

Unapproved

**TOWN OF ESSEX**

**Inland Wetlands and Watercourses Commission  
29 West Avenue, Essex, CT 06426  
essexct.gov**

**MINUTES – Public Hearing and Regular Meeting**

**July 10, 2012**

**Call to Order and Seating of Members**

A Public Hearing followed by the regularly scheduled meeting of the Essex IWWC was conducted on July 10, 2012 in the auditorium, of the Essex Town Hall at 7:30 p.m. Those members in attendance for the Public Hearing were Chair, Daniel Lapman, Vice Chair, Chuck Corson, Nancy Arnold, Fred Szufnarowski, Steve Knauth, Larry Shipman, Zoning Representative and Claire Tiernan, Planning Representative.

Staff: Joe Budrow, Wetlands Enforcement Agent and Zoning Enforcement Agent and Stella Beaudoin, Recording Secretary.

Mr. Lapman called the meeting to order at 7:30 p.m.

**1. Public Hearing**

- **Consideration of Application #12-5 Ingham Hill Road, Applicant, River Sound Development, LLC.** This is an application for a 6-lot Open Space subdivision at the end of Ingham Hill Road on a property that is 36.6 acres in size. There are four areas of wetlands and/or watercourses on the property. Two brooks, two swampy areas and a pond are located on proposed open space land. Lots 2 and 3 appear to have regulated activities just outside of the 100-foot upland review. Continued from the April 10, 2012 and May 8, 2012 IWWC meeting.

**Attorney Brian Smith, Robinson & Cole presented on behalf of River Sound Development, LLC.** Attorney Smith offered a response to a number of issues that were raised at the June 2012 meeting. Attorney Smith noted that the open space that will be dedicated to the Essex Land Trust surrounds the entire outer boundary of this subdivision proposal. There is a perimeter easement situated on the property to the south of the cul de sac. There is an easement in place to protect the area in which the spotted turtle activity has been identified. Attorney Smith noted that there are no proposed activities within the wetlands or within the regulated areas.

**Robert Doane, P.E. presented on behalf of the developer.** Mr. Doane submitted revised site development plans to July 10, 2012 that respond to issues as were raised at

the June 2012 IWWC meeting. Mr. Doane stated that he has added to the site plans, the area of ledge outcrops and trees that show up on lots #5 and #6.

Mr. Doane stated that one of the requests from the June 2012 meeting was to do as much stormwater recharge as possible. The new stormwater analysis includes Lots #2, #4 and #6 which are recharge areas. This mitigated the run-off generated from the rainfall event. For the various storms, and for the 100-year storm, design point 1 for the 100-year storm and because the watershed is so large, there is the same runoff. For design point 2 which is in the center of the site, for 100-year storm there is a .5 CFS increase in run-off. Mr. Doane distributed a chart of the stormwater runoff (CFS) to include Design Points #1, #2 and #3 which was entered into the record as Exhibit P. Mr. Doane stated that the recharged runoff generated by the rainfall event and the minimum increase of the proposed 6-lot development is insignificant. Mr. Doane stated that the need for detention basins is not necessary due to low impact development.

Mr. Doane addressed a series of concerns as put forward by Trinkaus Engineering, LLC in a letter dated July 9, 2012. Mr. Doane stated that there are no wetlands on Lot #1 and the location of the footing drain will be removed on Lot #3. The swale will not be directed into the bio-retention system. Mr. Doane commented on the siltation fences noting that when you run a silt fence down grade, hooks are placed every 50 feet or so. Mr. Doane stated that he recognizes the sensitivity on Lot #2 and noted that he prefers to have the silt fence run adjacent to the conservation easement as it becomes a construction fence as well. Mr. Doane stated that he would not recommend a swale on top of the cut slopes and noted that he will stabilize and design the slopes so that they can handle the run-off coming down from the top. Lot #2 will not have an adverse impact on the wetlands or watercourses. The swales wrap around the house and the sheet flow will go into the wooded area on the lot. The runoff on the eastern portion of the lot will not be directed into the bio-retention system. Infiltration trenches and level spreaders are proposed for the surface runoff coming from the driveway. Mr. Doane stated that in his professional opinion, during the construction period on Lot #2, there will be no intrusions into the 100' upland review.

Mr. Doane stated that in item #2, Lot #3 talks about 20% slopes which will not present a problem during construction. Regarding Lot #4, Mr. Doane has enhanced the driveway so the runoff will flow into the woods. Mr. Doane stated that the cut slope behind the proposed residence on Lot #5 presents no issues. Mr. Doane stated that the Lot #6 footing drain does not have a high velocity flow; It intercepts the ground water and it will not erode and it is situated in the appropriate discharge location. The construction of the house within 10-feet of the conservation easement on Lot #2 should present no problems. Mr. Doane stated that he recognizes the proximity of the house to the regulated area, however throughout the entire project Mr. Doane noted that he has embraced the sensitivity of the site. The driveway serving lots #6 and #5 have been relocated. Mr. Doane met with Augie Pampel, Essex Tree Warden to discuss the relocation of the driveway to reduce the impact to the street trees. Mr. Doane submitted an alternate driveway Exhibit proposed for Lots #5 and #6 and he noted that there is a

common driveway maintenance easement. Mr. Doane stated that as is shown on the plan there is a 25-foot easement that goes through the conservation easement with a maintenance agreement and requirements.

**Thomas A. Gelormino of VEET'S Explosives, Inc, Torrington, CT** presented.

Mr. Gelormino stated that there was an issue raised regarding the airborne dust that will occur during blasting and he noted that a double dust depression system will be utilized during the blasting process. Blasting mats will be utilized as well. Mr. Gelormino stated that acidification is not caused by blasting. The cuts are to be 6 to 8 feet deep, which is minimal. There could be some impact to surface water from the blasting, however there is not a lot of encroachment on the possible areas. There is a potential for some possible changes in groundwater flow if the blasting is deep. This project however will require the blasting of only a few feet so as to construct a basement in the house. There was a concern expressed surrounding increase nutrient loading as post construction blasting. Mr. Gelormino stated that this is not a blasting problem and noted that blasting will potentially occur on each of the six lots. The blasting time will take less than one day per lot. Mr. Gelormino recommends a pre-blast survey for any property within 300 feet of the blasting.

**Michael Klein, biologist and soil scientist presented.** Mr. Klein noted that he has been reviewing this property over the past ten years. Mr. Klein addressed a letter written by Kelly Starr, CRCCD dated July 5, 2012 which outlines a series of concerns surrounding vernal pools on this property. Mr. Klein stated that the wetlands on this property have not been adequately studied.

Attorney Smith stated that the Essex Conservation Commission wrote a letter outlining their recommendations and suggestions for the open space, and submitted it to the IWWC for the record.

**Dr. Michael Klemens** stated that he has reviewed the letters received from the Natural Diversity Data Base (NDDDB) and from the CT River Coastal Conservation District (CRCCD) both dated July 5, 2012. Dr. Klemens entered into the record as Exhibit T his letter dated to July 10, 2012 to Michele Maresca, Esq. and Brian R. Smith, Esq. Dr. Klemens embellished on his response letter and noted a few of the high points as follows:

The ribbon snakes have been recorded dead on Ingham Hill road and the wet pastures offsite on the north side of Ingham Hill road would be expected to contain this species. The silt fencing is arranged as proposed to exclude the disturbed area which has a positive affect to protect the surrounding property and to keep the ribbon snakes out of the disturbed area. Dr. Klemens stated that he does not believe that there are box turtles onsite, however he is following all of the recommendations made by CRCCD in order to potentially locate and to protect the box turtle.

**Attorney Christopher Smith** presented. **Mr. Smith is a land use attorney with the firm of Shipman and Goodwin and he represents the interveners.** Mr. Smith stated that Mr. George Logan from REMA is also in the audience and here this evening to

present. Mr. Smith presented an *Opposition Packet Concerning Application for Approval of Regulated Activities Associated with Proposed Six Lot Residential Subdivision on Real Property Located on Ingham Hill Rd., Essex, CT July 10, 2012* and was entered into the record as Exhibit V. Attorney Smith discussed this packet in length. Attorney Smith concluded by stating on behalf of the interveners, he respectfully requests that the IWWC deny Lots #2 and #3 he further requested that the proposal be scaled back.

Dr. Klemens stated that he has reviewed the vernal pools in May 2012 and he did not see spotted turtles.

**George Logan, Certified Professional Wetland Scientist** presented. Mr. Logan entered into the record as Exhibit W, his letter to the IWWC dated July 10, 2012 entitled *Review-rebuttal Open Space Preservation Subdivision Ingham Hill Road, Essex, CT, REMA Job #12-1598-ESX4* from REMA Ecological Services, LLC. In his letter, Mr. Logan responds to statements by EPS and further embellished those points at this evening's meeting.

**Sigrun Gadwa Certified Professional Wetland Scientist with REMA** presented additional details on the wildlife indigenous to this property.

**Attorney Charles Rothenberger from the CT Fund for the Environment (CFE) presented as an intervener.** Mr. Rothenberger entered into the record Exhibit X which is his letter to the IWWC dated July 10, 2012 regarding this open space subdivision. In his letter, Attorney Rothenberger addresses jurisdiction along with the likely adverse impacts to the wetlands resources and he also addresses the prudent and feasible alternatives to this proposal.

Attorney Rothenberger stated that the reasonable likelihood of adverse impacts to wetland and watercourses as a result of the proposed development activities has been demonstrated by expert testimony based on the testimony and the information presented. Attorney Rothenberger requested that the IWWC deny the application on the basis of substantial evidence of adverse impacts to the wetlands and watercourses. Mr. Rothenberger asked that in the alternative, the IWWC should condition any approval of the wetlands permit based on the elimination of Lots #2 and #3.

At this time, Fred Szufnarowski read into the record a letter from Daphne N. Nelson, 80 Ingham Hill Road who expressed opposition to this subdivision and the proposed underground water system.

**Larry Fortier, 78 Ingham Hill Road.** Mr. Fortier addressed the runoff from Lots #6 and #5. Mr. Fortier stated that he has wetlands in front of his lot and neighbors to the left also have wetlands on the front of their property. Mr. Fortier stated his concern about the surface runoff dissipating water so it will not come down in the stream that runs across the road. Mr. Fortier stated that it is within the purview of IWWC to review the direct and indirect impact on associated wetlands.

**Judy Bombaci, 86 Ingham Hill Road.** Mrs. Bombaci stated that the development of Lot #2 and Lot #3 will negatively impact the pristine wetland adjacent to those two lots.

**Maryann Pleva, Essex Conservation Commission.** Ms. Pleva confirmed receipt by the IWWC of the Conservation Commission's letter dated July 6, 2012 which was entered into the letter as Exhibit Z, in which the Conservation Commission presents their requests, recommendations and statements with regard to the conservation easements on this subdivision.

**Tracy Lemay 116 Ingham Hill Rd.** Ms. Lemay stated her opposition to this application. Ms. Lemay entered into the record a letter on July 10, 2012 which is Exhibit AA.

**Suellen McCuin 24, Ingham Hill Rd.** Ms. McCuin presented aerial photos of Ingham Hill Road taken in 2004. Ms. McCuin presented a letter from the Alliance for Sound area Planning (ASaP) requesting that the IWWC deny without prejudice this application. The ASaP letter was entered into the record as Exhibit BB. The ASaP is working to preserve these 1,000 acres of land that used to be called "The Preserve". There are over 300 members in the ASaP organization.

**Ken Bombaci, 86 Ingham Hill Road.** Mr. Bombaci presented briefly on the negative impact of the proposed blasting associated with the development of the lots on this property.

Mr. Budrow read a letter from Carlton M. Barlow Jr. dated June 12, 2012 into the record and labeled as Exhibit DD. Mr. Barlow stated that he is "adamantly opposed to this proposal based upon testimony of opposition representatives, Chris Smith, Logan and Charles Rothenberger."

Mr. Budrow entered into the record the Metropolitan Conservation Alliance "*Best Development Practices*" as Exhibit EE on July 10, 2012.

**Chris Greider who lives in Old Saybrook and who is part of a group known as The Alliance for Sound area Planning (ASaP).** Mr. Greider commented on the destruction of the wildlife indigenous to this property should this subdivision proposal be granted.

Mr. Doane entered into the record the compilation plan dated 2.7.2012 and entered as Exhibit FF

This concluded the audience testimony and presentation.

At this time Mr. Lapman asked commissioners if they had any further questions. There were no further questions a motion was requested to close the public hearing.

**Motion** made by Chuck Corson to close the public hearing at 10:47pm on **Application #12-5 Ingham Hill Road, Applicant, River Sound Development, LLC** for a 6-lot Open Space subdivision at the end of Ingham Hill Road to the July 10, 2012 regularly scheduled meeting of the IWWC.

**Motion** seconded by Fred Szufnarowski and passed unanimously.

Mr. Lapman asked members to thoroughly review the written testimony and consider the verbal testimony as has been presented over the past months with regard to this subdivision proposal. Members will review the materials and be prepared to discuss and make a decision on this application.

The regular meeting was opened at 10:55pm. Those members in attendance for the regular meeting were Chair, Daniel Lapman, Vice Chair, Chuck Corson, Nancy Arnold, Fred Szufnarowski, Steve Knauth, Larry Shipman, Zoning Representative and Claire Tiernan, Planning Representative.

Staff: Joe Budrow, Wetlands Enforcement Agent and Zoning Enforcement Agent and Stella Beaudoin, Recording Secretary.

#### **Old Business**

No old business.

#### **New Business**

No new business.

#### **Other Business**

##### **Approval of Minutes - Regular Meeting, June 12, 2012**

**Motion** made by Chuck Corson to approve the Minutes of the June 12, 2012 meeting as presented.

**Motion** seconded by Steve Knauth and passed unanimously.

**IWWC Report:** Mr. Budrow stated that he will report to the Commission at the August 2012 meeting.

**Chairman Report:** Daniel Lapman stated that he attended the FOI info session which was offered at the Essex Town Hall in June 2012 which was informative. Mr. Lapman stated that Jim Leo will be the new IWWC member at large.

**Planning Commission:** Claire Tiernan stated that at the June 2012 meeting, the Planning Commission discussed the Foxboro subdivision and the plan has not yet been approved.

**Conservation Commission:** Mr. Lovelace has recused himself from the Ingham Hill Subdivision proceedings.

**Zoning Commission:** Larry Shipman No report.

#### **Adjournment**

**Motion** made by Dan Lapman to adjourn at 11:00 p.m.

**Motion** seconded by Chuck Corson and passed unanimously.

Respectfully submitted,

Stella C. Beaudoin  
Recording Secretary

The next regularly scheduled meeting of the Essex IWWC will be conducted on August 14, 2012  
in Room B of the Essex Town Hall.

The proceedings of the July 10, 2012 Public Hearing were recorded on 1 card. Please speak  
with the Essex Zoning Office for further information.