 4/02/14  
6) Stormwater Management Plan dated April 2, 2014

Dear Mr. Cook:

This office has reviewed the above referenced application to re-development the two properties referenced above, by constructing a 14 unit common interest community. From a stormwater management and regulated activity perspective, we do not have any major concerns or reservations. The stormwater management plan is sound and substantially satisfies the requirements of Ordinance No. 854.

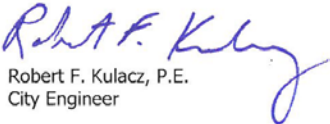
In regards to the development footprint, there is sufficient room on the parcels to shift units 1 through 5 further north so that there is no new construction or encroachment past the southerly edge of the current development on the site.

The following revisions to the site plan and details are recommended:

- The stormwater management plan and detail sheets shall be revised to include 4 foot deep sumps in all catch basins
- The footprint of the 12 new units shall be shifted to the north to maintain or increase the buffer area between the Housatonic River and the southerly edge of the existing development on both parcels.

Please note that this review report does not include comments regarding flood zone, sanitary sewer, access and other issues.

Very truly yours,

  
Robert F. Kulacz, P.E.  
City Engineer

cc: Richard D. Schultz, Planning & Zoning Administrator  
File: Water's Edge of Shelton - Site Plan File

**Environmental Planning Services, LLC***Wetland, Biological and Soil Sciences*

May 6, 2014

Mr. Alan Temkin  
ATA Realty  
8 Church Street  
Torrington, CT 06790

**RE: Water's Edge of Shelton**

Dear Mr. Temkin:

I am writing to report the results of recent investigations conducted at the referenced site on your behalf. EPS soils and wetland scientists conducted a wetland delineation and also reviewed the plans prepared by Berkshire Engineering. The wetland delineation was conducted by a soil scientist, according to the requirements of the CT Tidal Wetlands and Inland Wetlands and Watercourses Acts. Inland Wetlands are defined as areas of poorly drained, very poorly drained, floodplain, and alluvial soils, as delineated by a soil scientist. Watercourses are defined as bogs, swamps, or marshes, as well as lakes, ponds, rivers, streams, etc., whether natural or man-made, permanent or intermittent. Watercourses may be delineated by any competent professional. Tidal wetlands are defined as areas at or below 1 foot above local extreme high water, with an existing or former connection to tidal waters that support, or have the capacity to support, certain forms of vegetation. Tidal wetlands are regulated exclusively by the Commissioner of the Connecticut Department of Energy and Environmental Protection.

The site is nearly level from CT Rte. 110 (aka River Road) EPS southeastward for approximately 550 feet and then slopes down to a second nearly level area at elevation 12'-20', which has been developed with a small industrial building and associated parking and landscaping. It then drops off very steeply to the Housatonic River at about elevation 6'. The steep slopes between elevation 20 and 40 appear to be the result of a gravel excavation.

The wetlands were delineated by EPS wetland/soil scientists, who walked over the site on January 28, 2014 and examined the upper portion of the soil profile with a spade and auger; the vegetation; and evidence of tidal influence. There are no inland wetlands at the site. The site abuts the Housatonic River. There is a narrow fringe along the Housatonic that meets the requirements noted above for tidal wetlands. It was marked with pink plastic flagging tape numbered TW 1-14. The tidal wetland would be classified as Fluvaquents (tidally influenced). This map unit consists primarily of poorly and very poorly drained, alluvial soils. These very deep soils formed in recent alluvial sediments on floodplains. Fluvaquents have a seasonal water table at a depth of 0 to 1.5 feet. These soils are subject to flooding. At this site, the Housatonic River is tidal, although it is just above the limit of measurable salinity. The soils are exposed and inundated on a regular basis due to the interaction of the tidal prism with the river discharge stage.

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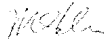
The non-wetland soils were not examined in detail, except as was necessary to identify the boundary with the wetland soils. They consist of Agawam fine sandy loam (29), Hinckley gravelly sandy loam (38), Agawam-Urban Land complex (229), and Urban Land-Charlton-Chatfield complex (273), and Udorthents-Urban Land complex (306). The Agawam series consists of very deep, well drained soils formed in a loamy mantle over sandy, water deposited materials. They are level to steep soils on outwash plains and high stream terraces. Most areas are on slopes that are less than 15 percent. Steeper slopes are on terrace escarpments and steep sides of gullies in dissected outwash plains. Agawam-Urban Land complex contains areas of very deep, well drained Agawam soils as noted above, intermixed with areas that are predominately roads, buildings, and landscaping. Urban Land-Charlton-Chatfield complex contains areas of urban land, intermixed with well drained Charlton and Chatfield soils. The Charlton series is a very deep, well drained loamy soil formed in friable till. They are nearly level to very steep soils on till plains and hills. Depth to bedrock and the seasonal high water table is commonly more than 6 feet. The Chatfield series consists of moderately deep, well drained, and somewhat excessively drained soils formed in glacial till. They are nearly level to very steep soils on glaciated plains, hills, and ridges. Slope ranges from 0 to 70 percent. Crystalline bedrock is at depths of 20 to 40 inches. The soils formed in a moderately thick mantle of glacial till overlying granite, gneiss, or schist bedrock. Rock outcrops are rare to common and are limited to the more resistant bedrock. In this map unit, the Charlton and Chatfield soils are intermingled on the landscape with Urban Land in a complex pattern that is not practical to separate. Udorthents is a map unit used to classify disturbed lands that are moderately well to excessively drained. These areas consist primarily of earthen materials that have been cut, filled, or otherwise altered, so that the original soil profile can no longer be discerned.

The site is proposed to be redeveloped from the existing industrial use to multi-family residential use. Twelve (12) townhouse style units are proposed in five separate buildings, located within the limits of the old gravel pit, industrial building, and parking lot. An existing single family residence and dock at the southeastern limit of the site will also be retained. The new homes will all have a lowest habitable floor one foot or more higher than the 100 year return frequency flood elevation (16.8') of the Housatonic River.

The development plans prepared by Berkshire Engineering do not require any work in the tidal wetlands or within the coastal jurisdiction limit administered by the CT DEEP. Portions of six of the units will be constructed within the 100' regulated area adjacent to the Housatonic. Very little native vegetation will be removed for development of the site. Twenty eight mature trees along the Housatonic River will be retained and the balance of the site is predominately weedy or early pioneer species. Due to the nearly level, coarse-grained soils in most of the work area, erosion and sediment control can be easily accomplished by conventional means. The plans include perimeter controls, check dams, temporary diversion swales, a construction entrance, catch basin protection, and temporary sediment traps. Sanitary sewage will be conveyed via lift stations from each building to public sewers in River Road. Stormwater will be managed by a collection system that discharges to the ground via two gallery systems. The well to excessively-drained soils are ideal for infiltration, with excess flows being conveyed to an existing leak-off that will be rebuilt with appropriately sized rip-rap. Although the stormwater system will attenuate peak flows, the location of the site immediately adjacent to the River, in the lower 10% of a very large watershed, obviates the need for on-site detention. The landscape plan does not include any non-native invasive species.

In summary, an existing industrial site between River Road and the Housatonic River in Shelton, (itself built in an old gravel pit) is proposed to be redeveloped for twelve townhouse style units. An existing single family residence on an adjacent lot will also be retained as part of the residential community. All of the habitable space and garages will be located above the base flood elevation. No work is proposed in inland wetlands or watercourses, tidal wetlands, or below the limit of coastal jurisdiction. The work within the 100' regulated area along the Housatonic River is limited to minor grading and home construction. The soils are coarse-textured, well to excessively drained, and are not highly erodible. The stormwater management system takes advantage of these characteristics by collecting the stormwater and discharging it to two centralized infiltration galleries. Very little native vegetation will be removed and the existing mature trees at the top of the bank along the Housatonic River will be retained. In my judgment, the site is well-suited for the proposed use. Provided that conventional perimeter erosion and sediment controls are installed and maintained as required, there will be no adverse impacts on regulated wetlands and watercourses.

Yours truly,



Michael S. Klein, Principal  
Professional Wetland Scientist  
Soil Scientist

**Commissioner Nappi motioned to accept APPLICATION #14-06 WATERS EDGE OF SHELTON LLC – 500 RIVER ROAD/41 FANNY STREET. Proposal to create a 14-unit multi-family development involving construction and grading within upland review area to Housatonic River with moving of units #2 & 3 from the three-unit Building #1 and unit #4 from the two-unit Building #2. Commissioner Benanto second the motion.**

**A voice vote was taken; motion passed unanimously.**

3. PERMIT #12-24, SHELTON COVE - 560 RIVER ROAD. Excessive cutting and trimming violation. Review of restoration plan.

Keith Diorio  
Toll Brothers  
53 Church Hill Road  
New Haven, CT

Tonight we're here to address a letter that John sent in regards to a Conservation restriction area on the property where we did in fact trim and prune more than what we had originally intended to. So we prepared a replanting plan and our arborist is here to answer more questions that you or John might have. At this point I'd like to introduce Bill Ruet.

William Ruet  
Milone & MacBroom  
99 Realty Drive  
Cheshire, CT

We've been working with John on better part of a month or so, identifying where the trees have been cut and we've come up as to where we should plant. With John's guidance our goal has been to have more trees and shrubs to the plantings to make it more diverse habitat than what is there now and also a buffer along the river.

Let me show you the differences, there aren't a lot of them, so this is a composite plan and a variety of resources. The recently cut trees are small black and white symbolism, you see them over here. There are a lot of cut trees and shrubs in this area. These are the ones that Keith was taking about with John and the arborist, this is the result. We sent one of my associates out with a GPS unit and went through and located all the stumps that have been recently cut, marking the species that we could, otherwise its mostly hard wood or evergreens.

Commissioner Nappi interjected; let me get this straight, does this indicate the excessive cuts. Mr. Ruet responded this indicates the trees and shrubs that were cut. I'm avoiding that term. This shows all the cuts.

Everyone talking at once

Mr. Ruet Continued, the approved planting plan, there is an extensive planting plan for this site. There's an extensive planting plan along Ivy Brook, these all here are all approved planting all along this. There are a lot of approved plantings. What we did was I went back to find areas that I thought that where the cuttings had taken place, there wasn't really much re-planting already proposed, for example even though there were a couple of trees cut here there was already a pretty robust planting plan for this area.

The goal is to add more diversity and more coverage and also to repair some of the loss of what was there by the river. That was the focus of what we did, if you want more details then I can give you them. John has seen the earlier version of this and since then there has been a few more species added and a few more numbers added, I think you asked us to add some more trees along the river and some more trees and shrubs in this one area as well.

John Cook stated that regarding the approved plans that Mr. Ruet has mentioned and we have a copy in the Commission's file which is the colorized one, this was presented by the original landscape architect back for at that time known as Blue Heron Cove, subsequently changed to Shelton Cove so these plantings were part of that initial action of the Board. One of the things that staff would suggest is that it's understood that all those original plantings would still be implemented. That was their starting point of their subsequent changes. For a little additional background when they were mobilizing to initiate the cutting and pruning they believed they had the authorization to do and the right to do, in responding to that was the first version of the revised planting and then after discovery is when more trees were implemented. One of my exchanges with the land management

with the director, Keith Diorio in regards to one of the earlier versions of the plan was the area that clearly had some cutting that was not in any way, shape or form a potential hazard to the units. This is what makes this some kind of a hybrid because there was some that was envisioned of those trees that would lean over the units. But in that area 3 basically the barrier island none of those were near any location of the units and that's what I thought that was an area that was probably missed and they should focus more on that. It was either excessive trees that were cut, some were pines that were 18" in diameter while by a corporate perspective they were trying to get as much visual clarity for the future units and as this tree service planning evolved they were talking about cutting 6-12', the arborist was talking about cutting 6-10' above from the previous landowner had done in 2003-2012. Some were pretty close to that others as we saw in the pictures at the April meeting were in fact were quite a bit higher than 6-10' over the old cuts. It's through that evaluation that staff went through this with Assistant Corporation Counsel, hence the formality of the April 30 letter for the Commission's benefit to discuss it this evening.

Also in the April 30<sup>th</sup> of my letter I talked about the sizing because within that conservation restriction is some of the passages in those declarations it talks about the future successors and assigns being able to remove trees 2" in size or smaller, so that would be a tree type of specimen should be at least 2 ½ so there's be no misunderstanding later. That was one of my recommendations for that.

WCEO REPORT  
May 8, 2014

PERMIT- APPLICATION #14-06, WATERS EDGE of SHELTON LLC – 500 RIVER ROAD/41 FANNY STREET. Proposal to create a 14-unit multi-family development involving construction and grading within upland review area to Housatonic River.

- STATUS: 1. Clock starts April 10, 2014  
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PLANS: WATER'S EDGE OF SHELTON

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COMMENTS: The applicant's engineer has forwarded (2) copies of the presentation map to our office and one has been sent to City Engineer. A copy of his report is attached for review. Staff review indicates a small area of fill for parking and much larger areas of excavation along the level bench south of the existing building from approximately 2-feet in several locations to as much as 10-feet in the SW corner of the parcel for a retaining wall.

Staff reiterates the fourth paragraph from the April Comments in that any encroachments over and beyond the existing condition are a direct result of this particular site design and it is this design that limits the ability hold the existing line. The layout in similar fashion on the next parcel downstream of the adjacent property limited ability to maintain better buffers.

COMMENTS FROM APRIL: The proposal entails the construction of twelve new multi-family units and conversion of an existing single family into a 2-unit building along with a marina office addition to the building.

Six units along with parking and grading and the marina office are within the 100' upland review area of the Housatonic River. Underground infiltration is proposed with overflow discharge to the Housatonic River.

Recommend receipt for review, referral to City Engineer.

Though the site has an old existing building and pavement on it, staff suggests that the new buildings and pavement should be shifted so as to be no closer than the existing encroachments. The new encroachment and development is simply a product of this particular design and not of necessity.

If construction of new facilities is shifted back and designed accordingly the grass areas could then be maintained or planted to improve on the riparian condition along the Housatonic River.



**City of Shelton**  
Office of Inland Wetlands Commission  
54 Hill Street  
Shelton, CT 06484-3267

12-24

John R. Cook  
Wetland Coordinator  
203-924-1555 ext. 23  
Fax: 203-924-6980  
j.cook@cityofshelton.org

April 30, 2014

Keith Diorio  
Toll Brothers  
53 Church Hill Road  
Newtown, CT 06470

Re: I/W Permit #12-24, Shelton Cove: 560 River Road, Shelton, CT  
Excessive Cutting & Trimming Violation

Dear Mr. Diorio:

1. It appears to the Inland Wetlands Commission staff and representatives of the Conservation Commission excessive trimming and pruning of trees has taken place and further these agencies along with public inquiry, it also appears that unnecessary removal of specimens exceeding 2" in diameter occurred. In a telephone conversation with staff on March 12, 2014, you as the Land Development Manager for Toll Brothers, concurred there was apparent excessive work from previous outline summaries. Since the time of discovery efforts have proceeded to resolve the matter.
2. In response to Conservation Commission request to address the Inland Wetlands Commission, the Inland Wetlands Commission reviewed a series of their photographs and staff and their position was that a greater amount of cutting than anticipated occurred. Since the April meeting, discussion with Corporation Counsel and several meetings with the Assistant Corporation Counsel were held. The most recent of which took place this morning April 30, 2014. It is the recommendation of the Assistant Counsel the Inland Wetlands Commission has enforceable options available to it as to treating the work as violation of regulation and/or Conservation Restriction.
3. The limbing upward of evergreens exceeded that expressed in the Toll Brothers arborist's December 10, 2013 plan and Toll Brothers email summary of February 19, 2014. The effect of excessive limbing was expressed as a concern by I/W Commission staff in his October 11, 2013 email and letter dated January 16, 2014. Excessive limbing or pruning of evergreens may make them more susceptible to wind damage or overthrow or fungus attack. An evaluation by a licensed arborist is requested to evaluate this condition and as the Commission may warrant a request for a commitment from Toll or future successors to replace said trees prematurely lost to this work.
4. With this knowledge the Commission appreciates the prompt effort on the part of Toll Brothers to develop a remedy through its preparation of a landscape plan to supplement the original approved plan including trees and shrubs. This includes the survey of trimmed and cut stems and stumps as detailed in the Replanting Plan dated April 3, 2014 revised to April 7<sup>th</sup> 8<sup>th</sup>, and 17, 2014.

5. This office recommends all trees proposed shall be a minimum of 2.5" caliper. While this size in no way can replace mature or large trees in the near term they help maximize the re-establishment of riparian canopy for consistency with the intent of the Conservation Restriction and minimize inadvertent cutting by subsequent owners.

6. This office recognizes that some of the trees in the identified areas 1-3 were anticipated for removal due to hazard concerns. However, it is no longer possible to completely determine which of the tree removals were of this status by observing the stumps. Suffice to say that there are more stumps than the pictures of record seem to indicate as hazards. The cutting and pruning of native shrubs will rebound quickly and the supplemental shrubs will provide diversity presently lacking. It is also recognized much of the shrub layer was comprised with dense clumps of vines, poison ivy and multiflora rose.

7. This matter will be placed on the May 8, 2014 meeting of the Inland Wetlands Commission and your attendance is appreciated to affect a final resolution of restoration.

Sincerely,

John R. Cook, Wetlands Coordinator

CC: William A. Root, Milone & MacBroom, Inc. 99 Realty Drive Cheshire, CT 06410  
Inland Wetlands Commission  
Planning & Zoning Commission  
Conservation Commission

CERTIFIED MAIL #7010 0780 0002 0243 2109

12-24

**John Cook**

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**From:** Keith Diorio [kdiorio@tollbrothersinc.com]  
**Sent:** Thursday, May 01, 2014 5:04 PM  
**To:** j.cook@cityofshelton.org  
**Cc:** Jeff Meinke; Jack Lannamann; Dan Rossi; Dan Walton  
**Subject:** Shelton Cove - Conservation Area Replanting

John,

As we discussed earlier via telephone, we would be able to begin replanting in the Conservation Area within a few days (i.e. 3-4 days) of plan approval. Most of the material is standard species and sizes and we do not anticipate having difficulty procuring it.

Thanks again for your assistance with this matter -

Keith Diorio  
Land Development Manager  
Toll Brothers, Inc. - Connecticut Division  
53 Church Hill Road  
Newtown, CT 06470  
p. (203) 364-9300 x111  
f. (203) 364-9051



203-924-1555 ext 17  
Fax: 203-924-1136  
Email: shelton.eng@cityofshelton.org

**City of Shelton**  
Office of the City Engineer  
54 Hill Street  
Shelton, Connecticut 06484-3207

14-06

Robert F. Kulacz, P.E.  
City Engineer

Rimas J. Balsys  
Assistant City Engineer



May 1, 2014

John R. Cook  
Wetlands Coordinator  
City of Shelton  
54 Hill Street  
Shelton, CT 06484

Re: Water's Edge of Shelton, 500 River Road and 41 Fanny Street;  
1) Property Survey dated 2/14/14  
2) Existing Conditions and Demolition Plan dated 4/02/14  
3) Plan Sheets S1 through S5 all dated 4/02/14  
4) Plan Sheet CR1 and E1 both dated 4/02/14  
5) Detail Sheets D1 through D3 all dated 4/02/14  
6) Stormwater Management Plan dated April 2, 2014

Dear Mr. Cook:

This office has reviewed the above referenced application to re-development the two properties referenced above, by constructing a 14 unit common interest community. From a stormwater management and regulated activity perspective, we do not have any major concerns or reservations. The stormwater management plan is sound and substantially satisfies the requirements of Ordinance No. 854.

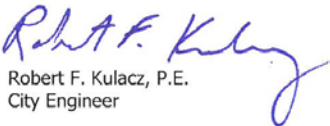
In regards to the development footprint, there is sufficient room on the parcels to shift units 1 through 5 further north so that there is no new construction or encroachment past the southerly edge of the current development on the site.

The following revisions to the site plan and details are recommended:

- The stormwater management plan and detail sheets shall be revised to include 4 foot deep sumps in all catch basins
- The footprint of the 12 new units shall be shifted to the north to maintain or increase the buffer area between the Housatonic River and the southerly edge of the existing development on both parcels.

Please note that this review report does not include comments regarding flood zone, sanitary sewer, access and other issues.

Very truly yours,

  
Robert F. Kulacz, P.E.  
City Engineer

cc: Richard D. Schultz, Planning & Zoning Administrator  
File: Water's Edge of Shelton - Site Plan File

Commissioner Nappi stated let me get this straight, we're determining excessive cut, you have no way of determining the 140 trees were cut, what's the extent of excessive number 1, and number 2 which ones were diseased and which ones were not and would have come down anyway, and 3 that they're submitting plans to make up that 140 to go along with the original plan. You're satisfied with that. John Cook replied I haven't seen this one, they have been upping the number of specimens over the last month and they have responded with the number we want and the location we want. Sitting here at the table I wouldn't be able to say yes or no, physically out on the site could something be shifted, certainly yes, in other words, sitting at this meeting whether they should go here or should be shifted here or 15' that way, I would not be able to say. Commissioner Nappi stated but he's replacing where the cuts were. John Cook responded yes.

Mr. Diorio replied because the plantings would have done be insanely minute dots where the replaced trees were going to be, we have zones so we could put the plants in the zone and then working with John or whomever you want to assign to supervise the placing of the plants because some might be closer to the water table and some might not. Commissioner Nappi asked what the timeline would be. Mr. Diorio responded we checked with some nurseries and we could be planting in 3-4 days. Commissioner Nappi asked how long would it take. Mr. Diorio possibly a week or two. Commissioner Nappi continued that in your letter you stated that Corporation Counsel stated that this could be considered a violation of regulations. John Cook stated correct, he did not compose that to a written document, he declined to do so, he stated it could be a violation of regulations or a violation of conservation restriction because even within the text of that conservation restriction while there were parameters that could be interpreted as giving corporate entities or successors and assigns the right to do cutting and trimming to create water views, there were also parameters in there that limited that the trees were not healthy or if they were of certain size they weren't to be cut if they were not a hazard. So also believed that an argument could be made hence the reason why the letter was phrased as an excessive cutting and trimming violation and was placed on the agenda.

Commissioner Nappi stated as long as it's understand that if we accept this then it resolves any violations that may have occurred. John Cook stated that any motion should be to consider that if this were accepted by the Board, would indeed be accepted by the Board would be to consider it as a resolution of what took place.

Commissioner Dunford asked if all the cutting was done. Mr. Ruet responded yes, there will be no more cutting done.

**Commissioner Nappi motioned to accept PERMIT #12-24, SHELTON COVE - 560 RIVER ROAD. Excessive cutting and trimming violation. Review of restoration plan with the resolution to any violations that may have occurred due to access of cutting and pruning based on the plans received dated today, May 8, 2014 and that our agent John Cook work with the developer concerning the placement of the planting. This should start within a reasonable amount of time. Commissioner Dunford second the motion.**

**A voice was taken; motion passed unanimously.**

John Cook stated that there is a letter that was received. When discovery took place of this work the permit was and is still valid, however in the course of securing individual building permits for such building as the project progresses, those endorsements were suspended in order to work on this matter, so they had submitted applications for 2 additional buildings, in this particular letter they are hoping to get the release of that suspension of endorsements pending Commission's compliance. That's what this letter is asking for is to allow staff to endorse the unit of the next building. Commissioner Nappi asked so from the original approval, there were 2 additional buildings put in. John Cook responded when a site plan subdivision commercial are approved by P&Z and Inland Wetlands Commission then once the approval for the permits of the regulated activity those are granted and there is a file and a valid permit. When they come in on a project or a housing application where there is individual buildings in lots, the Building Department zoning requires a building by building sign offs. Commissioner Nappi interjected, but there are no additional buildings to the original site plant. Mr. Cook stated that's correct.

John Cook continued, while this has been going on they have been continuing to work the site and they haven't been able to put down another foundation yet. Commissioner Nappi stated well we've resolved our issue with this so it shouldn't stop them from putting in any other foundation, unless they don't do the plantings and then we stop them.

Jeff Meineke  
Toll Brothers  
550 River Road  
Shelton, CT

I'm the Project Manager and with the building that we're trying to permit next is 7, 8 & 9 and that the placement of that foundation would have no impact good or bad on the planting plans and we would anticipate starting the replanting really almost immediately so it would be concurrent. It would have no impact at all.

Commissioner Nappi stated that if it's not going to affect our plans and they're going to start it at the same time I just seem hard pressed to see why we would stop them on the plantings.

The Commission decided to release the two buildings in question. Should there be an issue after these then the Commission reserves the right to not issue any more permits.

12-24



May 2, 2014

John Cook  
Wetlands Coordinator  
City of Shelton

Dear Mr. Cook,

Per our discussion yesterday afternoon regarding the issuing of new building permits at this time, I offer this letter.

While we work collectively to properly address the excessive pruning in the conservation area at Shelton Cove I would like to make the following points clear to you, the commission, and other concerned parties.

Toll Brothers is committed to providing a prompt and satisfactory resolution subject to the comments and requirements resulting from the upcoming meeting on May 8. The start of construction on the next building for units 7, 8, and 9 will have no impact on our ability to access the area, or our intention and willingness to promptly implement the replanting as directed.

It has always been in our best interest to have any work in the "view" areas complete prior to opening for sale to avoid any misrepresentation, or misunderstanding. This has not changed.

With our intentions being stated for the record, I would hope in the absence of any official violation you can release our current permit requests to Planning and Zoning for building permits.

Thank you for time and attention to this matter.

Sincerely,

Jeffrey R. Meineke  
Project Manager

Shelton Cove

CC. via email Keith Diorio Toll Brothers, Jack Lannamann Toll Brothers

**Commissioner Dunford motioned to allow permitting for the next 2 buildings (7, 8, 9, 17 & 18). Commissioner Nappi second the motion.**

**A voice vote was taken; motion passed unanimously.**

### **III-B. NEW BUSINESS**

1. APPLICATION #14-08, OFFICE BUILDINGS – 561 BRIDGEPORT AVENUE. Proposal to construct two small office buildings of 5,000 square feet each involving construction within a regulated area and grading and construction within upland review area.

Jim Swift  
Professional Engineer/Landscape Architect

We're here for an application for Bridgeport Avenue. Gary Knauff is here for any questions you may have for him. I'll go through this quickly because it's here for your review of the application.

This is a parcel that is a little less than 3 acres; it's in a wide industrial zone. This is located on the north side of Bridgeport Avenue. If you picture coming down from Walmart towards the trailer park, then there are office buildings then there is the last office building on the side of the road, we're right next to that last office building. Then you have the big Wells property that goes down. We're right next to the last office building on that side of Bridgeport Avenue.

As I say, we're adjoined by an office building on the east side. We do have wetlands on the parcel; we have a watercourse coming down the hill, definitely have good flow. I'm not sure if it's perennial it may be on some years but I think it dries up. We do have a wetlands associated with that. Towards the front of the property, we had an old excavation that took place, I'm not sure when but probably a few years ago where there was excavation on the hillside and the ground water has created wetlands there. It's had enough time to generate itself up as wetlands soils.

In 2004 the Commission saw a plan for a proposed office building on the site, a different theory than what we're going with, but this is the plan. You see the wetlands that were involved, the wetlands down in the front; we of course had them reflagged. Basically since this property is so steep going downhill towards Bridgeport Avenue, what we're doing is cutting into the hillside, and we're cutting so much we're even below the elevation.

#### **End Side 1, Tape 1**

This particular application saw a necessity to bring the disturbance limit line pretty much to the wetland limit line putting a little bit of disturbance on that wetlands.

Commissioner Nappi asked are you saying that was an approved application. Mr. Swift replied that was an approved application.

Mr. Swift continued our application is a bit different. We have 2 independent buildings, we're not parking underneath it, and we have parking in the front of course we are proposing full disturbance of that front wetland area. Then we're going to come up the hill to the parking lot accessing the upper levels of the buildings there. Our plan is farther away from wetlands up on this corner than the previous plan and we're a little closer to rock cuts to the wetlands but we're further away with the disturbance to wetlands which I'll explain in grading.

So again the disturbance of this wetland aside, the big concern and focus is the rock cut and the fact that it is a cut near the wetlands. It's justifiably a concern of this Commission. We have really good information on this rock cut for a couple of reasons, 1 the office building next door is right there, it's the same physical system that we're going to be utilizing. Also the cut that was made to form this also has a rock cut going around and it's very consistent with this, the bottom line is the ledge in this area runs in a slope sort of down towards Bridgeport Avenue, it's very consistent, it's really good solid rock, good rock for having a high confidence level that it's not going to crack or fracture where you don't expect it to. I would encourage any of the Commissioners to go take a drive back there and take a look at it. As you come in this area since there's new regulations for carbon transportation for grading and things like that, we will be deeper here on the adjacent office building and that's in section C. Let me go through the sections.

Section A, is this section. The wetland area in this spot is right in there. Because of what we can see on these areas I believe the overburden is on the 2' range. We're going to plan for 4' above the burden, to stabilize it we're going to need about 8' and that's how I arrived at my projected disturbance limit line. That's why I feel that we're going to have that room and we won't have to disturb the wetland. Coming to the back to section B, this is the grain of the rock going down there so while this is 4 on 1, this is shallower and that's because the grain of the rock runs like that. When you go up there and take a look at what's going on up here, you'll see that if we make a rock cut at 34 degrees it's going to be a nice, smooth rock cut going straight down. We have the same confidence that this is going to be the actual disturbance limit line in regards to that wetland. Having said that, we still are proposing prior to construction that we do some test borings just to make sure we know what we're dealing with.

Where the old application didn't have to go over it, we do need to deal with the new storm water ordinance that requires a couple of this of us. It requires that we find storm water detention for the 100 year storm; we're going to that with underground galleys. They give you some opportunity to get some water back to the ground although I don't depend on those hydraulic calculations. So the waters going to come down and be stored in this 4x4 galley system and then metered out and released through a pipe across Bridgeport Avenue. We're also going to have a vortex chamber leading into before those galleys for water quality as well. These are things that the City wide ordinance calls for.

Commissioner Nappi asked if a permit was needed to discharge to Bridgeport Avenue. Mr. Swift replied we're fine; it's less than 100 acres which is the DEEP limit. This is a State highway, so at some point I expect the State to ask if the pipe is big enough and then I'll have to deal with that with them. Commissioner Nappi stated that sometimes we'd like to have State approval before we approve applications. Mr. Swift stated you can but the issue with the State when you get into situations like this is the State encouraged permit for this kind of work, it's the State encroachment work, it's like a building permit. I can go to the State and ask for comments, I could do that but I can't get approval from the State until we have all the local approvals and we're actually applying for the encroachment permit because the contractor has to post a bond and insurance. So it's more like we make this application for this discharge, it's more like trying to get a building permit than an approval. We can request comments.

I think we compare favorably to the previous application in 2004 and I'll answer any questions that the Commission might have.

WCEO REPORT  
May 8, 2014

APPLICATION #14-08, OFFICE BUILDINGS – 561 BRIDGEPORT AVENUE.  
Proposal to construct two small office buildings of 5,000 square feet each involving construction within a regulated area and grading and construction within

upland review area. Proposal to construct single family dwelling involving driveway construction and grading across regulated area and construction within upland review area.

STATUS: 1. Clock starts May 8, 2014  
2. 65-day clock to decide action or schedule public hearing expires July 12, 2014

PLANS: PROPOSED COMMERCIAL BUILDING FOR GARY KNAUF

Site Plan	April 22, 2014	
Grading & Utility Plan		"
Soil Erosion Control Plan		"
Landscape Plan		"
Construction Details		"
Topographic Survey	March 21, 2014	

COMMENTS: The site was previously approved in 2004 to prepare a construction pad for a future building but no work ever took place. The current application is for the preparation of the pad as well as building construction. The overall site work envelope is a good bit smaller but severity of the overall grade drop is still significant. The wetland area that developed as a result of old excavation is proposed to be eliminated as it was in 2004.

Even with the smaller envelope some of the concerns established during that earlier review and some of the conditions may or may not be still a necessity. Staff prepared copies of those discussions and they are attached for reference.

Copies of the site plan have been forwarded to the City Engineer's office for any review and comment. Recommend receipt for review.

## INLAND/WETLANDS COMMISSION MAY 13, 2004

3. PERMIT-APPLICATION #04-13. KNAUF PROPERTY – 561 BRIDGEPORT AVENUE  
Proposal to create a site platform for office building construction involving wetland excavation and filling.  
Wayne Jacobsen, Professional Engineer  
Russ Slayback

Mr. Jacobsen: We were here last month and distributed a letter in responding to questions the Commission had asked at the prior meeting. We went through the items one at a time and we had thought the Commission was ready to act on the application. John had just received some new information and he wanted time to review it. I am at your disposal for what you require.

Mr. Cook: I do appreciate the Commission extending the application to review the final material. Reading from the WCEO Comments\*: At the April meeting the applicant provided a detailed analysis of the hydro geologic condition of the site. The geotechnical expert referred to the importance of controlled blasting to execute the work with limited impact to regulated resources. The applicant agreed to provide onsite monitoring to assure adherence to the intent of any authorizations. With this understanding staff would recommend the Commission condition the applicant retain the service of the geotechnical firm to monitor the blasting work with the goal to maintain the limited impacts as detailed in Mr. Slayback's April presentation. The need to provide a bond to cover the impact to the wetland in the event it is dried up due to blasting was also entered into the record. Other components of the plan staff believes were addressed to the Commission satisfaction at the April meeting.

Commissioner Ballaro: Where did Mr. Slayback come from? Who hired him?

Commissioner Zahornasky: The applicant hired him.

Mr. Jacobsen: Mr. Slayback is here this evening.

Mr. Slayback: I do have extra copies of my report. I think the primary concern this Commission was concerned about was whether blasting to create the platform for parking and the pedestal for the building will impact the wetland corridor. The wetland corridor is a floodplain of an intermittent stream. It has acquired wetland characteristics of the soils because of the periodic wetting, which stays pretty wet in the spring season, mostly. The bulk of my testimony was properly constructed blasting should not fracture the rock more than 10' from any drill hole that is drilled for the blasting. We discussed the project blasting with the contractor, Brennan Construction, and they fully understand the delicacy of the project and have agreed that a blasting monitoring consultant that I have worked with in the past, Doug Sims, be used for sensitive blasting. The one issue we left unresolved at the last meeting was how does the Commission assure itself that the blasting is conducted in the appropriate manner that has the appropriate controls. I am suggesting that an appropriate condition of an approval might be that you require a pre-construction meeting with the Fire Marshal (responsible for issuing the blasting permits), the wetlands enforcement officer, the zoning enforcement officer, the excavation contractor, the blaster (maybe a direct employee of Brennan, or an outside contractor if Brennan is not doing it directly), and the blast monitoring consultant(Doug Sims, Oxford). The idea for the pre-construction meeting is to set the ground rules, establish what the reporting will be and to make sure that everything is done you want it done.

Commissioner Szkola: Can we set bond on this?

Chairman DaSilva: We have done it in the past application where we request the City Engineer increase the bond that they would put in for Planning & Zoning by a specific amount that he feels necessary to deal with the wetlands issue.

Commissioner Szkola: That it would only be released if we sign off on it. Can we make that stipulation?

Mr. Cook: There are certain components that are wetland dependent and we have done that.

Mr. Jacobsen: One other request of the Commission was to do test holes. There was a way that we traversed the site and came up to access the area. A blast rig is a machine that is a lot more flexible in moving across the terrain than a backhoe. We are confident that if we can get a backhoe in there, we can get a blaster in there.

**Commissioner Szkola made a motion to approve application #04-13, with the understanding that the pre-construction meeting is to be held with the following participants: Fire Marshal (responsible for issuing the blasting permits), the wetlands enforcement officer, the zoning enforcement officer, the excavation contractor, the blaster (maybe a direct employee of Brennan, or an outside contractor if Brennan is not doing it directly), and the blast monitoring consultant (Doug Sims, Oxford). We do ask the City Engineer to increase the bond amount to cover the cost of wetland issues and that the bond is only released after being signed off by the Commission's authority. There is to be a blasting consultant present during the blasting. Commissioner Zahornasky seconded the motion. All were in favor, motion passed.**

Commissioner Beattie: Just refresh my memory; on the discharge of water into Wells Hollow, have we received all the specifications?

Mr. Cook: At the last meeting there were photographs submitted by the applicant of the outflow area of Wells Hollow Brook. The photos demonstrated that the discharge point was solid in its integrity.

**INLAND/WETLANDS COMMISSION APRIL 8, 2004**

7. PERMIT-APPLICATION #04-13. KNAUF PROPERTY – 561 BRIDGEPORT AVENUE. Proposal to create a site platform for office building construction involving wetland excavation and filling.  
Wayne Jacobsen, P.E., Spath-Bjorklund Associates  
Mr. Gary Knauf, Applicant

Mr. Jacobsen: I have several items to submit, the site plans revised to April 8, 2004, site photographs, a hydro geologic assessment, a letter from Old Route 8 Associates and a copy of the drainage study wetlands display plan.

This project was introduced at last month's meeting. We are looking to construct an office building, a pedestal building in the center of the site with a driveway that accesses Bridgeport Ave. To the south of us is undisturbed land. We are proposing a rock cut to create a pad for the building. The watercourse runs along the north side of the site, the west side of the site and along the southerly side discharges to a catch basin to the Wells Hollow Brook on the other side of the street. The letter to the Chairman covers the points that were discussed at the last meeting. I will use that as an outline of what I will discuss tonight. The first paragraph explains that these are items mentioned in the WCEO report.

The items we addressed are:

1. The location of the building and the rock cut on the adjacent property, 555 Bridgeport Ave., which are shown on our plans now.

Commissioner Szkola: Can you point out the building footprint?

Mr. Jacobsen highlighted the display map and detailed the rock cut.

2. Preparing an Exhibit showing the "Big Picture". Our "Drainage Study Wetlands Display Plan" is a composite of 6 of the City's Topographic Maps, overlain with the Assessor's Maps, and have, in color, indicated the wetland soils and watercourses for that area, as supplied by the State of CT Dept. of Environmental Protection.

Mr. Jacobsen explained the color-coding – wetland, muck soils, and watercourses – and details of the map showing the reference where the proposed building is and where the limit of the watershed is.

3. Concerns for the continued existence of the watercourse and wetland complex which flanks our westerly and southerly property lines following the proposed blasting on this site. We are submitting a Hydro geologic Assessment. We are also submitting pictures of the existing ledge cut on the neighboring property. We expect no adverse impact to the existing wetland corridor.

We were concerned by cutting the site that we were going to drain the water from the wetlands. We asked Russ Slayback from Leggette, Brashears & Graham to prepare a report. He is here tonight and will talk with you later. Based on the blasting program that we have for the site and the nature of the existing site we expect no adverse impact to the wetland corridor.

4. We had test holes dug on the subject property to establish the depth from the existing ground surface to ledge. We chose 6 test locations between the proposed limit of rock cut & the wetlands which flank the site's westerly and southerly boundaries. The depth to ledge assumed in the planning stages for this project was 4'. The actual depths measured in each of the test holes was: 1) 30", 2) 50", 3) 36", 4) 31", 5) 23", 6) 30".

The soil on top of the ledge is uniformly 2-4' across the site. It bore out what we expected to find.

5. The cumulative effects of not providing detention. We discussed this with the City Engineer and agree that detention is not necessary for this site, given its location in the lower reaches of the drainage area for the receiving waters of the Wells Hollow Brook and the Far Mill River. The minimal increase in flows due to this site's development are best allowed to proceed downstream before the peak flows arrive from the upstream areas.

We were looking at both the local stream and the larger river to make a determination of what impact this water would have on the whole system. As you pass through time and map water flowing it rises like a bell curve and goes back down. What we are doing by releasing the water immediately from our site and not detaining it, is we are putting a little blip in the rising part of the hydrograph so that the height of the hydrograph is where you get the flooding. We are getting our water in the rising leg of the hydro graph which doesn't have an impact on flooding. We have a situation where we are increasing the runoff because we have increase impervious areas but given the characteristic of the entire drainage area the best thing from an engineering perspective is to get the water out through the system before the bulk of the water from the watershed comes and both the Hollow Brook and the Far Mill River.

6. Evaluation of the channel across the street. We are submitting a picture of the head wall and stone paved channel across the street that feeds our site's runoff to the Wells Hollow Brook. It is in good condition, and should be maintained in its existing configuration. The outfall lies within the State's right-of-way, and the District III office will have the final say regarding any proposed work.

We are confident that it can take the increase in flow that we are proposing which is in terms of 1-3 cu. ft. per second in a 2-100 year storm.

7. The scale of the development. We have worked to establish a limit of disturbance which preserves the valuable wetland resources on the site while maximizing the commercial value of the site. Our site plan allows for good vehicular circulation on the site, a safe means of access, and the long-term preservation of the stream corridor.
8. The rotation of the development. We laid out the site in concert with the available upland orientation, which has its longitudinal axis from front to back. Our parking layout allows for on-site circulation with standard 90 degree parking stalls, and is efficient for emergency vehicle access and egress. We set the limits of the parking as far as possible to the north while keeping the grading within the confines of our property. Rotating the development reduces the available parking and eliminates the use of a portion of the uplands on the site. We feel that we struck a balance between the need to preserve the wetlands and the reasonable use of this commercial property.
9. Moving our development to the north would require a grading easement from the Old Route 8 Associates. We contacted them and received their reply that they would not grant slope rights.

Commissioner Szkola: On your grading it looks like it is around 207 for your parking lot and first floor, what is 555's?

Mr. Jacobsen: It is about 215 or 220 in the back. It is about a 10' differential.

Commissioner Szkola: Did you consider making it higher just so you don't have so much of a cut?

Mr. Jacobsen: Yes, because it costs money to cut rock. We came in and started at the existing elevation of Bridgeport Ave. at the centerline of the driveway. The state requires 25' at 3%. We honored that, then came up here at 12% climbing the driveway to get to climb up as quickly as you could in the early part and took the parking lot from this point to this point (shown) where there is a 207.1 contour and ran that at 7%. 7% is a design maximum for parking, so that when you open your door, it doesn't close on your leg. At the handicap parking the maximum is 2%.

10. Matching the grading on the adjacent parcel is impractical. Our driveway starts out at a lower elevation than that on the adjacent parcel, rises as quickly as good engineering allows, and maintains a 7 percent slope to the back of the site where the handicap access is located. These grades minimize the rock cut necessary to create the building platform. The front of our parking lot lies at elevation 194.5, while the adjacent lot lies at elevation 203+/- . This 10' differential results from the difference in elevation in Bridgeport Ave. where each of the driveways begin. The elevation difference between the two sites increases as one proceeds to the west, since they have a quickly rising driveway south of their building to get from the easterly lot to the westerly parking lot, and our site has a continually graded parking area. If we extended our site development closer to their property, there would be a 10-15' differential at the property line, our lot being lower than theirs.

11. Ground water recharge. The location we examined for installing galleries was near the front of the site since it is a function that should be accomplished downstream of the sand/oil separator, to limit the chances of polluting the ground water. At that point, the invert for the pipes, which are set based on necessary pipe coverage, are approximately 9' below grade. With the limited depth to ledge on this site, the galleries installed for the recharge of storm water would be into the ledge. Given the limited extent of the drainage area impacted by this development, ¼ of an acre, and the relatively close proximity of the receiving waters (just across Bridgeport Ave.), we feel that the lack of groundwater recharge is not consequential.

The sand/oil separator is a CDS unit. At the discharge we would put elbowed feeder pipes into the underground galleys to have a dead storage area that would recharge the groundwater. The elevation of the drainage pipe is relative to the surface of the earth. I am looking at minimizing the pitch on the pipe to 10%. You want to keep the velocity on concrete pipes to 10% or less. Because of the catch basins above and the coverage on the pipe and the invert for the pipe going out it would force these chambers to be about 9' underground. The ledge is about a foot in the front of the site. We have a situation if we put the

chambers in we would be putting them in rock cut and there would be no feed back to the ground water. We did look at it but can't do it.

Mr. Cook: Is that alternative in the plan package?

Mr. Jacobsen: I did not put it in but brought a spare package for you. It is labeled Alternate B.

12. Adding spot elevations and separating the Landscape Plan from the Erosion Control Plan, as requested by Mr. Cook, has been accomplished by moving the erosion controls to the site plan, and changing the title of the Erosion Control Plan to the Landscape Plan.
13. We added a 50' wetland offset line, in addition to the 25' offset line that appeared on our originally submitted plans.

The wetland in the front of the site was an excavated bottle pit which is a low value wetland and that is why we decided to develop through it. They went in and cut rock and put a drainage system in, but it has developed wetland soil characteristics over time.

This is a challenging lot to develop, requires a significant investment for site development costs, and has limitations imposed by the ledge. We preserved the wetland corridor, and have sited a commercial building with well-reasoned appurtenances. A good balance between the need to preserve wetlands and the need for economic development has been struck.

Very truly yours,

Wayne Jacobsen, PE

Russ Slayback – Leggette, Branshears & Graham, Trumbull, CT

Mr. Slayback: I have had extensive experience with projects that require blasting. I have submitted a copy of my resume with the report. The report starts out with a description of the hydrogeologic setting of the property, the soil, the groundwater, and the characteristics of the main wetland corridor that flows through the site. It is an intermittent stream and is flood-plained. It drains about 15 acres of fairly steep slopes covered by relatively impervious glacial till soils and bedrock that consists of granitic schist and granitic gneiss. It is relatively impermeable bedrock. It is a wetland because it drains an area of relatively impervious soils and steep slopes that comes into a more flat area and drains across to a flat area. Figure 1 in my report details this. That area today is soggy soils and has a vigorous watercourse flowing through it. It is an intermittent water course that dries up every year. As a consequence of that when the stream dries up the soils adjacent to it gradually dries up as well.

Commissioner Szkola: Does that area have any storage capacity that acts like a sponge?

Mr. Slayback: Very little and temporary. The soils today are very spongy underfoot. The soils are relatively thin. Wayne said you were interested in soil thickness. We put down 44 probes and we got depths to rock of 0.2' to 3'.8", which is good confirmation of what Mr. Knauf saw. Picture 2D shows some of the shallow ledge that is outcropping. Rock removal by blasting is the guts of my report. Bill Brennan will be the rock excavator on this property. He noted that you have to be careful because of the property next door plus the characteristics of schist and gneiss means you have to really work your way into it by learning how the rock behaves by starting out with small blasts. A well planned and a well executed blasting program should cause absolutely no rock breakage more than 10' into a finished face, and in most cases less than that. Think about the rock cuts you drive by every day where you can see the holes in the faces, the rock is not busted up, it is sheared off the way the blaster intended it to be. The top of the proposed rock cut is 22' from the edge of the wetland flood plain, near wetland flag #26. In the rear the closest place is 40' near wetland flag # 28 and the distance to the rear exceeds 60' to the stream. In conclusion, the present condition with the small rock excavation plus the conditions on the adjacent site where they have a rock that has been there a very long time you see very little seepage at the base of the slope. I don't think there is any reason that the rock removal for this development, whether blasting or not, will change the natural flow regime or the seasonal wetting and drying of the flood plain soils. The blasting will not cause fracturing of the rock anywhere near the wetland boundaries. I expect that the final rock faces will be essentially dry at most times and free of significant groundwater seepage. There will be traces at the bottoms of the slopes and you can see that today.

Mr. Cook: The green standpipes that are out there, adjacent to the wetland corridor, are they your installation?

Mr. Slayback: They are not ours. I did not see them.

Mr. Cook: There a lot of material that came in tonight and a number of items that Wayne hit on did respond to most of what was in my report. One thing that you mentioned in closing regarding a well planned and executed blasting program. How does one control that physically on the site to stay within the assurances that you have presented tonight? If it is not well planned and executed and it does not follow the intense drill holing that you mentioned for highway cuts, if that is not in control, I would suspect if they don't learn the rock as they go along and they say, we can go x amount of feet and lay in a charge that would be more effective in removing the rock faster, then the odds are that they would not be following the intent of your report, they are going to be moving earth. How are you going to control that in the field? The other was where the old cut is now, even though the machine went into do the test holes, it is small and it is wetland, so that little excavation that is of some vintage there is some seepage that has led to the formation of wetlands. That is seeping water out and is over 100' from a wetland. The machine should not have been dozing through there without authorization from the agency and how do you address the fact that you say there is a 30' cut and there is not going to be any seepage and its going to be a dry wall yet where we have a 15' wall we have seepage?

Mr. Jacobsen: Where we accessed the site, we did it at the request of the Commission. The Commission was aware of the steepness of the site and that was the only manner to get to the site. It was the only practical manner.

Mr. Cook: That being said, there should have been contact with the office before going out there.

Mr. Slayback: I don't think my testimony was that there would be no seepage. The degree of seepage would be the same extent that you see at 555 and as well as at the base of this site. The amount of water that is in that wetland and already showing signs of the mud drying up, that is largely runoff from this whole hillside that topples over that slope. I think that if you look at both slopes it is relatively dry. In the lower section of the slope, you can't quantify the water coming out, it's just wet. Blasting, how do you control it? I think the answer is the quality of the people you hire. I think Brennan is very experience and I felt he was thoroughly in tune with the things that have to be done at this site to make it safe and to eliminate any possible liability claims from neighbors. Mr. Brennan wants to do this blasting because he wants to use the rock and done so that he only has to do it once.

Mr. Cook: Several things have been addressed but I have to go through what was presented tonight. I still have some concerns regarding the pictures and where the topography is shown. I don't see a flat area of a parking lot, it only shows the contours.

Mr. Jacobsen: I did exactly what was requested. It showed the limits of the blasting and I showed the location of the building. The building was shown on the town profile. We did not topo the site. If you look at the grades of the site you can see the first floor of the building and this rises just above it and pitches to the back and drop a foot after you get to the back of the building and under the corner of the car(Shown in photo), is the catch basin. I submitted 4 pictures.

Commissioner Zahornasky: I think you have been more than thorough.

Mr. Knauf: You asked for a photo over an elevation. (Showed the drawing of the building). I received a variance for the height from zoning. I am willing and able to address all of your concerns, whether it be a consultant on the site for the rock or any other issues. We spent a lot of time analyzing this site before coming in here.

Commissioner Szkola: We need to give time to John and the City Engineer to digest all of this and discuss it at next month's meeting. We do have a concern about the wetland being dried up, but I think we can solve it by a surety bond and hold it for a year.

Mr. Knauf: No one is going to be more concerned with the blasting mechanism than I am with Bill Brennan. I don't want him to create problems with this site.

Commissioner Zahornasky: Let John review this and we will get together at next month's meeting.

Commissioner Nappi asked about the parking. Mr., Swift stated that the parking we are projecting 2 different uses of retail on the first floor and more of an office use on the second floor. So 4 per 1000 on the upper floor, and 5 per 1000 on the lower floor. We need 45 spaces and we have 46. So we're proposing 46 spaces.

As far as the blasting goes, like I said I've set up the blasting patterns and tops and bottoms of rock cut to match the rock cuts on both sides. I think we've got a really good handle on the top and the bottom of these rock cuts are going to be and how stable they are. We're going to do insurance on the test pits. I think it was the approval on the original approval to have someone oversee that.

Chairman Zahornasky stated that was a major discussion back in 2004 the blasting on the site with the danger of rock coming out of there and onto Route 8. I would make a suggestion that you review these and come back to us along the lines on you're going to make that happen as far as blasting.

2. APPLICATION #14-09, MCGINNIS PROPERTY – 41 BIRCHBANK ROAD.  
Proposal to create beach area along Housatonic River after-the-fact and deck  
within upland review area.

WCEO REPORT  
May 8, 2014

APPLICATION #14-09, MCGINNIS PROPERTY – 41 BIRCHBANK ROAD.  
Proposal to create a beach area along Housatonic River after-the-fact and deck  
within upland review area.

STATUS: 1. Clock starts May 8, 2014  
2. 65-day clock to decide action or schedule public hearing expires  
July 12, 2014

PLANS: IMPROVEMENT LOCATION SURVEY  
Lot 52 Birchbank – 41 Birchbank Road Dec. 11, 2013 rev. January 23, 2014

COMMENTS: There are two components to this application, one is the after-the-fact authorization for the beach area and the other is an application for deck construction within the upland review area.

The owner approached the office construct a new deck some time ago and he and after a review of maps and photos his current contractor were apprised of the fact that the beach work had never received permission from the Commission. The adjacent landowner did receive a permit to create a beach area and the scope of work expanded on poor advice of contractor of that time and/or adjacent landowner.

The owner has been working diligently with staff to bring the issue to closure. All fees have been paid and the goal is to receive proper authorization from the board for the prior work and receive proper authorization for the new deck.

John Cook stated that since speaking with Assistant Corporation Counsel Rous regarding timeline for regulated activity, Assistant Corporation Counsel stated that the Commission must wait 14 days after receipt before taking action. He also stated that a motion should be made accepting any new applications. He was also asked if the Commission can make an approval based on subject to 14 days from the meeting, and he wouldn't recommend it. It would be best to accept the application and vote on it at the next meeting.

John Cook stated that since the activity is done and the part that the Commission would be reviewing as a Board would be the beach area. The part would be done as staff normally, that would have been something that I would have done as Agent.

What this Commission would be approving would be the prior work done on the beach and then we would authorize staff to review the deck. John Cook stated then next month it would be on the agenda for the formality of making the decision for the beach area.

What this Commission doesn't want to do is encourage people to come here with the work already done.

**Commissioner Kawalautzki motioned to approve the prior work that was done to the beach area on APPLICATION #14-09, MCGINNIS PROPERTY – 41 BIRCHBANK ROAD. Proposal to create beach area along Housatonic River after-the-fact and deck within upland review area. Also on condition that staff will review the deck and issue permits according to his review. Commissioner Dunford second the motion.**

**A voice vote was taken; motion passed unanimously.**

**III-C. MISCELLANEOUS**

**1. APPLICATION #14-07, HOPKINS PROPERTY – 19 INDEPENDENCE DRIVE. Proposal to construct shed and fencing within upland review area.**

John Cook stated that they just got their CO last year, it's an interior lot, it's one that came in as agent review, no activity has taken place, and it's basically an island of rock surrounded by wetlands. They want to put up a shed and a fence. He wanted to secure his property. Because when it's near wetlands the Commission would like the applicant to use wither low fence so that wildlife can jump over while still signifying your property line but at the same time will not impede the flow of water.

It's going to be about of 3' fence and 6' fence by the pool. It's an island of ledge and drops down on both sides of the wetland area.

This application will be done by Agent Review.

**VI. MINUTES**

1. April 10, 2014

**Commissioner Dunford motioned to accept the minutes. Commissioner Kawalautzki second the motion.**

**A voice vote was taken; motion passed unanimously.**

**V. ADJOURNMENT**

**Commissioner Benanto motioned to adjourn. Commissioner Kawalautzki second the motion.**

**A voice vote was taken; motion passed unanimously.**

Chairman Zahornasky adjourned the Meeting of the Inland Wetlands Commission at 8:27 P.M.

Respectfully submitted,

***Sophia V. Belade***

Sophia V. Belade  
Clerk – Inland Wetlands

1 TAPE ON FILE IN TOWN CLERK'S OFFICE