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# TOWN OF NORTH BRANFORD

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## MINUTES REGULAR MEETING NORTH BRANFORD CONSERVATION AND INLAND WETLANDS AND WATERWAYS AGENCY September 27, 2017 6:30 P.M.

1. **Call to Order:** Chairman Stephen Scavo called the meeting to order at 6:40 P.M.

2. **Roll Call**

Present: Chairman, Stephen Scavo; Members: Frank Brigano, Lisa DePonte, Gerry Fischbach, Ashley Joiner; Town Planner, Carey Duques

3. **Minutes**

**Motion:** Member Brigano moved, seconded by Member Fischbach to approve the meeting minutes of July 26, 2017.

**Discussion:** None

**With all in favor, the motion to approve the Minutes of July 26, 2017 passed.**

**Motion:** Member moved, seconded by Member to approve the meeting minutes of August 23, 2017.

**Discussion:** None

**With all in favor, the motion to approve the Minutes of August 23, 2017 passed.**

4. **Public Hearing**

A. **Application #2017-3**, Site Plan review of "Riverview Subdivision" for development of residential single-family house lots; regulated activities include creation of a detention basin, grading on lots 4, 5, and 9, construction of house on lot 10 and a driveway on lot 12 each activity is within 200 feet of the Farm River and /or within the 100-foot wetland upland review area at **363 Totoket Road**, Assessor Map 36 Lot

10, R-40 Zone. *Owner: That TF, LLC Applicant: ATA Realty* (Item continued from August 23, 2017, when IWWA voted to hold a public hearing)

**Discussion:**

**Chairman Scavo** explained that the reason the decision was made to hold a public hearing for Application #2017-3 was called was because the activity near the Farm River, was deemed to be significant activity.

**Town Planner Carey Duques** explained that the legal process required to conduct the Public Hearing was followed, including sending letters via certificate of mail to the property abutters and posting the meeting time, location and date. The adjoining municipality, East Haven was also notified. No additional comments were forthcoming from the representative from Town of East Haven. No comments were available from East Shore Health, which will need to be reviewed prior to any decisions being made.

**Joan C. Molloy**, with Loughlin/Fitzgerald Attorneys at Law summarized the application. The application is for a 12-lot subdivision, on approximately 22 acres in an R-40 Zone. Access to eight (8) of the lots will enter via a new road and the remaining four (4) will enter from the existing Totoket Road. The property abuts the Farm River. The project will cause the ceasing of all farming activity and the creation of a stormwater basin along the Farm River, which will prove beneficial and will be explained later.

Proposed regulated activities within regulated areas include the creation of the 100-foot Detention Basin located 200 feet from the Farm River; grading to develop a septic system and construction of a house and septic system, located within the 100 foot upland review area on Lot 10. Restoring wetlands disturbed by the activity will include spreading a seed mix to increase vegetation and will also improve the water quality. These areas have been disturbed by past activity. No activities will occur within the FEMA flood plain.

The procedural requirements were followed after the application was reviewed on July 26 and a site walk occurred on August 9, 2017. The IWWA Committee made the determination that the proposal could have a significant impact on the wetlands at the August 23 meeting. At that point, the appropriate notices were mailed and posted. Impacts to nearby towns were also sent.

On August 17, 2017 the standard requests, maintenance plans, and revisions to minimize plans of the upland review areas were presented.

The Town Engineer, Kurt Weiss was consulted and further amendments. Mr. Weiss needs time to consider any additional changes.

Testing was done in May, and sent in July, however, East Shore Health has not made a determination yet.

Attorney Molloy thanked Chairman Scavo for identifying that the significant activity determination was in response to the proximity of the proposal to the Farm River, and this is the primary concern.

At the discretion of the Chairman, she would like clarification with regards to the file. She would like to know what documents would be considered evidence for the public hearing and review.

**Town Planner Duques** began a list of exhibits, as follows:

1. Certification of Mailings
2. Certification regarding Impacts to Adjoining Municipalities
3. Diagram Riverview Farms 363 Totoket Road, North Branford, CT Resource Areas
4. Diagram Riverview Farms 363 Totoket Road, North Branford, CT Map with Proposed Development
5. Diagram Riverview Farms 363 Totoket Road, North Branford, CT Open Space Proposed
6. Diagram Riverview Farms 363 Totoket Road, North Branford, CT Farmland Impact vs. Restored Areas
7. Letter from Susan DeSilver read into record
8. Letter from Greg Sharp read into record
9. Letter from Lindsay Suter dated August 15, 2017

**Mr. Stephen Giudice**, L.S. with Harry E. Cole & Son in Plantsville, CT submitted a rendering of the 23 acres, approximately adjoining the Farm River, outlining the proposed 12-lot subdivision. He made reference to the various maps to outline aspects of the proposed subdivision.

The wetland soil has been delineated on the maps with the existing tree lines, upland review limits at 100-feet and 200-feet, from wetlands.

The center line from the Farm River was surveyed, with GPS, as well as traditional measure and the edge of the water on two sides meets at the conservative center line.

The area of property that is being farmed is clearly identified.

**Member Brigano** requested clarification of the center line of the Farm River.

**Mr. Giudice** indicated that catch basins and pipe will be installed to collect water from Totoket Road and other areas. Currently, substandard pipes run across Totoket Road. Septic modifications to Lot 5 were made based on the soil tests. Lot #9 was flipped in order to move toward the north. Lot #12 was revised to remove from the upland review areas. Lot #10 proved difficult to revise.

The roadway was added to the plan to provide a point of reference for the Committee Members.

9.3 acres of open space along the Farm River would be created.

A storm drainage system is being designed per the regulations to accommodate the storm events. Moving from farming to residential will reduce flows.

**Member Joiner** asked about Lot 13, as it is not mentioned in the current proposal.

**Mr. Giudice** indicated that Lot 13 was cut from the proposal of development. The boundaries of the other lots remained the same. Lot 13 stands alone and is not part of this proposal.

**Member Fischbach** requested information on the culvert on the frontage of Lot #10, regarding drainage from Totoket Road. This culvert is across from the driveway going to the barn.

**Mr. Giudice** indicated that this flows into the wetlands. Nothing was considered for the farm runoff into the wetlands.

**Chairman Scavo** asked if there would be any tree removal.

**Mr. Giudice** answered that there will be no tree removal.

**Member Joiner** indicated that it is not clear if the crossing that was built in order to provide access to adjoining land was illegal activity.

**Member Brigano** explained that the removal of the pipes is critical. Additionally, the installation of clear markings of the wetlands, which may include boulders, open fencing, etc. The wetlands need to be clearly delineated. He is concerned about the road north, which is used by off road vehicles. He does not want to have these vehicles to destroy the wetlands areas.

**Mr. Giudice** indicated that the area of dark green on the map is where boulders are being proposed in order to create a border. These boulders would be part of the plan in order to restore the wetlands and outlying areas. The boulders will help maintain a border for upcoming years.

The open space area with this application is black and white, with the river in blue, outlined in red, which is about 40% of the land being considered in this proposed.

Lot 12 has been changed in response to the concerns that were mentioned after the site walk.

**Chairman Scavo** thanked them for being responsive to the concerns of the Committee.

**Michael Kline** is a soil specialist. He has been working with the team with regards to the biological characteristics of the soil and how to develop this property while being ecologically sensitive. The historical photographs were reviewed. There has been

significant earth processing in this area over the past 30-40 years, which left a narrow corridor of native vegetation. As an environmental planner, he would like to see this developed to provide connectivity from north “pod” to south “pod” in this development. The wetlands are continuous; however, the soils and vegetation are different. The areas closest to the wetland boundary in the north and in the portion of the southern pod, are relatively dry. In the center, there is more traditional wetland habitat and sediment functions.

**Member DePonte** indicated that tree is a blue and a red dashed line on the map that delineate the 200 and 100-foot upland review area, respectively. She asked why they cross in many areas in the northern area of the pod. The 100 foot is closer, but then at the lip, the line flips.

**Mr. Giudice** explained that the center line of the Farm River creates this situation.

**Member Brigano** requested that seed mix that is being considered, contain vegetation that is native to the area.

**Mr. Kline** answered that fine-tuned seed mixes designed by a wetland plant in order to provide soil stabilization, erosion protection and to help preserve habitat will be used. The conservation mixes will contain native species and erosion control species to control the erosion in the near future. This provides an environmental benefit. The soil will not need to be augmented in order for the growth to occur. With the proposed vegetation, a unique situation will develop over the years, creating a wetlands space that is a significant width, about 300-400 feet with wet and dry meadows, a river system and pond area. There is a wide variety of species that will thrive in this open land.

The critical question is regarding the impacts. There are no activities proposed that will adversely affect the wetlands. Any activity is in the upland review area. These activities are primarily to mitigate or improve upon the existing condition. All of the work will occur without disturbing the native habitat or disturb the primary functions of the wetlands. As a result of this proposed development, over the long term a 50-80% reduction in nitrate will result. A 50% reduction in phosphorous will occur as a result of the discontinuation of farming and a 75-80% reduction in sediment discharge can be expected, as well.

**Chairman Scavo** requested information on the rainwater infiltration.

**Mr. Giudice** explained that rainwater infiltration was considered and addressed. The water will resolve within a 12-hour period. This will need to be maintained by the town, similar to the area next to Doody’s Totoket Inn.

In conclusion, the development of the lots, utilities, storm water resistance does not require disruption of the wetlands. For the most-part it is set off. The basin has to be at the lowest portion in order to discharge into the River. All the measures being proposed are appropriate in response to the conservation of the wetlands area. There will be a long-term improvement, with a 40% open-space set aside.

**Member Brigano** asked for information on Lots 4&5, which at the time of the site walk, the soils were wet. He is concerned about the need for sump-pumps because the soil was so wet.

**Mr. Giudice** indicated that the soil was tested in that area and ground water was not found. Footing drains have been accommodated in the houses.

**Town Planner Duques** asked about the wood chips along Lot 9 and near the River.

**Mr. Giudice** indicated that the applicant is not opposed to removing the wood chips, however, he is looking to do only what is necessary.

**Chairman Scavo** indicated that the chips may impede the growth of the proposed vegetation. He would appreciate a recommendation as to how to deal with the wood chips in order to provide the best possibility for the growth of the vegetation.

**Mr. Kline** indicated that this is a field decision. Between now and the next meeting, he can try to get a feel from the depth of the wood chips in two or three areas in order to allow for the successful growth of the wetland mix. Damage to the trees would need to be considered when reviewing options to remove the wood chips. Soil coverage may be more appropriate than removal.

**Mr. Giudice** indicated that the town's GIS was used initially to indicate wetland areas. The space around the detention basin was the only open land, which did meet the regulations. After the first meeting, another plan was developed. The alternative plans have provided for and accommodated the concerns according to the wetlands and the Town of North Branford.

**Chairman Scavo** opened the Public Hearing for comments.

**Susan DeSilver**, 1647 Middletown Avenue spoke regarding concerns for the Farm River, which "transforms" depending upon the weather. She outlined principles for growth management pertaining to protecting the drinking water and critical wildlife. The detention basin is of concern, as well as management of the run-off that would be created, which would impact the Farm River directly. Farming can have a negative impact depending upon the farmer. She has not witnessed farming activity recently. There are species of concern, such as Eastern Box Turtles and a unique species of brown trout, which need to be considered. She inquired about storm water, soil loss and fertilizer that may impact the Farm River. She asked if clusters are still possible in town.

A letter from Greg Sharp was also entered into evidence. The letter outlined the importance of the Farm River as a source of drinking water, as well as the habitat it provides for various species. Driveways and roofs that will be built will create discharge containing oil, salt, and sand that are not advantageous to the Farm River and its occupants.

**Donna Pursley**, Marjorie Drive, North Branford commented that the arrangement of the maps did not allow for public viewing, which would be beneficial to those that border the property. She asked if maps could be viewed after the meeting so additional concerns could be expressed, if need be. Ms. Pursley requested additional information be provided with regards to the wood chips, the culvert, Leeching lines, the position of the detention basin, and the run-off of fertilizer used to help lawns grow, with regards to the impact on the Farm River. She went on to advise that the Committee use specific language with regards to the removal of the culvert. She also indicated that when or if the culvert is removed, the access will be cut off. Therefore, in order to gain access, trucks would possibly travel down Mill Road, onto Route 22, which is an outcome that needs to be considered.

**Robert Onofrio**, 27 Marjorie Drive, North Branford shared that he has lived on Marjorie Drive since 1964 and has seen the changes that occurred in the land behind his home [which is the property being considered for the Riverview Subdivision]. Mr. Onofrio requested information regarding the maps being used to determine the wetlands and watercourse area. Over the years, the stripping of the land, excavating, and building of the culvert were done by the current owner of the property which changed the water course. After the equipment was able to cross the Farm River via the culvert, the owner filled in the wetland area. He requested that the Committee check topographical maps, and other sources which could clearly show the wetlands area prior to the illegal activity that changed them. He is hoping that the Committee will do whatever is necessary to protect the wetlands from any other illegal activities. He strongly believes that the culvert should be removed and that what *was* wetlands and what *is* currently wetlands be defined. The flooding of the area should be explored carefully and the Committee should scrutinize what is being done. He believes that the detention pond being proposed will not be enough. He is happy to walk the property and provide his insights based on the number of years he has been living there.

**Lindsay Suter**, 16 Mill Road is an abutter to the property being considered or development. He is exquisitely aware of what the river does when there is flooding. Without duplicating what the others have already expressed, he is in agreement with them regarding the detention basin, the increased run-off, the nutrient burden vs. the pesticides, which should all be thoroughly considered by the Committee. He wanted to add that Pages Mill Pond and the Farm River provide a nursery for the wildlife that exists there. The smaller creatures that are unable to survive in the Housatonic live in this habitat. He has evidence of the existence of many species of concern, which have not been acknowledged or considered. He named several including the Brown Bat, The Pie-Billed Greed, the American Bittern, the Snowy Egret, the Bald Eagle, the Broad-Winged Hawk, the Northern Leopard Frog, the Banded Sunfish, and the Eastern Box Turtle. He asked that his letter dated August 15, 2017 be also considered. This letter was entered as Exhibit 9.

A discussion ensued regarding the importance of removing the culvert to the application. Member Brigano indicated that in order for him to grant approval, he would need a site walk without the corn and an agreement to remove the culvert.

**Attorney Molloy** clarified that the current owner of the property is WTF LLC. The corn was not planted by her client, who is looking to acquire the land.

**Peter Hughes**, for the applicant, spoke to confirm that a walk could be scheduled. A date will be provided as to when the corn will be cut. At that time, a walk will be scheduled. It will need to be understood that the site walk will be observation only. There is no recording and minimal discussion. The format will be the same as the original site walk, minus the corn.

The next meeting is October 25, 2017. The decision from East Shore Health will need to be considered.

**Mr. Suter**, 16 Mill Road in North Branford, inquired about how the public will be notified of the walk.

**Town Planner Duques** indicated that it will be posted at the Clerk's Office and on the calendar under "events" on the Town website, where the meetings are advertised. She welcomed people to contact her, as well.

**Member Brigano** would like to find out about the culvert. Is the culvert on the property that is being considered for purchase? What, if any, environmental impact might the removal of the culvert have on the wetlands and Farm River? At the least, the people proposing the development should be held responsible for a study to find answers regarding any environmental impact.

**Member Fischbach** believes that the current owner may be motivated to help with this in order to sell the property. Also, correcting situation regarding the run off from the farm across the street into a culvert, the runoff and then into the river.

**Attorney Molloy** answered that it is her understanding that there is a court order to remove the cows from the farm across the street. Therefore, the runoff issue may be corrected. It involves another piece of property, which has a direct impact on the property being considered for development. Options for dealing with this are being considered, in the event that it isn't going to be rectified.

The current owner will not have access to the property once it is sold to the applicant. The "culvert fix" is in the same spirit as the drainage on Totoket Road. An application is being brought before Planning and Zoning also. The client is aware that they will force compliance. The regulations for P&Z are driving what is being proposed.

Member Brigano wants to see plans on how to take the culvert removed.

Robert Onofrio, 27 Marjorie Drive: commented that the culvert has no impact on the development. Let's remove it because if it is not done correctly, the town will be left with the cost to remove the culvert and correct any problems caused.

**Motion:** Member DePonte moved, seconded by Member Brigano to continue the Public Hearing until the next meeting on October 25, 2017.

With all in favor, the motion passed.

**5. Potential Action on Public Hearing Items**

**A. IWWA Application #2017-3 - TABLED**

**6. Wetland Enforcement Officer's Report**

**A. Notice of CT DOT's application to DEEP for reconstruction of Route 80 bridge over Farm River**

This is for the information of the Committee, which is a request for the CT DOT to reconstruct a bridge over Route 80. A temporary by-pass bridge, just to the south of the current bridge would be built. Removal of invasive vegetation would need to be removed. The building will begin March of 2018 and go through the entire year. Both lanes will be maintained.

**7. Other Business**

**A. 45 Clear Lake Rd,** request to remove two trees

Bob Criscuolo designed a plan to remove trees. Additional removal is requested because there are concerns about the trees falling on to the house.

**Member Brigano** indicated that trimming the trees would probably be sufficient.

**8. Adjournment**

**Motion:** Member DePonte moved, seconded by Member Fischbach to adjourn at 9:14 pm. With all in favor, the motion passed.

Respectfully Submitted,

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Michele Pollock, Recording Secretary

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Stephen Scavo, Chairman