

**Inland Wetlands & Watercourses Commission
(Remote) Regular Meeting
Wednesday, January 6, 2021, 7:00 p.m.
Town Hall, 45 South Main Street
Wallingford, CT 06492**

MINUTES

Chair James Vitali called this (Remote) Regular Meeting of the Wallingford Inland Wetlands & Watercourses Commission to order at 7:00 p.m. This meeting was publicly noticed and held entirely remotely. [A YouTube recording was produced and posted on the Wallingford Town Website by Government Access Television.]

A. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

B. ROLL CALL

PRESENT: Chair James Vitali, Secretary Nick Kern, Commissioner Deborah Phillips, Alternates Robert Simon, Aili McKeen and Jennifer Passaretti, and Environmental Planner Erin O'Hare

ABSENT: Commissioner Michael Caruso

There were eight persons in the remote audience plus all the speakers named below.

C. CONSIDERATION OF MINUTES

1. Regular Meeting (Remote), Dec. 2, 2020

MS. PHILLIPS: MOTION THAT THE MINUTES OF THE REGULAR MEETING OF DECEMBER 2, 2020, BE ACCEPTED AS SUBMITTED.

MR. SIMON: SECOND

VOTE: MR. KERN – YES; MS. PHILLIPS – YES; MR. SIMON – YES; MS. PASSARETTI – YES; MS. MCKEEN - YES; CHAIR VITALI – YES

D. OLD BUSINESS

1. #A20-7.1 / 5 & 21 Toelles Road & Wharton Brook – Pfizer Inc. – (soil remediation project)

Chair Vitali said, This is a soil remediation program. An outside consultant has been hired to work with Ms. O'Hare. Who will speak first?

Ms. O'Hare said, As I indicated in my Environmental Planner's Report e-mailed earlier tonight, the Peer Reviewer would have the Applicant speak first.

Mr. Lucas Hellerich, P.E., and Wetlands Specialist Mr. Kyle Apigian, both of Woodard and Curran in Middletown, appeared for the Applicant. Mr. Hellerich stated what was accomplished since the last meeting: Milone & MacBroom performed the Peer Review beginning on November 2, 2020, with a site walk and review of application materials; then they submitted a letter with 13 comments dated

November 13, 2020. We wrote a response letter with two attachments dated December 4th. Those were the Cut and Fill Analysis we performed, which demonstrates there will be no fill within the proposed limits, and we gave an Invasive Species Plan. Currently, in the wetland area proposed for remediation, almost 30% of that area is covered by invasive species growth. We propose to reduce that to 20% and then remove all of the soil to varying depths and remove coverage of invasives. Other comments from the Peer Review asked for soil sampling for macronutrients. We did that on November 24, and we submitted the laboratory analysis data to Milone & MacBroom, which they reviewed from our December 4 letter and they responded to in their letter of December 22. Their result was that we had satisfied seven of their 13 comments and six needed further discussion. Also, Milone & MacBroom provided two additional comments. Last week, we sent another letter responding to their comments of December 22 in which we responded to their seven comments and then we responded to the eighth comment in a letter this afternoon (received January 6th). To last week's letter, we attached several documents and some soil sampling laboratory data from November 24; we also provided a complete set of revised project drawings with all edits from the Peer Review process, bringing our drawings to the current state. Plus, we attached the Revised Invasive Species Management Plan.

Mr. Apigian, Wetlands Scientist, said, Our approach is to control invasive species here prior to, during excavation phase, and during the long-term monitoring phase after project completion. Previous, there were detailed evaluations of the site. For some invasives, we wanted to get additional information during the growing season. Also, we updated the long-term performance standard for invasive species from 20% down to 10% for allowable coverage, where this is judged desirable and remediation is consistent with State and Federal standards. The floodplain is surrounded with several types of invasive species, which will continue to enter the site and affect this project, even beyond it. Additionally, the area does occasionally flood, which means another way for invasive species to come in. We'll control and monitor invasive species during the project. Also, the seed mixture will help crowd those invasives out when they are established. Invasive species on the site will be treated, to decrease to a 10% level or less. In the December 22 letter, the Monitoring Plan has been referred to as a 10-year period. But the goal of this site is to meet ecological performance standards and to have a functioning, healthy ecological project there. On the monitoring period, we have a potential for a shorter monitoring period if the invasive species are controlled.

Mr. Hellerich said, Today we submitted a response letter addressing the December 22 final comment from Milone & MacBroom. And they provided another letter today with some additional analysis indicating that the Quinnipiac River backwater would not hydraulically affect the project. Perhaps Matt can speak to that. So we have addressed all comments provided by the Commission and in the Peer Review process. We did prepare a Comprehensive Contingency Plan for during flooding, and we provided an Invasive Species Plan to be used during the project. So we're ready to implement the project. We believe that the issues will improve the quality of the wetlands and the removing of the nickel-impacted soil as required by DEEP.

Chair Vitali asked, Would the Peer Reviewer speak?

Mr. Matthew Sanford, P.E. and Professional Wetlands Scientist/Registered Soils Scientist, from Milone & MacBroom in Cheshire, said, We were requested by the Town to do a third-party independent review for this property around Wharton Brook and for removal of nickel. We worked with Woodard and Curran, and they addressed all our comments to date. I believe we responded to the project as proposed. It was also reviewed by a Professional Engineer in our office. The first issue reviewed was how the project will impact the floodway in and around the Wharton Brook topography. And we demonstrated that the project is in compliance with the processes before you. We engaged a Licensed Land Surveyor to provide a topographical map and a Professional Engineer to do surface computa-

tions. Second, a question was raised about the floodplain at the Quinnipiac River, which seems in a 100-year storm has some backwater effect along Wharton Brook. So we looked at the FEMA studies and at the profiles. We found that the Quinnipiac River is not in the hydrological control of Wharton Brook in this area. But we did find two 60-inch cast-iron pipe culverts on a private property downstream that control the 100-year water surface elevations of this particular area of Wharton Brook.

Mr. Sanford continued: Other wetlands parameters also are key and critical. The first one is considering the types of soils to be used as replacement soils after excavation. The Environmental Planner had questioned the soil texture and chemistry. We found the soil is variable, from fine to medium sands to coarse to mucky soils. We looked at what macronutrients and organic content that are contained in them. Then we did analyses of the most important soils in establishing a wetland to support plant growth. Woodard and Curran provided information on soils, which will help formulate the types of soils to bring in for future plant growth. The pHs of existing soils out there range between 5 and 7, which is not typical of a New England wetlands soil. But that's what they should be consulting for in putting soils back. They found that the organic content was variable in the mucky soils and less in the finer soils. So the soil put back should have an organic content of 4% to 6%. The phosphorous levels ranged from 533 ppm to a kilogram. So we requested a range of 12 to 20 on phosphorus in the soils to be imported. On soils and vegetation, the planting plan is right for the area conditions. We saw in the field some white-tailed deer moving through the woodland that day. In many sites the deer find the young plants right away, so we recommended that they put anti-herbivory cages around the trees and shrubs that they put in.

Mr. Sanford continued: The last concern was the levels of invasive species. Woodard and Curran called for invasive species coverage of 10%, and we're in agreement at 10% or less. I do believe they will have a lower percentage. They also added some contingency measures that we requested for a species-level plan. They have a solid soil-importation plan and planting plan. So these erosion controls have been developed in accordance with DEEP guidelines and are sufficient to protect Wharton Brook and other wetlands.

Mr. Hellerich asked Mr. Sanford to repeat the phosphorus amount.

Ms. Sanford said, 12 to 20 milligrams per kilogram, so a range.

Chair Vitali asked for Commissioner questions.

Commissioner Kern had none.

Commissioner Passaretti said, The monitoring lasts the full 10 years, which meets benchmark. If it gets done earlier, would they notify the Environmental Planner's office that they are done monitoring?

Mr. Hellerich said, Yes. We'll provide regular reports which the Environmental Planner is copied on. So she will be notified.

Commissioners Phillips, McKeen, Simon and Chair Vitali had no questions.

Ms. O'Hare asked, Matt, I saw your letter about the backwater situation dated 12/23. I got it on 12/28 with a map on the back. My question is: You said that the constriction is by twin culverts owned by Ulbrich Steel, which abuts to the west. That's the control to the flooding. But the backwater is up Wharton Brook to the Ulbrich crossing, and then it doesn't go further?

Mr. Sanford said, It doesn't show on the FEMA profile, so there's no backwater of the Quinnipiac River at the site. There's backwater at the twin culverts., There is a 4.6-foot difference between the Quinnipiac and the culverts, so the actual control is change of elevation there.

Ms. O'Hare said, But people tell me that it is. I think the effect would stop at that Ulbrich crossing.

Mr. Sanford said, Not according to FEMA. They do not indicate backwater effects from the Quinnipiac. Yes, because of the difference of elevation of the culverts at that downstream site, it would stop the waters.

Ms. O'Hare said, Your report says to clean out the culverts from branches and tree parts. I understood that the Applicant has made an overture to Ulbrich Steel about this.

Mr. Hellerich: The Applicant wanted to wait until the permit is approved to approach them.

Ms. O'Hare said, Yes, if they are agreeable to it, right?

Mr. Hellerich said, Yes. I don't think it's a major undertaking.

Ms. O'Hare said, I'd ask Lucas or Matt to state how the application has been improved from August to now in terms of controls or possible erosion during the remediation process. If we have a flood, is there now anything changed in how the water proposal by the brook? Something needs to be turned in regarding water handling then, or not?

Mr. Sanford said because the water handling plan, specifically the cofferdam, has not been selected yet—usually the contractor selects that. And then that water control plan would be submitted to this Commission to affirm it's appropriate.

Mr. Hellerich said we would be agreeable to that.

Chair Vitali said are you agreeable to all the conditions that Erin O'Hare has recommended?

Ms. O'Hare said, They haven't seen these until now.

Chair Vitali said, How are we going to vote on it if they haven't seen the conditions of approval?

Ms. O'Hare said, These are essentially Matt Sanford's recommendations.

Mr. Hellerich said, Is there a way to read the conditions of approval?

Chair Vitali said, Those are supposed to be done at Town Hall.

Ms. O'Hare said, We couldn't do that. But we could take time now and with the Peer Review, who has suggested four bonds. But the Applicant has comments on those four bonds.

Mr. Hellerich said, The Applicant does not have an issue with the four bonds or the amounts. We're asking for specific metrics for assessing when those bonds are complete.

Chair Vitali said, You'll have 30 days to iron details out.

Mr. Hellerich said, Erin, what will be the process to review the Conditions of Approval?

Ms. O'Hare said, There's 13 on three pages, and tonight we just added water handling.

Chair Vitali asked, Do they have a copy of the Conditions that you wrote tonight? They need to get it.

Ms. O'Hare said, I e-mailed them at 5 o'clock tonight. We could do this if you want to continue.

Commissioner McKeen said, I can e-mail it right now to you. I'll ship it to you now.

Chair Vitali said, Can we put this on hold and then you'll talk at the end?

Mr. Hellerich said, Fair enough. Thank you.

This Application #A20-7.1 was held in abeyance and taken up later in the meeting.

2. #A20-9.2 / 2 Northrup Industrial Park Road East & 1117 Northrup Road – 1070 North Farms Road, LLC – (industrial development)

Chair Vitali asked Ms. O'Hare, Do you have a comment on this application?

Ms. O'Hare said, The Attorney for the project sent a letter asking that it be tabled.

Attorney Dennis Ceneviva said, That is the request. It will be ready for the next meeting.

Chair Vitali agreed, So this Application is continued to the February 3rd agenda.

3. #A20-10.2 / 1033 North Colony Road / Meetinghouse Brook – 7-Eleven, Inc. – (convenience store/gas station)

Ms. O'Hare indicated that there is no recent Environmental Planner's Report for this application.

Chair Vitali recognized Attorney Dennis Ceneviva of Meriden.

Attorney Ceneviva said, I am representing the Owner and the Applicant along with Mr. Josh Kline, Project Engineer, Stonefield Engineering & Design, and Mr. Mark Arnold, Soils Scientist and Wetland Engineer, Goddard Consulting. From before, two issues were addressed and Josh Kline is prepared to respond. It was noted that gas and oil don't separate from water. You asked how it could work, and we have ideas. Also, Commissioner Kern had asked about segregating some of the water to Meetinghouse Brook.

Mr. Kline said, I'll send my screen to show the main changes since last meeting. We want to address the comments in the order of how water would move downhill.

- 1) We introduced a fuel canopy with containment perimeter grooving to contain small spills.
- 2) We replaced the oil/water separator with a catch basin with a hood and sump. Within the catch basin we're proposing a passive skimmer, a material that floats in there to absorb floatables or hydrocarbons. It doesn't capture ethanol, but it does capture anything small floating in that sump.
- 3) We propose a gate shutoff valve for the pipe for runoff from the fuel area and the underground storage tank, to allow this drainage area to be completely shut off from the brook in the case of any type of spill or runoff.

4) We already proposed a water-quality unit, a hydrodynamic separator, with four chambers and a series of baffles. It's similar to an oil/water separator, but the intent of this water-quality unit is to separate solids, floatables, trash, and hydrocarbons—to trap those. It's to be relocated with a skimmer and the inlet.

5) So at this point, we have done two things: We raised the pipe coming from the fuel area to be 1.38 feet higher than the pipe coming out of the infiltration basin. So these are no longer at the same level. And we're connecting the fuel area farther downstream than the infiltration basin, but we also made sure that their inverts are separated, to prevent any backup from going through the trench drain or anywhere the fueling takes place.

Attorney Ceneviva said, Those are the responses. Josh, could you address your written responses dated 12/30, which is part of the record? I believe we're fairly far along in addressing the concerns of the Commission.

Chair Vitali said, I'd ask the Commission. But I'm disappointed that you didn't find a separator that would separate ethanol gasoline from water.

Commissioners McKeen, Passaretti, and Phillips had no comment.

Commissioner Simon asked, Is the drainage off the 7-Eleven building tied into the water separator, or is it changed to another location?

Mr. Kline said, The building connects directly to an infiltration basin and its runoff is infiltrated.

Commissioner Simon said, Is that tied together with the runoff from the pumps?

Mr. Kline said, Everything discharges at one point. But both areas are separated until they get to the last manhole structure before the discharge goes into the brook. We made sure that the invert—basically, where the pipe comes into the manhole for the infiltration basin is lower than the pipe that comes in for the fueling area. So there could be no backup.

Commissioner Simon said, So water coming off the building cannot back up into where the pumps water is stored in the catch basins?

Mr. Kline said, That's the intention.

Commissioner Kern asked, Do you have training and a maintenance program for the catch basin/sump that's going to contain this?

Mr. Kline said, Yes, we have a stormwater maintenance and operation agreement. Also, 7-Eleven uses a third-party consultant to inspect the fueling equipment monthly including the gate valve and catch basin.

Commissioner Kern asked, What if my wife pulls the pump off as she drives away, how much will spill? Will your catch basin or sump contain this?

Mr. Kline said, There's multiple controls. If a spill were detected, there is 24/7 monitoring of the alarm systems and systems in place. So, if someone is driving away, there's a break-away valve so there would be no fuel spill. There's also positive shutoffs. If the system would detect fuel in any of these sumps, the system would shut down and the third party would be notified and the environmental

consultant would go to the site. Staff is trained on first things: where the spill kit is, to pull the shutoff in the store, to notify the third party for the creation of a case, and to call 911.

Commissioner Kern asked, Is there a shutoff valve in the catch basin to break the two systems apart?

Mr. Kline said, There's a gate valve on site with directions on how a staff member would use that valve and close it. Then the environmental contractor would do response--they are trained on how to use it.

Commissioner Kern asked, Do you have this problem in other 7-Eleven gas stations, or is this the first design to do this?

Mr. Kline said, we have asked 7-Eleven teams management as well as in New England. This is not something they have been asked to do anywhere else; however they are working with the Town.

Commissioner Kern said, This is the first? So if a guy forgets to put the hose in and there's gasoline in it, is that what you're saying?

Mr. Kline said, No. There's a lot of safety and precautions in place. If there would be a spill, we have a containment perimeter that surrounds the canopy. Also, the gate valve could be closed. These systems are designed and monitored to operate at the highest level, not the state minimums. They have a third-party consultant monitoring the fueling 24/7. Staff is trained on how to operate during a spill event. They have a third-party inspector to check monthly the alarms, electronics, sumps and underground fuel tanks that are double-walled, lines are double-walled, and dispensers that are designed for a catastrophic event. There are emergency positive shut-offs for the system.

Commissioner Kern said, But if you had a spill, you're banking on the system to work by the person trained there?

Mr. Kline said, Yes, but we're not putting this to work just with person. There are a lot of things in place.

Commissioner Kern said, I'm all set. Thank you.

Chair Vitali asked if Ms. O'Hare has questions.

Ms. O'Hare said, I have two questions. One, Josh, you were going to look at how long those two areas on the slopes are: 1) for the sewer connection and 2) also for the stormwater down the slope to the river. How long will those trenches down this 50-foot slope be open?

Mr. Kline said, It depends on the amount of methods and shoring used. But I estimate one week for each.

Ms. O'Hare said, One week would be better, in case of storms. I also wrote about the Stormwater Maintenance and Management Operation Plan—you call it your Site Operations and Management Plan. You said it was in the Engineering report received November 13. Is that your last report?

Mr. Kline said, I believe it is the latest.

Ms. O'Hare said, Two, as a Condition of Approval, I'd ask you 1) to update that Plan to have the sub-surface infiltrating unit--instead of the surface separator and the oil/grit unit--and with all these things

that you just put in, with the skimmer and when it gets changed, etc. So to update all that and to have the subsurface infiltrating unit in it and all these prevention measure things you just put in, with the skimmer. 2) But don't put it in this bigger report—to update it, to have this freestanding so I can put it in the file. So if there's a problem out there in five years, I'll know who I can call as the Responsible Party then.

Mr. Kline said, I'll do that.

Ms. O'Hare said, So I'm ready to talk conditions, Mr. Chairman.

Chair Vitali said, Do they know what the bonds would be?

Ms. O'Hare said, I haven't discussed bonding. My three Conditions are: 1) A \$20,000 bond; 2) That the erosion controls are in place, and I inspect those before any further work on the site; 3) To have Josh Kline submit to me a freestanding Stormwater Management Maintenance Plan document (being their named Site Operations and Management Plan).

Commissioner Kern said, I'm not comfortable if the attendant is going to be responsible for everything if there's an emergency. The third party won't be there. Everything talked about is after-the-fact. It could be a freak accident. I've worked for a professional oil delivery and gasoline service company, and these things happen. I've been to spills. I don't think you've done anything.

Mr. Kline said, The client said they will be introducing an automatic shutoff valve linked to positive shutoff to the fuel system. So if the system were to fail, it would not be the responsibility of the attendant to close the valve. If a fuel line is pulled, it would automatically be shut off in an emergency and not be up to an attendant. So if someone were to pull away, or someone were to dispense....

Commissioner Kern asked, So is that part of what you're submitting? I'm sure if they're going to put in an automatic shutoff, I'm comfortable with that not being the responsibility of the attendant, and it would prevent gas going into Meetinghouse Brook.

Ms. O'Hare said, That would be an added Condition of Approval.

Chair Vitali said, It's not just clearance at the pumps but a larger amount that could be lost from a tanker, if this will be an additional Condition of Approval.

Chair Vitali called for a Motion regarding Significant Activity and then an action Motion to approve or deny.

MS. PHILLIPS: MOTION THAT THE APPLICATION #A20-10.2 / 1033 NORTH COLONY ROAD / MEETINGHOUSE BROOK – 7-ELEVEN, INC. BE DEEMED NOT A SIGNIFICANT ACTIVITY.

MR. SIMON: SECOND

VOTE: MR. KERN – YES; MS. PHILLIPS – YES; MR. SIMON – YES; MS. MCKEEN – YES; CHAIR VITALI – YES.

Chair Vitali asked, for the Motion, would you like to hear Ms. O'Hare's Conditions again? Ms. Phillips said, Yes.

Ms. O'Hare said this is an Erosion Control bond.

Ms. O'Hare said, It's: 1) Bond for \$20,000 for 2) Erosion Control measures are in place initially and the Environmental Planner inspects them before any further work onsite happens. 3) To submit a revised Stormwater Management Maintenance Plan with a Responsible Party and their contact number with all the recent improvements to the site plan reflected in the Maintenance plan, item by item; and 4) That the automatic shut-off valve would be added to the plan.

MS. PHILLIPS: MOTION THAT APPLICATION #A20-10.2 / 1033 NORTH COLONY ROAD / MEETINGHOUSE BROOK – 7-ELEVEN, INC. BE APPROVED WITH THE FOUR CONDITIONS OF APPROVAL:

1) A \$20,000 EROSION CONTROL BOND;

2) EROSION CONTROLS IN PLACE WITH INSPECTION BY THE ENVIRONMENTAL PLANNER BEFORE WORK IS PERFORMED;

3) TO SUBMIT A FREESTANDING STORMWATER MANAGEMENT DOCUMENT WITH THE CHANGES DISCUSSED TONIGHT AND ALL THE UPDATES, WITH THE RESPONSIBLE PARTY AND THEIR PHONE NUMBER INCLUDED;

4) THAT THE AUTOMATIC SHUT-OFF VALVE IS IN THE PLAN.

MR. SIMON: SECOND

In discussion, Ms. O'Hare asked to add that the Environmental Planner would inspect for the erosion controls in Condition #2, and Ms. Phillips added this language above.

VOTE: COMMISSIONER KERN – YES; COMMISSIONER PHILLIPS – YES; COMMISSIONER SIMON – YES; COMMISSIONER MCKEEN – YES; CHAIR VITALI – YES

4. #A20-11.1 / Northford Road Bridge / Muddy River – Alison Kapushinski, P.E., Town Engineer – (bridge reconstruction)

Ms. O'Hare indicated that the Environmental Planner's Report for this Northford Road Bridge / Muddy River dated Jan. 6, 2021, was sent to the Commissioners, the Town Engineer, and the Applicant earlier today.

Town Engineer Ms. Alison Kapushinski stated that the Town requested Mr. John Wengell, P.E., WMC Consulting Engineers, to design this bridge reconstruction over the Muddy River.

Mr. Wengell said, The Town will be replacing the Northford Road Bridge (#04382) over the Muddy River, southeast of the central part of Town. Mackenzie Reservoir is just upstream. This is an aerial view. Various photos are shown here. For the existing bridge, the DOT inspection computation says there are two years' life remaining. It was built in 1938. Overall, it requires high-priority corrective action. It's safe but warrants replacing.

Mr. Wengell said, We received a DEEP report in 2020 with environmental considerations. It will not significantly affect fisheries or habitat. In-stream activities beginning in 2002 shall be limited to June 1 through September 30. Fisheries enhancements will be included and with a rock vane installation. It is in a FEMA flood zone. So we have to coordinate with DEEP. There are two species of concern that were found, and we have to hire a wildlife biologist. No vehicles or construction can be in the area of species. No work between November 1 and April 1. Work would be done from April 1 to September 30 only. Town, Army Corps of Engineers and DEEP permits will all apply. For the proposed roadway: yellow is new pavement; green is fill areas. Brown areas will be removed. There are no known contaminated soils and no hazardous materials. We'll do a 40-foot clear span deck unit, raised two feet, with two 12-foot lanes and two 2-foot-plus shoulders. Disturbed areas will be restored on completion. It's in a FEMA Floodway, and one known plant species of concern has been identified. We have to construct new abutments and wingwalls, install temporary water handling cofferdams. Then remove existing abutments and wingwalls and later install toe boulders around the channel and grading limits and rounded riprap on the new embankments. Water flow will be maintained at all times. We will reinstate the streambed material. The design is for a two-year project. There is about 9,200 square feet of Upland Review Area impacts. We have a Native Plantings Plan with a conservation mix.

Chair Vitali asked for Commissioners' questions.

Commissioner Simon said, You must have stockpiling--where?

Mr. Wengell said, In the parking area and on the road edge and a construction trailer positioned upstream.

Commissioner Phillips said she is all set. Commissioners Passaretti and Kern agreed.

Chair Vitali said, I found it interesting and informative. For eight months, is that how long the road will be down?

Mr. Wengell said, Yes.

Ms. O'Hare said, I went out there. My Environmental Planner's Report is in your December 31 packet. And my nine Conditions of Approval were e-mailed to everyone tonight, including to the Town Engineer, who shared them with the engineer. I have 10 Conditions, with #10 being to add a Planting Plan of Native Plants. Also, I said the Applicant will confirm the dates of 1) No in-stream work from November 1 to April 1; and 2) Unconfined activities have to occur between June 1 and September 30.

Mr. Wengell said, Right.

Ms. O'Hare said, So no installation activities between November 1 and April 1?

Mr. Wengell said, Correct.

Ms. O'Hare said, And if you're doing unconfined activities?

Mr. Wengell said, No, we'll confine all of our activities. But it still needs to be on the contract that the contractor's work would comply with all the DEEP permits.

Ms. O'Hare said, That's OK.

Chair Vitali called for a Motion.

MS. PHILLIPS: MOTION THAT APPLICATION #A20-11.1 – NORTHFORD ROAD BRIDGE – (BRIDGE RECONSTRUCTION) BE DEEMED NOT A SIGNIFICANT ACTIVITY.

MR. SIMON: SECOND

VOTE: MR. KERN - YES; MS. PHILLIPS – YES; MR. SIMON – YES; MS. PASSARETTI – YES; CHAIR VITALI – YES

MS. PHILLIPS: MOTION THAT APPLICATION #A20-11.1 – NORTHFORD ROAD BRIDGE - (BRIDGE RECONSTRUCTION) BE APPROVED AS SUBMITTED WITH THE TEN CONDITIONS OF APPROVAL, NINE OF WHICH ARE IN THE ENVIRONMENTAL PLANNER’S REPORT OF JANUARY 6, AND THE 10TH CONDITION IS THAT A PLANTING PLAN WITH NATIVE PLANTS WILL BE SUBMITTED.

MR. SIMON: SECOND

VOTE: MR. KERN – YES; MS. PHILLIPS -YES; MR. SIMON – YES; MS. PASSARETTI – YES; CHAIR VITALI – YES

5. #A20-11.2 / South Turnpike Road Bridge / Mansion Road Brook – Alison Kapushinski, P.E., Town Engineer - (bridge rehabilitation)

Ms. O’Hare indicated an Environmental Planner’s Report for South Turnpike Road Bridge / Mansion Road Brook, dated Jan. 6, 2021, was sent to the Commissioners and the Applicant today.

Appearing were Town Engineer Ms. Kapushinski and Mr. Keegan Elder, P.E., of WMC Consulting Engineers.

Mr. Elder said, This is for rehabilitation of the South Turnpike bridge over Mansion Road Brook. It goes west to east toward Wilbur Cross Parkway and the river. Both culverts are 39 feet long under the roadway. The east culvert in poor condition and in need of repair. This is an upstream view. There are spalling repairs and other repairs to be done. This is in the FEMA Flood Zone. On this Existing Conditions map the red dashed line is the watercourse upstream and downstream. We propose to line these culverts and patch the wing walls, one culvert at a time, by a machine that sprays 1”-thick fiber-reinforced concrete. Large boulders and riprap near the outlets will be placed to alleviate the undermining that has gone on and to protect the outfall. Additionally, we were recommended to put a rock vane downstream of the outlet. The watercourse impact is about 725 square feet temporarily but 1,345 square feet permanently. The wetland impacts are 975 square feet temporarily but 630 square feet permanently. There’s temporary access both downstream and upstream to do the contract work. The green here marks the watercourse impacts. We are creating a downstream pool to provide additional habitat. Permanent wetland impacts are shown in blue. Upland impacts are shown in red. We will have temporary access roads for traffic and reseed those later. There will be temporary cofferdams in the center of the watercourse for water diversion plus temporary Erosion Control management. Work on the roadway surface only involves redoing the guardrail. Impacts to wetlands and to the Upland Review Area are shown. We will use beveled edges on the inlets to help water flow through and to stop erosion at the culvert. Floodplain impacts will be in the downstream pool, where we increased the

area of the pool at this cut. The Staging Plan will maintain the flow, and cofferdams will be removed at the end of the project. We researched the Connecticut Natural Diversity Database and found best management practices. Restoration of the land will be with a wetlands seed mix. The state said there are no species of concern here. Any unconfined in-stream activity within the brook will be restricted to from June 1 to September 30. Permits will be from the Army Corps of Engineers, DEEP, and the Town IWWC.

Chair Vitali had no questions. Most Commissioners had no questions.

Commissioner Kern said, I think the culvert was undersized. Water backs up on the west side and runs through at a greater speed. Should it be larger? Doesn't it back up on the side of Mansion Road when it rains?

Mr. Elder said, We are not replacing it. We are doing this on the inside of the existing structure. It's to conform to the 100-year design storm.

Commissioner Kern said, OK.

Chair Vitali asked, I know the velocity is high. Seems to be very little impact to the wetlands.

Mr. Elder said, This gives more life to the bridge and takes care of Town needs.

Ms. O'Hare said, The Environmental Planner's comments went out in your December 31 packet. The Town Engineer, WMC, and we worked together to streamline this project. Do you have any unconfined in-stream activities proposed?

Mr. Elder said, We do not.

Ms. O'Hare said, So cross out my Condition #2.

Ms. Kapushinski said, That's great.

Ms. O'Hare said, So there are just two conditions.

MS. PHILLIPS: MOTION TO APPROVE APPLICATION #A20-11.2 – SOUTH TURNPIKE ROAD BRIDGE / MANSION ROAD BROOK BE CONSIDERED NOT A SIGNIFICANT ACTIVITY.

MR. SIMON: SECOND

VOTE: MS. MCKEEN – YES; MR. SIMON – YES; MS. PHILLIPS – YES; MR. KERN - YES; CHAIR VITALI – YES

MS. PHILLIPS: MOTION THAT APPLICATION #A20-11.2 / SOUTH TURNPIKE ROAD BRIDGE / MANSION ROAD BROOK BE APPROVED AS SUBMITTED WITH TWO CONDITIONS OF APPROVAL, #2 AND #3, THAT ARE IN THE ENVIRONMENTAL PLANNER'S REPORT OF 1/6/21.

MR. SIMON: SECOND

VOTE: MS. MCKEEN – YES; MR. SIMON – YES; MS. PHILLIPS – YES; MR. KERN – YES; CHAIR VITALI – YES

6. #A20-12.1 / 932 Northrup Road – Proton International, Inc. – (medical center)

Ms. O’Hare indicated the memorandum from Erik Krueger, P.E., Senior Engineer, Water and Sewer Divisions, to Erin O’Hare, Environmental Planner, dated January 5, 2021, received by the Commissioners this evening, and a letter to Attorney James Loughlin on December 22, 2020. The Environmental Planner’s Report along with Town Engineer Alison Kapushinski’s comments—all went out in the December 31, 2020 packet to the Commissioners. The Tighe & Bond comments were received today, January 6, 2021, along with revised drawings and a Maintenance and Inspection Plan.

Appearing for the Applicant was Attorney Jim Loughlin of Wallingford.

Attorney Loughlin said, This is for a state-of-the-art radiation therapy medical center. It uses heavier-matter protons for surgery. They have partnerships with Yale New Haven Health and Hartford Healthcare. The property is on the corner of I-91 and Route 68 by the Marriott. Peter Carbone of Proton International is on this remote meeting. Also with us are Mr. Andrew P. White of Tighe & Bond Engineers along with Ms. Raina Voloneki, Mr. Jim Altman, L.E.P., and Mr. James Taeren, L.E.P.

Attorney Loughlin continued: This is for a 20,000-square-foot development on almost 12 acres. We are applying with a parking variance for a reduction of the area to be used. We responded to Ms. O’Hare’s questions, and my answers were provided in her report. We have no objection to the conditions at the end of her report.

Mr. White, Civil Engineer, Tighe & Bond, gave the wetlands presentation. The site is west of I-91, north of Route 68 on Northrup Road. There are 11.79 acres on the north-to-south ridgeline. Ninety percent of the site drains to a culvert at the southern property line. A manmade drainage swale, north to south, takes drainage to basins on Northrup Road. The building is 27,812 square feet, and the footprint is 18,000 square feet. The site has 74,363 square feet, with access off Northrup Road. Development is at the southern end of the site. Our site impact is about 4.8 acres by the building, parking and grading. Stormwater management is onsite per Town and State stormwater quality standards. It is in the Watershed Protection District, coordinated with the Town to provide sand filters and treatment for our stormwater flows. Ninety percent of site water goes to the 24-inch culvert at the southern end. A manmade drainage swale we’re proposing to intercept with our development and relocate it in a culvert to go under the driveway and then daylight it for 100 feet. Parking lot flows have sand filters and, with the roof drainage, will go to low-grade infiltration. So we have a reduction in peak flow and volume from the site. For erosion controls, there is two-phase implementation of flows. The active drainage swale takes runoff during rainstorms. The construction entrance will be off Northrup Road with a timber mat crossing of the drainage swale. We’ll strip and stockpile existing soil on site. We provide two sediment basins to control sediment. We propose haybale check dams used before the culvert at the south going off the property. One sedimentation trap will be decommissioned when the foundation is installed; the second sedimentation trap will be until the completion of construction. We meet Town standards for stormwater compliance, 2004 State standards for stormwater, and 2002 standards for soil and erosion control.

Chair Vitali asked for questions. There were no questions from Commissioners Simon, Passaretti, McKeen, and Phillips.

Commissioner Kern asked, Is the northern part of the property all ledge? Have you done any soil testing there?

Mr. White said, I think the northern part is going to remain undeveloped, to remain forested. Ledge is common throughout the site, typically 6 to 8 feet deep. Sometimes very deep, but we didn't find any in our test pits.

Commissioner Kern asked, Will you be doing blasting out there?

Mr. White said, Maybe the hammering of rock for the lowest portion of our foundation. That's being evaluated. But there's some weathered rock sitting on top of solid bedrock, to scrape off.

Commissioner Kern asked, Are there any problems with installing your storm drainage and piping?

Mr. White said, No.

Chair Vitali asked, Weathered? Is it red rock or blue rock?

Mr. White said, The weathered is partially fractured, but it can be excavated and hauled away.

Chair Vitali said, I agree.

Ms. O'Hare said, My Environmental Planner's Report of 12/31/20 went out in the New Year's Eve packet. I pointed out about the invasive plant species control. Do you have a program?

Mr. White said, Correct. There was one comment as to having trees and shrubs for the understory, and we noted that there will be a three-year Maintenance and Removal Plan for invasive plant species. We put it on our Landscaping Plan.

Ms. O'Hare said, I had suggested five Conditions of Approval. You have seen these, Andrew?

Mr. White said, Yes. We do not have a problem with Water & Sewer comments.

Ms. O'Hare said, Also, Water & Sewer had asked for their conditions to be included with ours.

Ms. O'Hare said, Condition #4 is our standard Erosion Control wording, that I have to inspect it. But in Condition #5, I wrote: "During the construction phase, the person responsible for erosion control plan on the worksite should conduct daily monitoring of the erosion control area and the Marriott's 24" RCP area.

Ms. O'Hare said, I didn't put a bonding figure, Mr. Chairman.

Chair Vitali said, I think, the seeding and plantings have some value. As to the swale, I don't think that is of much value. So I think between \$5,000 and \$10,000? Nick?

Commissioner Kern said, I think \$10,000 would cover the whole site.

Chair Vitali agreed.

Ms. O'Hare said, That would be in the first Condition of Approval. I had sent out the Town Engineer's comments of December 30.

Mr. White said, We responded to those comments and to those sent by Engineering.

Ms. O'Hare asked, And do you have a copy of the Water Division's comments, which require a Certificate of Approval?

Mr. White said, Yes, the Water & Sewer Conditions.

Ms. O'Hare said, In my Condition #3 is their standard Water & Sewer control conditions be included in this approval. Then in #5, during construction there are concerns with brook relocation flow and consequences which are material, and specific erosion controls for what may leave the site and monitoring other storm events. This is critical. You don't want dirty water leaving the site because it's somebody else's property.

Mr. White said, I do not have a problem with that. Mr. Krueger wrote about that in his water inspection.

Chair Vitali called for a Motion on Significance of this Application.

MS. PHILLIPS: MOTION THAT APPLICATION #A20-12.1 / 932 NORTHRUP ROAD – PROTON INTERNATIONAL, INC. – (MEDICAL CENTER) BE DEEMED NOT A SIGNIFICANT ACTIVITY.

MR. SIMON: SECOND

VOTE: MR. KERN – YES; MS. PHILLIPS – YES; MR. SIMON – YES; MS. PASSARETTI – YES; CHAIR VITALI – YES

Chair Vitali called for a Motion on the Application.

MS. PHILLIPS: MOTION THAT APPLICATION #A20-12.1 / 932 NORTHRUP ROAD – PROTON INTERNATIONAL, INC. – (MEDICAL CENTER) BE APPROVED AS SUBMITTED WITH THE FIVE CONDITIONS OF APPROVAL IN THE ENVIRONMENTAL PLANNER'S REPORT OF 12/31/2020, WHICH INCLUDES A BOND OF \$10,000.

MR. SIMON: SECOND

VOTE: MR. KERN – YES; MS. PHILLIPS – YES; MR. SIMON – YES; MS. PASSARETTI – YES; CHAIR VITALI – YES

Chair Vitali asked to return to agenda item D.1.

D. OLD BUSINESS

- 1. #A20-7.1 / 5 & 21 Toelles Road & Wharton Brook – Pfizer Inc. – (soil remediation project)**

Chair Vitali asked Mr. Hellerich to rejoin the meeting and respond regarding suggested conditions.

Mr. Hellerich said, Our team reviewed the Conditions of Approval that were sent. We made some minor changes to reflect the discussion tonight. I can go through those. I sent back a marked-up version and a clean version as well. And three Conditions have been already satisfied; we'd recommend removing those.

Chair Vitali said, It starts with 13 conditions—12 plus extras. #1, You're fine with that. #2?

Mr. Hellerich said, Yes. On #2 for the proposed revision, after it says, "North Haven and Wallingford" it should say, "An attempt shall be made to clear existing stream debris." because we have to approach the other property owners.

Ms. O'Hare said, The Peer Reviewer was adamant that that had to be cleared away. They suggested that the Town could direct Ulbrich to clear their culverts.

Chair Vitali said, I think it should be stated that the Applicant should go to Ulbrich. Then the Town.

Mr. Hellerich said, After "Wallingford." to add parentheses and then to say ("An attempt shall be made to clear existing . . .") And for #3, Matt Sanford summarized the data that we submitted on December 29. So that comes out.

Ms. O'Hare said, I agree that that one comes out, so #3 is deleted.

Mr. Hellerich said, For #4 we're fine with that. Also, #5 is OK. In #6 to reflect the discussion, we thought that the words "ten years of" should be removed and to say, "comparison during the post-remediation monitoring."

Chair Vitali accepted that change for #6.

Mr. Hellerich said, For #7 we discussed 10% as the number—so to remove "5%" and to say, "no more than 10% during the monitoring period." Matt Sanford agreed to that. So it would remove the 10 -years as well.

Ms. O'Hare said, It said "10 years" before—now you're backing off?

Mr. Hellerich said: On the Application materials it says, "up to 10 years". But we have to meet certain metrics, such as Kyle described before, such as invasive species control, stabilization of the site, and establishment of wetland plants.

Ms. O'Hare said, So if you prove that you're doing a great job, you don't have to go the 10 years?

Mr. Hellerich said, Right.

Chair Vitali said, With the bond amounts involved here. So #7 eliminates the 5% and the 10-year number?

Mr. Hellerich said, Yes. On #8 we suggest at the end that it says, "and/or deer fencing installed around the restoration area." We included in the plans last week a deer fencing, but also to leave a buffer so the deer could travel along Wharton Brook. So outside the deer fencing near Wharton Brook we'd install deer cages over the plants.

Chair Vitali said, Do you believe fencing is the right material to have with it being a floodplain? Vegetation is going to get hung on the fence. It will take a lot of stress.

Mr. Hellerich said, We included a note that “The fencing has to be maintained during the growing season,” at least during the first growing season until plants are established. It’s 7 ½- or 8-foot fence.

Chair Vitali asked, Is it a wire fence? In a flood, it could be dragged down the river and farther.

Mr. Hellerich said, We’d maintain the plastic mesh fence to be staked in.

Chair Vitali said, I’m disagreeing. What are the deer cages?

Mr. Hellerich said, About 7 to 8 feet high, wire with a top, to be around the new plants that we’re planting. Hundreds of plants with cages didn’t seem practical.

Commissioner Kern asked, Don’t they have a spray for the plants?

Commissioner McKeen explained about deer fencing and cattle cages.

Chair Vitali said, so what do you recommend?

Commissioner McKeen said, There’s pellets or “Deer Scram” which lasts about three months. You scatter it around to trigger a warning to deer that they need to stay out. But it might get washed away in a major rain.

Chair Vitali said, What do you think, Lucas?

Mr. Hellerich said, I think this is a reasonable approach, and we could incorporate that into an application plan to apply deer repellent prior to construction.

Commissioner McKeen said, Wire cages, 10’ x 10’, could be put over areas.

Chair Vitali said, So in #8 we need to say, “The Wetland Restoration Plan to be protected from the deer in some manner.”--without specifying.

Commissioner Kern said, In the apple orchards, they spray something that doesn’t harm the bush or build up. Someone could spray it onto the bush from a backpack. I’m opposed to the wire fence.

Ms. O’Hare said, So for #8, can we word that “Deer control with chemical solutions or in some manner.”

Mr. Hellerich accepted this wording for #8.

Mr. Hellerich said, On #9 we included a buffer of 20 feet in the revised Invasive Species Plan last week, so we’d ask to remove this condition.

Ms. O’Hare said, OK, it’s in there. (So Condition #9 was deleted.)

Mr. Hellerich said, On #10, that’s a note already on the plans. (Condition #10 was deleted.) On #11, he said they have no issue with that. So #11 stays. Regarding #12 about bonds, I wrote about those in my letter to Ms. O’Hare today.

Ms. O'Hare said, in #12, Mr. Hellerich wrote about metrics for the bond. But Mr. Hellerich wants the \$33,000 bond to expire at a certain point where he proves that they've met the metrics.

Mr. Hellerich said, That's the idea. If the site soils have been stabilized and we meet metrics, then that bond would have been satisfied. For a., Sedimentation and erosion control bond, it looks like "several seasons," could that metric be reworded?

Commissioner Phillips asked for clarification.

Ms. O'Hare said, To say that the bonds—to have those expire not at the first but the "third post-restoration growing season". So under a., the \$33,000 bond, to change to a point where the bonds are met and they expire. So to change the italics from "first" to "third" to say, "*following the third post-restoration growing season.*" And you'd cross out the words "applicant's suggested metrics", and it would just say, "*Satisfactory compliance*".

Mr. Hellerich said, That makes sense.

Commissioner Phillips said, O.K.

Mr. Hellerich said, For part b., Wetlands plantings bond, would that be changed to "*the third post-restoration growing season*"?

Ms. O'Hare said, Yes.

Chair Vitali said, I don't think there were any comments on part c. or part d. We have been through this application. There's both Conditions of Approval and modifications. Comments? None. Does anybody have a Motion?

MS. PHILLIPS: MOTION THAT APPLICATION #A20-7.1 / 5 & 21 TOELLES ROAD & WHARTON BROOK PARK – PFIZER INC. – (SOIL REMEDIATION PROJECT) BE DEEMED NOT A SIGNIFICANT ACTIVITY.

MR. SIMON: SECOND

There was no discussion.

VOTE: MS. MCKEEN – YES; MS. PHILLIPS – YES; MR. SIMON – YES; MR. KERN – YES; CHAIR VITALI – YES

Chair Vitali asked for a Motion to Approve or Deny.

MS. PHILLIPS: MOTION THAT APPLICATION #A20-7.1 / 5 & 21 TOELLES ROAD & WHARTON BROOK – PFIZER INC. – (SOIL REMEDIATION PROJECT) BE APPROVED WITH THE MODIFICATION TO THE 12 CONDITIONS OF APPROVAL DESCRIBED ABOVE, AS FOLLOWS:

Conditions of Approval

The Conditions of Approval, per the Environmental Planner's Report, dated Jan. 6, 2021, (based largely on Peer Review Dec. 30, 2020 recommendations), as modified at the Meeting, follow below. (*To maintain numbering sequence, certain suggested conditions not included in the decision, determined by IWWC to have been adequately satisfied at the Meeting, are indicated below as, "Omitted"*):

- 1) An As-built of final grading in Project area to be submitted to confirm topographical grades were maintained throughout the Floodway area and the 100-yr. Floodplain area with supporting computations to be submitted to demonstrate compliance with the requirement of no net fill in the Floodway or Floodplain completed and stamped by a Licensed Surveyor with stamped approval by a Professional Engineer.
- 2) Prior to commencement of permit work, regarding the twin culverts (60-inch cast-in-place) in Wharton Brook located immediately west of site on the abutting Ulbricht Steel property (50-foot strip joining the Ulbricht parcels in North Haven and Wallingford), an attempt shall be made to clear existing stream debris identified to be blocking flows. Correspondence between Applicant/Permittee and abutting property owner to be submitted to Environmental Planning Office to affirm agreement is 'in the works'.
- 3) (*Omitted*)
- 4) Imported soil replacement materials to be tested for macronutrient levels and laboratory soil analysis results to be submitted to Environmental Planning Office prior to placement of soils within wetland remediation area to confirm compliance with targeted soil chemistry goals.
- 5) Submit a plan depicting proposed monitoring sites distributed across the wetland remediation area, including those currently invaded by non-native plant species.
- 6) Submit a vegetative survey completed for each of the nine monitoring plots prior to construction to serve as a baseline of comparison during the post-remediation monitoring.
- 7) Revised Invasive Plant Species Management Plan to be submitted that ensures invasive plant species cover limited to no more than 10% during the monitoring period.
- 8) Submit revised Sheet 9, 'Wetland Restoration Plan', with a note indicating deer control with chemical solutions or in some manner.
- 9) (*Omitted*)
- 10) (*Omitted*)
- 11) In the event that an immense storm event should occur resulting in substantial damage to site conditions, Permittee shall submit a report to Environmental Planner, with photographic documentation, assessment of post-storm site conditions, evaluation of impact on Project schedule status, and proposal for restoration of pre-storm site conditions.
- 12) Performance bonds (4 total) to be posted at minimum two weeks prior to commencement of any permit-related work.
 - a) Sedimentation and erosion control bond: \$33,000

Satisfactory compliance will be achieved when site soils have stabilized following the third post-restoration growing season

- b) Wetlands plantings bond: \$75,000
Satisfactory compliance will be achieved when wetland plantings have been established following the third post-restoration growing season.
- c) Invasive plant species management bond: \$40,000
Satisfactory compliance will be achieved when the post-restoration metrics have been met and monitoring requirements have been completed.
- d) Post-restoration monitoring/reporting bond: \$30,000
Satisfactory compliance will be achieved when then post-restoration metrics have been met and monitoring requirements have been completed.

Ms. O'Hare said, We are looking to still control with chemicals? I thought we'd want It to be specific instead of "in some manner"?

Chair Vitali said, They may have to come back and say, "The chemicals don't work and we need to put up a mechanical-type structure."

Ms. O'Hare said, OK.

MR. SIMON: SECOND

VOTE: MS. MCKEEN – YES; MS. PHILLIPS – YES; MR. SIMON – YES; MR. KERN – YES; CHAIR VITALI – YES

E. NEW BUSINESS

There was no New Business.

F. RECEIPT OF NEW APPLICATIONS

1. Any new applications filed by close of day, Jan. 5, 2021

Ms. O'Hare said there were no new Applications to be received.

G. REPORTS & COMMUNICATIONS

1. Discussion of proposal to adopt fines for violations

This item was not taken up tonight.

2. Farm Hill Road Detention Basin – report

Ms. O'Hare said that Town Engineer Alison Kapushinski reported her department is in the middle of completing an Existing Conditions Plan for the Commission.

H. VIOLATIONS

1. Notice of Violation – 1245 Old Colony Road & Quinnipiac River – Jerzy Pytel – (unpermitted clearing & filling near river)

Ms. O'Hare said there has been no movement on this Violation.

2. Notice of Violation – 950 South Colony Road – 1NRSJ, LLC – carwash facility –

(filling)

Ms. O'Hare said there has been no movement on this Violation.

3. #A20-2.1 / 12 & 16 Northfield Road – (over-clearing in floodplain wetlands & URA issue)

Ms. O'Hare said there has been no movement on this Violation.

I. ADJOURNMENT

MS. PHILLIPS: MOTION TO ADJOURN THE MEETING.

MR. SIMON: SECOND

VOTE: THE MOTION WAS APPROVED UNANIMOUSLY IN A VOICE VOTE.

The meeting was adjourned at 9:38 p.m.

J. NEXT MEETING: Feb. 3, 2021

Respectfully submitted,

Kathleen L. Burns,
Recording Secretary