



**TOWN OF STONINGTON**  
**Inland Wetlands & Watercourses Commission**  
**Pawcatuck Fire Station**  
**Meeting Room**  
**33 Liberty Street, Pawcatuck, CT06355**

A special meeting of the Inland Wetlands and Watercourses Commission was held on September 22, 2008.

**Present:** Commission Members Matthew Berger, Deborah Downie, Amanda Lindberg, Jeffrey Stritar. In the absence of Alisa Morrison, alternate Larry Davis was seated for the meeting. Also present was Candace Palmer, Wetlands Enforcement Officer.

**Call to Order:**

Matthew Berger, Chairman, called the meeting to order at 6:36 p.m. and read the call of the public hearing.

**IW #08-09 Retail Store Construction Co., Inc. (Liberty Crossing, LLC)** - Seeking a permit for construction of a retail shopping center that requires the filling of wetlands, discharge of storm water to wetlands, and other work in the Upland Review Area. Property located on the east and west sides of Liberty Street and Voluntown Road, Pawcatuck, CT. Assessor's Map 18, Block 1, Lot 6, 33, 33A, 34; Map 18, Block 2, Lots 1, 4; Map 20, Block 2, Lot 4; Map 20, Block 3, Lots 3, 5, 5A, 6, 7, 8, 9, 10, 10A, 11, 12, 13; Map 21, Block 1, Lot 39, Zone HI-60. One additional lot has been added to this application: 100 Voluntown Rd. a/k/a Map 18, Block 2, Lot 2. Public hearing continued from 9/4/08.

Thomas Collier, legal counsel, representing the applicant, stated at the last hearing there was a publication issue. The new lot which has been added for drainage (Piccolo property) has since been advertised and the new engineering aspects of the parcel can be added. A pipeline is now designed to travel down Route 49 and across to the Piccolo property. There is a letter of support from Mr. Piccolo identifying that he is in agreement. Environmental mitigation issues on the Piccolo property, and a rain garden will be presented.

Nickitas Panayotou, TRC, stated Aquarian Water Company made a request to look at an alternate route that would minimize the impact on trees and to that end a plan was submitted. The structure has been shifted further to the north which is now 20 feet from the wetlands. This results in less impact on topography and wetlands. Arrangements have been made to run the pipe through the Piccolo property. A right turn will be taken adjacent to the Piccolo property to an appropriate discharge and a rain garden. An engineer with Kleinfelder described the rain garden and its benefit. Background material was submitted as an exhibit.

As for increasing the value of the buffer, some areas are restricted, but more buffer can be provided. In the previous plan there was 33,000 s.f. of buffer around the wetland. The revised plan provides for as much as 118,000 s.f. Ray Cherenzia, Cherenzia & Associates, responded to the questions by the Town Engineer, Larry Sullivan, in recent correspondence.

Jeffrey Stritar questioned if the rain garden will require maintenance in the future. Maintenance will be handled by an easement agreement and included in the maintenance plan. Amanda Lindberg expressed concern for what can happen if the land is cleared, vegetation removed, and there is not enough capital funding to proceed. Matthew Berger stated it is not under the purview of the Commission. Thomas Collier acknowledged that bonding requirements were included in the 2006 approval and still remains in place.

Deborah Downie questioned the sand filtration system in Basin C on the site and what type of maintenance is in place. Nickitas Panayotou responded that there is a letter indicating the maintenance and sediments. Larry Davis expressed concern for the Piccolo property relating to discharge, removing some fill, and installation of the rain garden and that it possibly should be supervised by staff or there should be some remedy. He also stated he has a problem with the species migration in the wetland (offset pond). With this extra water in the wetland there are certain species that will die from too much water and probably reseed and take hold where the elevations are more suitable.

Larry Davis asked if any alternatives were explored with the water infiltration and what made this application the best alternative. Thomas Collier responded two years ago a permit approval was received for a basin design, but the design was unviable. GZA indicated the original basin design assumed a water elevation of 8.5, less than the water elevation level required. It would have to be relocated to 5.1 acres. The applicant does not own the Chapman parcel, only has an option to purchase, and when it was deemed impractical, it was deemed unsuitable for development. The elevations were wrong and the applicant returned to the Commission. A question was raised why isn't the applicant doing what Readco is doing. The response was because of the conditions, being on a hillside. There is a shallowness of ledge condition and infiltration is not a viable option. In 2007 a second plan was submitted involving the use of some environmental control measures (a pipeline to the pond). This plan did not have the degree of mitigation that is now available. It was withdrawn because the Town was not in agreement. The alternative before the Commission is the fifth submission. This plan provides for places to mitigate for environmental issues and access to pipe to the river. There is no other prudent and feasible alternative with less environmental impact.

Larry Davis responded the entire question has been the drainage. The original permit will have to be dealt with, either suspended or revoked. Thomas Collier responded the applicant will agree to a suspension of the permit at an appropriate time. Matthew Berger stated the original permit called for breaking ground by November and asked why it wasn't done. Thomas Collier responded the additional ground water tests occurred in the spring. Jeffrey Stritar stated in the original plan there was a 3.3 acre detention basin on the Chapman property and questioned why it would not be adequate. The original basin

had an infiltration component. Soil was highly unsuitable. Anthony Urbano, GZA, stated the soil on the Chapman parcel was highly variable and based on testing, the sand and gravel would be more dominate. Subsequent to realizing the water table fluctuated, if the Chapman parcel were to be considered, additional testing would be required. Jeffrey Stritar asked if some sort of a basin no larger than 3.3 acres in combination with the off-site pond was considered. Thomas Collier responded there is a dynamic between prudent and feasible and there is an economic component. The pond would still need to be relocated to an area that would be prime for future development. Anthony Urbano indicated there were unreliable soil conditions. Uncertainty about infiltration ability of soils and installing a small basin may not have solved the problem. Nickitas Panayotou reviewed a drawing. Anthony Urbano feels subsurface soils are more impervious. When looking at the wetland buffers which occupies most of the site, there isn't much room for development. Valuable land on the site has been used to mitigate all the impact. Thomas Collier stated there was testimony by David Tompkins, Kleinfelder, regarding this issue and he testified to increase the water to the pond may be good for the pond. This is a pond that has gone through a cycle of drying out and becoming wet. Due to gravel extraction this was created. Deborah Downie stated with the geology of the basin her concerns have been addressed. A question was raised about velocity baffles. Nickitas Panayotou responded that the retarding velocity baffles will be on-site during construction for the temporary swales to slow down the velocity. It is temporary.

#### Town Staff Comments

Larry Sullivan, Town Engineer strongly recommended quarterly inspections for Basin C and maintenance. The Town should have the right to review reports and ensure inspections are being performed.

Mr. Russo, CLA Engineers, consultant for the Town, stated it is important to have information on soils with regard to the rain garden on the Piccolo parcel and the filter in Pond C should be inspected.

Thomas Collier responded the applicant would consent to maintenance along the time period identified and remain in perpetuity. Integrity of soil on the Piccolo parcel will be addressed, inspection of the filter on pond C, and the applicant will defer to the Town for a maintenance plan.

#### Public Comment

Michael Slosberg, partner, Ninety-Five and Two Associates, asked if it would be beneficial for Liberty Crossing to use permeable pavement.

Chairman Matthew Berger called a recess at 7:57 p.m. The meeting resumed at 8:12 p.m.

#### Response to Public Comment & Concluding Comments

Thomas Collier stated there is some risk in using permeable pavement. Nickitas Panayotou responded the porous pavement would introduce water into the sub-grade and it would not be appropriate. Most towns and the Department of Transportation have not

accepted porous paver use for applications. Essentially it is difficult to maintain. In addition, it has not been accepted by many retailers.

Thomas Collier thanked the Commission. Incidents that occurred in the past have been highlighted, and the response to questions has resulted in a thorough examination. We are asking the Commission to make a finding that there is no other prudent and feasible alternative and the application has attempted to supply evidence to that effect. Five alternatives have been examined, and this is one of the most significant building projects in Stonington. Drainage is viable to the whole project. A plan has been presented that insulates the Town, the developer, and the public at large. It is the only prudent and feasible alternative. The plan, unlike the previous application includes mitigation, filtration measures, and the developer knew he would have to give up some of the profitable area so that he could handle the drainage as much as possible. It has been discussed with Town staff, there is some limited areas of infiltration on the property on Route 2. It is not a viable option. Kleinfelder and others have testified on this wetland that due to it having been disturbed years ago, there may be benefits from the increase of water.

Amanda Lindberg asked about the test pits on the Piccolo parcel. Thomas Collier stated it would be prudent to perform some testing to verify the integrity of the soil to support the rain garden.

Jeffrey Stritar referenced the September 12, 2008 letter and questioned the social benefits. Thomas Collier commented most planners and towns take a holistic view of residential and commercial property. This site was specifically identified by the Plan of Conservation and Development as consistent with retail development and exhaustively reviewed two years ago. Social benefits include tax dollars associated with development and new jobs. Matthew Berger questioned how many easements are required to which Mr. Collier responded two, Aquarian and Piccolo parcels.

Chairman Matthew Berger closed the public hearing at 8:28 p.m.

#### Deliberations

Amanda Lindberg expressed concerned about the risk to the wetlands if work is suspended and questioned the feasibility of a bond for site restoration. Discussion ensued and the Commission did not feel it was within its purview to make that a stipulation. Larry Davis stated the Commission needs to focus on feasible and prudent alternatives. During the hearing he questioned the applicant on the process by which these alternatives were explored and the applicant responded. The Commission is charged with significant impacts to the wetlands and I have been concerned about the additional water to the wetland. I think it is being handled and I am satisfied that it meets the best possible way it can for the infiltration and design. There may be some species that will be hurt, I think any loss has some significant, but this is not so significant. When the Commission learned of information in error, the applicant stood up immediately and took responsibility. I appreciate and respect that. This is the largest and most significant project that has come before this Commission. Planning and Zoning is two components.

When zoning identified this property to invite this kind of development, it did what it was designed for, but the planning component missed identifying the significant wetlands.

Deborah Downie stated she was concerned about the geology, appreciated the additional work to develop a different design for the basin and with maintenance she is comfortable with the plan. She stated the rain garden will also need maintenance. Matthew Berger expressed appreciation for the applicant's time spent on this project. Interplay with Planning and Zoning is interesting. However, wetlands goes back to the 1960s and legislature never thought to put them together. The Plan of Conservation and Development is not within the Commission's deliberations.

Larry Davis motioned to approve the application with the following stipulations, seconded by Deborah Downie:

- Previous application #06-08 shall be null and void.
- Final mitigation of the rain garden on the Piccolo property to be approved by Town staff with test pit data.
- Copy of reports on storm water management shall be kept on-site and provided to the Town Engineer and maintenance performed biannually per Cherenzia & Associates storm water plan.
- All easements (Aquarian and Piccolo) shall be in place prior to construction or disturbance of site.
- Alternative vice control measures shall be used on the site.

Amanda Lindberg motioned to amend the motion to include a bond for site restoration in the event work is suspended once vegetation has been removed, Jeffrey Stritar seconded. Motion failed. Larry Davis, Deborah Downie, and Matthew Berger voted in opposition.

Deborah Downie motioned to amend the first motion that maintenance occur not less than twice a year and each time the water ponds for more than 36 hours. All tests should be consistent with the Cherenzia & Associates storm water plan, seconded by Larry Davis.

Motion carried 3-2. Matthew Berger approve, Larry Davis approve, Deborah Downie approve, Amanda Lindberg opposed, Jeffrey Stritar opposed.

Jeffrey Stritar motioned to adjourn at 8:58 p.m., seconded by Amanda Lindberg.

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Jeffrey Stritar, Secretary