

Approved Minutes
Guilford Inland Wetlands Commission
Special Meeting
September 21, 2016 at 7:30pm
Guilford Community Center – Guilford Room
32 Church St. Guilford CT

NOTE: Please be advised that at this time the following are strictly “Draft Minutes” until approved by the Inland Wetlands Commission

Once approved the minutes will be marked as “Approved Minutes” and will be available in the clerk’s office or upon request.

Members Present: David Williams, Eva Besmer, Calvin Page, Kevin Clark, Scott Williams and Paul Mei
Member Absent: Rich Meier
Alternates Present: Jeff Parker and Susan Anderheggen
Alternates Absent: None
Staff: Kevin Magee, Environmental Planner
Reggie Reid, Wetland Enforcement Officer

Chairman Scott Williams opened the meeting at approximately 7:35 P.M.

Appointment by Chair of members sitting for this meeting D. Williams (Licensed Environmental Professional, Soil & Wetlands Scientist), C. Page (Building Contractor), K. Clark (Environmental Consultant), S. Williams (PHD Natural Resources), J. Parker (Professional Engineer) and E. Besmer (PHD Molecular Biologist) and P. Mei

A. APPROVAL OF AGENDA

September 21, 2016

Upon a motion by Commissioner Scott Williams and seconded by Commissioner David Williams, it was voted to unanimously to approve the agenda.

B. APPLICATIONS

1. Matthew Davidson, South Central Regional Water Authority, Great Hill Rd, Map 121, Lot 3, Zone R-8, Regulated Activity, improvements to an existing woods road which are necessary in order to provide future access for forest management activities within 100' jurisdictional review zone.

Present for applicant: Matthew Davidson, South Central Water Authority

Mr. Davidson reviewed the property size of 27K Acres. It is being utilized for a forest program to harvest wood and needs access to the area for equipment. The enhancement to the existing access is to be 2K linage feet plus a bridge beyond branch brook. The locations of silk sacks were highlighted on the distributed plans. The bridge is to be pre-cast. Mr. Davidson then reviewed with the Commission two similar projects with photos of similar projects in Bethany and North Branford.

Commissioner Kevin Clark inquired if the drying pads outside the wetlands will be wrapped? The response was yes. Commission Kevin Clark asked if the project was flexible on timeframe. Mr. Davidson responded that it requires a low water period. He would like to start as quickly as possible and will take approximately 1 month to complete.

Commissioner Jeff Parker asked what was depicted on the right side of sheet 4 of the drawings. Mr. Davidson responded that it shows the grading for runoff.

Commissioner Scott Williams made the following motion:

VOTED: That the Guilford Inland Wetlands Commission approves a regulated activity for Great Hill Rd. Map 121, Lot 3, Zone R-8, improvements to an existing woods road which are necessary in order to provide future access for forest management activities as shown on Bridge and Roadway Improvements For Logging Access Road, Guilford, Connecticut- South Central Connecticut Regional Water Authority, New Haven, Connecticut, September 2016, prepared by Tighe & Bond, 8 sheets last revised September 21, 2016 with the following conditions;

1. That prior to any construction soil erosion and sediment control measures shall be;
 - a. installed as shown on the approved plan.
 - b. installation shall be done by hand.

- c. The Inland Wetlands Enforcement Officer shall be notified of such installation so that an inspection might be conducted to determine compliance and authorize commencement of construction.
2. Prior to issuance of a final inspection, the Inland Wetlands Enforcement Officer shall be notified so that an inspection may be conducted to determine that all soil erosion and sedimentation control measures have been maintained in the manner in which they were approved on the site plan and are in compliance.
3. Any stock piles to be contained with hay bales and/or silt fence. Any disturbed areas to be seeded and hayed
4. Modification of approved plan needs to come back to IWC
5. That unless an extension is granted,
 - a. Construction must begin within one year of approval
 - b. This permit expires two years from the date of approval.

This regulated activity is approved based upon the finding that there was no reasonable or prudent alternative in completion of this project.

The motion was seconded by Commissioner Kevin Clark and was unanimously approved.

2. Mark Minuit, 748 Nut Plains Road, Map 86 Lot 28, Regulated Activity, Placement of fill and footing drain outlet within 100' jurisdictional review zone.

Present for applicant: Mark Minuit

A2 Survey drawings with elevation were presented to the Commission. The drawing showed on the map where they filled in with boulders and does not show the previous edge of the slope.

Commissioner Calvin Page asked where the edge of the slope was before the boulders. This map is an after the fact drawing for the record.

Commissioner Scott Williams made the following motion:

VOTED: That the Guilford Inland Wetlands Commission approves a regulated activity and after the fact for 748 Nut Plains Rd, Map86, Lot 28 Zone R-5, Placed fill within review area and footing drain outlet within 100' upland jurisdictional review area shown on "Zoning Location Survey and Site Plan for Mark and Anna Marie Minuit 748 Nut Plains Rd, Guilford, Conn." dated October 13, 2015 and revised to August 29, 2016 with the following conditions:

1. Prior to construction:
 - a. Soil erosion and sediment control measures shall be installed as shown on the approved plan.
 - b. That all installation shall be done by hand.
 - c. That the Inland Wetlands Enforcement Officer be notified of such installation so that an inspection might be conducted to determine compliance and authorize commencement of construction.
2. During construction, piles of fill, erodible material and debris shall not be created within 100 feet of regulated inland wetland and watercourse areas.
3. That any changes to the approved plan must be submitted to the Inland Wetlands Commission for approval.
4. That unless an extension is granted,
 - a. Construction must begin within one year of approval.
 - b. This permit expires two years from the date of approval.

This regulated activity is approved based upon the finding that there is no feasible or prudent alternative in completion of this project.

The motion was seconded by Commissioner Kevin Clark and was approved

INFAVOR: David Williams, Eva Besmer, Kevin Clark, Scott Williams and Paul Mei

OPPOSED: Calvin Page

ABSTAINED: None

This motion carries:

C. PUBLIC HEARING

1. 350 Goose Lane Guilford LLC, 350 Goose Lane, Map 75 Lot 1, Zone MU/C3, Regulated Activity, Site Plan Referral, Subdivision Referral, Construction of Low Impact Development Style Single Family Residential Development within 100' jurisdictional review area.

Consultants for the Commission:

Joe Dillon of Nathan L. Jacobson and Associates
Edward M. Pawlak, MS of Connecticut Ecosystems, LLC

Present for Applicant:

Terrance Gallagher, P.E. of Luchs Consulting Engineers, LLC
Michael Harkin, P.E. of Harkin Engineering, LLC
Megan Raymond of William Kenny Associates, LLC
Ken Horton, Company Owner
Russ Campaigne, AIA CK Architects
Ron Nault, PE of Luchs Consulting Engineers, LLC
John Cunningham, TEC Landscape Design
Attorney Marjorie Shansky

Attorney Charles Andres informed the Commission that they have 35 days to deliberate after the close of the Public Hearing.

Marjorie Shansky thanked the Commission and staff for revising the previous meeting minutes. Ms. Shansky supplied a letter from Luchs Engineering dated September 21, 2016 in response to the Town Engineers letter, revised field drawings, and the Revised Operations and Maintenance plan updated per Mr. Magee request. Ms. Shansky indicated that she received a letter from Brian Curtis at Nathan Jacobson that their comments in September 14th letter have been addressed.

Terrance Gallagher, P.E. of Luchs Consulting Engineers, LLC reviewed the updates to the plans, operation and maintenance plan and handed in revised sealed drawings to the Commission. The modifications to the sedimentation and erosion control plans consisted of sediment control measures being pulled back by the bioretention basins, additional sediment control blankets, pulled back the temporary sediment traps so they are upstream of bioretention basins, the basins are no longer used as temporary sediment basins, the addition of hay bale check dams upstream and downstream of the temporary sediment basins. The document contains a modified sediment and erosion control plan plus. The sediment trap sizing calculations were upsized to 200 cubic yards per disturbed acre which is 1.5 times higher than the state mandate(cubic yards per disturbed acre)which is to be approximately 20' wide x 70' long x 4 feet deep.

Terrance Gallagher indicated that the operation and maintenance plan was revised to include record keeping, requirement for annual walk through by a professional engineering firm to make sure the controls are working and that it gets reported to the wetlands inspector and the town engineer, and that there is a mechanism to revise the plan if needed.

Commissioner David Williams stated that the buffers are not defined on Page 5, Section H. and asked what they are defining as a buffer, is it a vegetation buffer or water quality basin. Mr. Gallagher that it is the vegetated buffer and stated there is a minimum of 15 foot buffer of vegetation that will not be mowed by the landscape workers.

Commissioner Kevin Clark asked if they calculated the total linear footage of the wetlands boundary.

Terrance Gallagher indicated that it was not calculated that but it could be scaled of the plans.

Megan Raymond of William Kenny Associates, LLC stated that she was asked to respond to queries of her August 26, 2016 letter and prepared a letter dated September 19, 2016 to address those concerns. In the September 19, 2016 letter she was asked to assess the water chemistry of Carter's pond for the existing and proposed conditions. Two samples were collected at 25" water depth which yielded no disturbance. Samples were representative of a well mixed shallow small lake. Found samples to be highly Eutrophic in terms of nitrogen and phosphorus, and Eutrophic conditions to Chlorophyll A. No algae growth was observed on the surface of the pond.

Commissioner Kevin Clark asked if the collection was done on one visit and is that a typical collection. Ms. Raymond responded yes, one collection is typical based on the tropic characteristics of the pond. Commissioner Kevin Clark asked if the Spring/Fall overturn would affect these conditions. Ms. Raymond responded no, not with a 2 meter pond depth with a 1 meter photo zone.

Scott Williams asked why pond samples were collected within the boundary of the property? Concerned that they did not provide documentation of the down stream neighbor. Ms. Raymond indicated that she thought that the sample locations were representative of the water chemistry of the pond due to its shallow characteristics and she feels that there is not a strong down stream gradient of pond results. She indicated that other Secchi disk were conducted through out the pond surface which showed a consistent photo development between 35 and 42 inches.

Commissioner David Williams asked if both samples were collected on the shoreline and if so they would represent the whole pond. Ms. Raymond responded yes, the samples would represent the water chemistry of the whole pond. Commissioner David Williams disagreed.

Kevin Magee asked how the pond depth was determined. Ms. Raymond indicated pond depth determined by using a kayak and probing.

David Williams concerned about down gradient sampling. Ms. Raymond feels the samples are representative of the pond. Noted the site is receiving impacts from the other side of pond since the buffer on the other side is third to a half is lawn with geese and no riparian strip.

Megan Raymond went over nutrient loading calculations. The calculation was based on a conservative model of 100% of the max permitted value per volume of 11,190 gallons/day at a concentration of 9.9 mg/L nitrogen from the septic system making it to the pond. Needed to develop a number for residence time which is a calculation that is generated by dividing the volume of the pond by the flow rate. Ms. Raymond used information from the research to scale the 4 acre pond to residence time of 10 days which equates to a flux in the pond of 0.2 m (approximately 7 inches). When entering the values into the load calculations 0.13 mg/L of nitrogen would be entering the pond from the septic system. To consider a more conservative condition, the nitrogen loading was calculated at a residence time of 20 days and resulting nutrient load was 0.26 mg/L. This value does not take into any reduction of nitrate due to assimilation. Total increase to pond would be 1.13mg/L nitrogen.

Commissioner Kevin Clark asked what the effects of nitrogen would be on the non-pond area. What about the other wetlands that will receive nitrogen? Ms. Raymond believes there is no impact due to 75 to 95% removal of nitrogen due to vegetation assimilation that occurs at the first two meters of the wetlands vegetation and the organic material of the site which presents anaerobic conditions that with the heterotrophic bacteria creates the removal by denitrification.

Kevin Magee asked what the nitrogen load does to the wetland edge, would that increase vegetation at that point? Ms. Raymond said there is no impact to a substantive change to the existing vegetation composition of the wetlands due to the forested edge.

Commissioner Kevin Clark asked of the nitrogen load of 2? Why are we limited to 2 and does that have a negative impact. How this limit was defined may or may not relate to this situation. Ms. Raymond stated there are a number of factors to assess the impact to the wetlands such as where it is being measured and the nature of receiving water.

Commissioner Jeff Parker asked for clarification of the load model. Ms. Raymond indicated that the 0.13 is the load and it does not accumulate.

Megan Raymond explained the wetlands are to the west of the proposed land use; forested wetlands. The hydrology of the wetlands would not be modified with the land use proposal. The site plan improvements to the existing site conditions.

Commissioner David Williams asked about the presence of ponding water in the wetlands and the presence of vernal pool habitats. Ms. Raymond explained ponding is variable and could be seasonal but does not provide habitat for breeding and development of obligate amphibians. There is no classic morphology for vernal pools but there could be cryptic vernal pool habitat. Ms. Raymond sees nothing in the uplands portion of the site which could impact the wetlands hydrology.

Commissioner David Williams asked about the storm water runoff increasing ponding to the wetlands? Ms. Raymond responded that there are a number of low impact development methods that infiltrate the 1 to 2 inch rain events. The high volume events flushes through the system and do not effect hydrology.

Terrence Gallagher commented on the pre-project vs. post-project runoff conditions. There are lower rates of runoff with the land use project, the nursery operation had some pipes into the wetlands as well as yard drains to the wetlands.

Megan Raymond explained the previous land-use activities on the property have not affected the capacity of the wetland ecosystems to perform wetland functions. The focus of the project is to utilize the upland portion of the site in such a manner as to maintain these functions. Enhancement plantings are proposed along the wetland boundary to improve the existing condition of the buffer along with the proposed restoration of the wetland area which involves the removal of a shallow layer of fill and the replanting of the area. Upon completion, the buffer plantings in addition to the proposed best management practices will serve as an effective interface between the proposed upland activities and the wetland system. Ms. Raymond said development of the property will not adversely affect the wetlands.

Commissioner David Williams asked what is the purpose of the wetlands mitigation. Ms. Raymond the intent is to remove shallow fill and replant to improve the existing condition of the wetlands.

Commissioning Kevin Clark asked if it was possible to leave the existing fill and replant. Ms Raymond said that would be a possible to replant without removing fill.

Megan Raymond addressed concern regarding the use of bioretention basin as an asset to sediment traps during construction. Ms. Megan indicated that it is a perfect use for final treatment along with the construction of a wall and that a different medium could be used in bioretention basin during the construction phase would be removed before going online.

Commissioner Kevin Clark asked if the preliminary nitrogen numbers were corroborated independently. Megan Raymond responded not independently but within the existing team.

Michael Harkin, Principal Engineer Harkin Engineering, LLC stated that the nitrogen numbers were corroborated by Brian Curtis.

Kevin Magee's submitted to the record his resume as long with a document regarding tidal wetlands buffer which reference steep slopes in buffers that was developed from research on inland wetlands buffers

The Meeting broke for a 10 minute break at 9:00 pm.

The meeting resumed at 9:10 pm.

Joe Dillon of Nathan Jacobson and Associates reviewed his comments in their letter September 21, 2016 regarding the six outstanding comments that where noted in a September 14, 2016 letter that are:

1. Recommended stone walls to impervious walls; added to plan.
2. Requested discharge to be spread over a wide area; added to plan.
3. Requested drainage area map identification of subbasin be clarified; done with revised map.
4. Bioretention basins plan and profile requested has been received.
5. Part of particulate separator or sediment forebay be placed in the rain gardens and bioretention basin; the applicant installed a forebays.
6. Requested the groundwater recharge volume calculation be submitted. Mr. Dillian indicated that they meet the requirements of the Stormwater Quality Manual.

Edward Pawlak, 3rd Party reviewer thanked the Commission for the opportunity to participate in this review. He further thanked the applicant for the additional studies and answers to his questions.

Edward Pawlak noted that his previous question of water quality renovation capacity will be reduced as a result of this project has been answered and is no longer a concern since they are dispersing the water from bioretention basins as sheet flow from level spreaders.

Edward Pawlak still has a concern that there has been no change in the amount of vegetation buffer to preserve the wetlands. The State of Connecticut does not have buffer guidelines and he has provided a literature review regarding guidelines for buffer width. He is not aware of any literature that notes that stormwater BMP's replace buffers. Mr. Pawlak has provided evidence that a silt

fence does allow fine particles to pass thru. Noted that sediment basins/traps do not remove 100% of the sediments. The criteria noted for development is that they remove 80% of the sediment. Pages 5-11-5 of the 2002 Erosion Control Manual document basins only trap a portion of the sediments. Mr. Pawlak recommends that there is an appropriate size wetlands buffer that can filter the sediment and without the buffer there would be a physical impact to the wetlands. The fine particles such as silt and clay could carry phosphorus to the wetlands which could affect the water chemistry.

Mr. Pawlak indicated that the fringe of the wetlands could be affected by assimilation that could favor more aggressive species that could push out the species such as canary grass that do not tolerate the nitrogen rich conditions. The pond study should have recorded samplings be done in the middle of the pond, not only at the shoreline. Mr. Pawlak indicated that the sediments could have been influenced by sediment turned up and by shoreline scat.

Mr. Pawlak questioned how the residence time of 10 days was calculation and asked the applicant to further explain how it was arrived at. Mr. Pawlak would like to know if a formula was used in the Milstead reference and questioned how water was leaving the pond since the outlet was considered ephemeral. Additionally asked for clarification residence time, turn over of the pond, and where the water is going.

Mr. Pawlak indicated that sections of the William Kenny June 20, 2016 report noted that do indicated vernal pool habitat such as a note on page 9 which indicates surface water ponding is common throughout most of the year. Mr. Pawlak is confused regarding a conflicting statement in the August 26, 2016 report which indicates water depth in the wetlands between 6-18 inches and to short of a hydro-period to sustain development of such species and asked for a clarification. Mr. Pawlak indicated that there are indicators of extended hydro-periods such as drywells and the greyed water stained leaves he observed. He indicated there could be a physical impact of nitrogen to the wetlands during the extended hydro-periods can create a Eutrophic condition.

Mr. Pawlak indicated bioretention basins are designed to infiltrate water and should not be used during construction. They are designed and constructed to infiltrate runoff and if used as a sediment basin they would become clogged and not work as designed. He noted that they could be cleaned out post construction and be utilized.

Commissioner Kevin Clark asked, in your opinion, is the bioretention sufficient for vegetation buffers. Mr. Pawlak answered no.

Commissioner Kevin Clark asked if the application would have a net negative impact or net positive impact on the wetlands. Mr. Pawlak answered that the removal of fill and replanting is a net plus but due to the information he already discussed it is a net negative.

Commissioner David Williams asked if the pond study properly characterizes the impacts to the pond sufficiently. Mr. Pawlak said that it is a one shot sampling event that gives a snap shot of those parameters at the shoreline and does not know if that shows the impacts across the pond. A multi season sampling event would give a better picture of the Eutrophic status. Also indicated additional information needed regarding 10 day residence and what happens to the water entering the pond.

Commissioner David Williams asked if there is insufficient data. Mr. Pawlak indicated yes.

Commissioner Calvin Page asked if the pond samples would be clearer at the center than at the point of infiltration. Mr. Pawlak responded that the intent is to characterize the trophic state of the pond. The assumption would be that the pond water is fixed to trophic events and the sample in the center would get a mixed sample which is a better representative of the pond not influenced by shoreline factors.

Commissioner Kevin Clark asked if a low quality water classification such as eutrophic or very eutrophic would benefit the applicant. Mr. Pawlak indicated the commission should look at what would be more likely to be impacted by nutrient input, a pond which has low nutrient status right now or a one that is highly enriched, that why it is important to know the correct characterization of the trophic status of the pond, and why more than one sample is key. The second thing is the analysis of the concentration of nitrate entering into the pond from the septic system.

Commissioner Jeff Parker asked what Mr. Pawlak would suggest as a vegetation buffer with water quality. Mr. Pawlak responded that he would recommend at 75' buffer for water quality.

Marjorie Shansky commented that additional water sampling requests should have been made earlier so that they could have been addressed. Marjorie Shansky also asked the commission if they have any additional questions for Ms. Raymond.

Commissioner Eva Besmer asked what is the formula is for 10 day residence time.

Megan Raymond indicated the formula is the volume of pond divided by flow rate to the pond which generates a volume of time. What is used to generate the residence time was based on a review of a number of journals. The Milstead article used for modeling nutrient loads of a pond, the article does not have the magic number. In addition used data from Catalon Etal, and Stetzal and from research of pond studies, sizes and residence time, and used this information to scale to this system and came up with residence time of 10 days. Noted pond is groundwater feed and water is left through evaporation, hydraulic gradient to wetlands to west, and through an ephemeral outlet. Ms. Raymond stated that the flow rate is created by the modeling.

Commissioner David Williams asked what the name of the formula used, was Darcy Law used for discharge rate? Ms. Raymond indicated the formula is registered loading rate, Darcy Law was not used. The calculation is base upon peer-reviewed science and we believe it is appropriate.

Kevin Magee asked about the discharge from the pond is it evaporation only? Ms. Raymond indicated that water is lost through evaporation (60%), through the hydraulic gradient to the western wetland, and the surficial outlet to the south and through groundwater reintake.

Commissioner Scott Williams asked about the ephemeral outlet where the water lost from and what happens to the nutrients? Ms. Raymond indicated that it is ephemeral during drought conditions and based on water table elevations the flow would be more consistently than not. Ms. Raymond indicated that the flux of the water table is 7" per day per 10 day residence time. The nutrients input to the system are assimilated, taken in by organic matter, respiration of bacteria, and disposition.

At this point, Attorney Marjorie Shansky asked the Commission if there were anyone else they would like to hear from. The Commission's response was no.

Public comments:

In Support:

Mark Larkins, Potter Hill Drive, Guilford, CT 06437

Mr. Larkins is a neighbor of the property. He brought photos of the property in previous conditions. Mr. Larkins addressed the concern of snow removal and it's affect on the wetlands. Mr. Larkins has 30 years of experience and said the amount of salt and sand used on a residential site is nowhere near that used on a commercial site.

Brian McGlone, Town of Guilford Economic Development Coordinator

Mr. McGlone reinforced a need for balance. The project is good for the town and its residents as well as additional tax revenue.

In Opposition:

Lou Secky, 400 Goose Lane, Guilford, CT 06437

Mr. Secky had question regarding the 9.97 discharge limit, expressed a concern that with quarterly testing in the plan, what is the enforcement action and remediation if the limits are exceeded? He also expressed a concern with reducing the buffers if they are currently sufficient, does not see a need to have a narrow buffer because the developer wants more property development.

Attorney Marjorie Shansky then summarized the hearing as represented in her letter of September 21, 2016 in three parts.

1. General discussion of legal and regulatory matters
2. Evidence against Section 6 of Mr. Pawlak's July 30, 2016 letter identified four impacts to the wetlands. One retreated from tonight which eliminated one of those concerns.
3. Section of Regulations Pages 7-11 of my letter dated September 21, 2016 evaluation criteria section 271-38.

Attorney Shansky expressed her hope that the Commission takes the time to read her letter.

The issue the consultant raised in his July 30, 2016 regarding the vegetation buffer. The State of CT has no vegetation buffer ordinances and the Town of Guilford has no regulated no-build zone or setbacks, the town has an upland regulated review area. The DEEP 1997 Guidelines elected 'upland review area' because the upland review area as a descriptor best conveys the regulatory scheme under the inland wetlands statutes where the wetlands agencies on a case by case basis reviews and approves or disapproves on their merit. William Kennedy Associates described the site attributes and the considerations of the developer in establishment of the development footprint.

There are no changes to the wetland to the west by the proposed development because we are occupying the existing property footprint. Only two tiny areas approaching an incline are near the pond. It is a gently sloping parcel. "Impacts on the upland review area are not sufficient to deny an application for a permit to conduct regulated activity," *Cornacchia v. Environmental Protection Commission*, 109 Conn.App.346, 358 (2008). The Commission's jurisdiction is adverse impact to the wetlands. Setbacks are a best management practice. I want the perspective of buffer to not to be controlled by some expectation but by function.

There has been an evolution of the plans during the course of the public hearings. All changes requested by reviewing engineer have been satisfied. There has been a high degree of corroboration on the design and efficacy of storm water management and erosion and sediment control.

As to the environmental impact of the proposed action regulated activity on the wetlands or watercourse, the well-defined phasing plan is meticulous in its stabilization before moving forward.

The four items Mr. Pawlak has listed include the

1. Reduction in wildlife habitat; narrowing of vegetation buffer of existing development footprint. There is no evidence that the new footprint would alter the characteristics of the wetlands or wildlife habitat. It is a redevelopment of an existing parcel.
2. Reduction in pollutant removal function. He retreated from this this evening due to alterations of the plan.

3. Deposition of fine grain sediments and silt removal function. He's referring to during the construction period. Redundant silt fences and bioretention basins were added to the plans. There is no evidence that the concern is factual. It is a worry is not substantial evidence.
4. Export of nutrients enhancement due to fertilizer and DEEP septic system standards. No negative effect on the pond. It is a generalized comment. Evidence received in Kenny associates report May correspondence approved conventional septic system, and drinking water standards achievement, negligible effect on the pond. No evidence. What we do have is based on numeric science calculation to demonstrate otherwise.

Substantial evidence weights in favor of the approval of the application and no adverse evidence exists. Evaluation criteria; 271-38 environmental impact on the wetlands cited. A mountain of evidence from engineers, civil and wetland science demonstrated no adverse impact. Everything that has been done to the plan since that time is even more mitigating of any likelihood or possibility of adverse impact.

Second checklist item has to do with the applicant's purpose of any feasible or prudent alternative to the proposed regulated activity with less or no environmental impacts. We have no direct wetland impacts.

The early design of the development had a larger number of units that were designed with setbacks shown in 2010 approved plan of 65 feet. In redesign into the cottage community the setback became 50 feet. With Low Impact development standards it has been designed to avoid adverse environmental impact.

The 2010 approved plan is the feasible and prudent alternative. Whatever impacts associated with it you deemed to be acceptable. In view of the features added, we are a feasible and prudent alternative. We have presented alternatives, but would also say that we have no direct wetland impacts, that we have satisfied the standards. Under section 271-39 the record shows there is a basis that there is no feasible and prudent alternative to this proposed application. There is no evidence that there are any impacts.

Several citations were read from her letter.

"Evidence of general environmental impacts, mere speculation, or general concerns do not qualify as substantial evidence."

"In the event the commission rejects expert testimony, the commission has the burden of showing evidence in the record to support its decision not to believe the experts, evidence that undermined either the experts credibility or their ultimate conclusions". Attorney Shansky noted that there is no evidence.

"A finding that there is a significant potential for an impact to the wetlands is insufficient to deny an application for a permit to conduct a regulated activity. The impact on the wetlands and watercourses must be adverse and must be likely." Attorney Shansky indicated that there is no information in the record.

Attorney Shansky asked the commission to please review the record and commend them for their attention this application for deliberation. Thank you.

Commissioner Scott Williams made the motion to close the public hearing at 10:30 pm, seconded by Commissioner Paul Mei and unanimously approved.

Then, with no further business before it, upon a motion by Commissioner Scott Williams and seconded by Commissioner Kevin Clark it was unanimously voted to adjourn the meeting of the Guilford Inland Wetlands Commission at approximately 10:40 P.M.

Respectfully submitted,

Sally J. Berezowskyj
Recording Secretary.