

NEW HAVEN CITY PLAN COMMISSION INLAND WETLANDS REVIEW

RE: 86 FITCH STREET, BLAKE STREET (M/B/P 372/1159/00801, 372/1159/00800, AND 372/1159/01101). Inland Wetlands Review of outdoor storage for materials related to landscaping business. (Owner: Fasano Properties, LLC & Boyar Properties, LLC; Applicant: Ruslan Boyarsky; Agent: Joseph Porto of Parrett, Porto, Parese, & Colwell, P.C.)

REPORT: 1514-05

INLAND WETLANDS FINDING: DENIAL

Note: Companion CPC Report 1514-06 and 1514-11 for the same site.

Previous CPC Actions:

- Zoning Ordinance Map Amendment, petition for zone change from Low Middle Density Residential (RM-1) to Light Industrial (IL) (CPC 1291-01, July 19, 2000)
- Special Permit and Costal Site Plan Review for storage of towed vehicles in an IL zone (CPC 1428-07, May 20, 2009).

Submission: Received December 15, 2015, including SPR Application Packet including DATA, SITE, CSPR, IW and SPECIAL PERMIT forms, NARRATIVE attached; \$540 application fee (including Coastal Site Plan Review and Inland Wetlands Review application fee).

- Stormwater Drainage Report Dated February 12, 2015 and received February 18, 2016. Revised March 29, 2016. Received March 30, 2016.
- Wetland Delineation Report by Pietras Environmental Group LLC. Dated November 7, 2015, received December 15, 2015.
- Revised Narrative for Special Permit Application, Coastal Site Plan and Site Plan Review received January 12, 2016. Revised and Received March 7, 2016. Revised and Received March 30, 2016.
- Material Safety Data Sheets for mulch chip colorants. 5 sheets, Received January 12, 2016.
- Property and Topographic Survey. Dated 09/21/15, received Dec 15, 2015. Received (duplicate) Feb 18, 2016.* Received (duplicate) March 8, 2016.* Received March 9, 2016 (no revision dates included). Received March 30, 2016 (no revision dates included).
- Parking & Material Storage Plan. Dated 10/13/15, received Dec 15, 2015. Updated 2/10/16. Received Feb 18, 2016.* Received (duplicate) March 8, 2016.* Received (duplicate) March 9, 2016 (no revision dates included). Received March 30, 2016 (no revision dates included).
- Lighting Plan. Dated 2/10/16. Received Feb 18, 2016.* Received (duplicate) March 8, 2016.* Received (duplicate) March 9, 2016 (no revision dates included) (two sheets in this set: 3 of 7 and 5 of 7 are both entitled Lighting Plan). Received March 30, 2016 (no revision dates included).
- Storm Water Management Plan. Dated 2/10/16. Received Feb 18, 2016.* Received (duplicate) March 8, 2016.* Received Revised copy dated March 8, 2016 on March 9, 2016. Received (duplicate) March 9, 2016 (no revision dates included). Received March 30, 2016 (no revision dates included).
- Pavement Plan. Dated 2/10/16. Received March 30, 2016.
- Micro Grading Plan. Dated 3/19/16. Received March 30, 2016.
- Detail Sheet. Dated 3/9/16 and received March 9, 2016. Received March 30, 2016 (no revision dates included).
- Erosion Control Specifications. Dated 3/7/16. Received March 8, 2016.* Received (duplicate) March 9, 2016 (no revision dates included). Received March 30, 2016 (no revision dates included).
- HydroCAD Model. Printed 3/7/2016. Received March 8, 2016.*
- Soil Investigation report. Dated March 1, 2016. Received March 7, 2016.
- Exhibit A: Dust Control Narrative. Received March 30, 2016.

(* indicates plans not signed and sealed)

Other RELEVANT DOCUMENTS:

- Cease and Desist Letter from CNH Building Department dated July 8, 2015.
- Emails from Anne Hartjen (February 3, 2016) and Ted Stevens (February 19, 2016) regarding application deficiencies.
- Letter from Nicholas Mastrangelo of Blake Street Holdings LLC dated January 28, 2016. Received February 3, 2016.
- Letter from John Gabel of Connecticut Consulting Engineers LLC. Dated June 22, 2015. Received February 3, 2016.
- Site Photos from 9/10/2015 and 1-22-16.
- Drone Site Photos from Nicholas Mastrangelo (20 sheets) from 3/13/2016 received March 16, 2016.
- Letter from Nicholas Mastrangelo of Blake Street Holdings LLC dated April 15, 2016. Received April 18, 2016. Includes 5 additional color photos dated 04/14/2016.
- Letter from Victoria Jacobs dated 03/15/16. Received March 16, 2016.

INLAND WETLANDS REVIEW

CLASSIFICATION

- Class N: Non-Regulated Uses
- Class A: Uses Permitted by Right
- Class S: CTDEP Regulated Operations and Uses
- Class B: Inland Wetlands Commission Regulated Operations and Uses Having a Minor Impact
- Class C: Inland Wetlands Commission Regulated Operations and Uses Having a Major Impact

Definition of Regulated activity - any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration, or pollution of such wetlands or watercourses, and any earth moving, filling, construction, or clear-cutting of trees, or any such operation within fifty (50) feet of wetlands or watercourses.

Determination of Classification and Proposed Regulated Activity:

The applicant is currently operating a landscape business without the required permits and approvals; a Cease and Desist letter was sent by Jim Turcio of the Building Department in July of last year (attached). In addition to this Inland Wetlands Commission application, the site also requires a Special Permit for outdoor storage of more the 500 SF of material, and a joint Site Plan and Coastal Site Plan for activities within the Coastal Zone.

The application narrative states, “the business conducts landscaping services, *including but not limited to* [staff emphasis], tree removal, cutting and retail sale of fire wood, snowplowing, and sale of mulch in bulk quantities.” Wood cutting and splitting operations are noted to be seasonal. Coloring of wood mulch also happens on-site.

In addition, a large number of maintenance vehicles are stored on-site. The proposed site plan categorizes their use and number, and each is assigned a parking space. An existing storage building on-site is used for storage of additional tools and landscaping equipment.

The site sits at the confluence of Wintergreen Brook to the north and Beaver Brook to the south (watercourses). Activities in the regulated area include landscape vehicle parking, mulch creation, colorizing and storage, and mafia block walls.

Staff suggests to the Commission that this application be categorized as a **CLASS B**.

Soil Science Report:

The Wetland Delineation report provided by Pietras Environmental Group categorizes the on-site soils as Udorthents-Urban land complex (206). There are no wetlands on-site.

Vegetation:

Vegetation on-site is limited to that which is growing on the slopes of the watercourses. It includes, black locust, American elm, pin oak, red maple, ailanthus, Russian olive, multiflora rose, elderberry, bittersweet, grapevine, Japanese knotweed, vetch, Japanese honeysuckle and thistle.

Planting Plan:

There is no associated planting plan with this application. New planting is mentioned in the application narrative but is not indicated on the plans.

Soil Erosion and Sedimentation Control (Sec 58):

- The revised application drawings most recently submitted are not clear on the subject of grading and subsequent SESC measures. One drawing shows proposed regrading of the entire site, while other drawings and the narrative indicate otherwise. (The implication from the grading plan is that not only will the area shown as “new pavement” be paved, but the areas previously paved will be regraded and then repaved as well.) The drawings are inconsistent and technically deficient.
- Construction details for new SW outfalls and headwalls are required in order for staff to determine all resources are adequately protected; these details have not been provided as requested by staff. Insufficient engineering could cause catastrophic erosion at this outfall. (Lack of outfall detailing, while technically part of Stormwater Management, is noted here as its effect is most related to Soil Erosion and Sediment Control.) (Changes to the existing outfalls at the interface with Wintergreen Brook need complete engineering detail to satisfy the Commission that impacts to the watercourse and probable destructive erosion at the outfall has been mitigated. This detail has not been provided.)

Stormwater Management Plans (Section 60):

While technically the SWM Plans are in compliance with Section 60 of the NHZO, additional detail is required to evaluate the impact to Inland Wetlands and Watercourses as required by other sections of the City’s Inland Wetland and Watercourses Regulations:

- Proposed grading plans indicate complete regrading of the site with permanent fill placed within the 100-year floodplain. Placement of permanent fill in this area would require compensatory flood storage. It must be noted that the revised grading plans do not correspond with the other plans in the set; while grading plans indicate complete regrading of the site, other plans and the application narrative suggest only partial regrading of the site (see comments above). Because of the lack of coordination between drawing sheets and the narrative, the application must be deemed incomplete.

Other/Deficiencies of Application Materials:

1. **The narrative for the site addresses possible spills of petroleum products on-site through the use of spill response kits, though deep detail is not provided. The applicant does not directly state that it will not be conducting vehicle maintenance on-site; previous testimony by the applicant (see transcript) indicates that vehicle maintenance is being conducted on-site. Vehicle maintenance is not allowed in the regulated floodplain per state statute (CT DEEP General Permit for Discharge of Stormwater associated with Industrial Activities).**
2. **As the site has been in operation for over three years, the applicant should have on-file a SWPP (Stormwater Pollution and Prevention Plan) as required by CTDEEP for direct discharges into Inland Wetland and Watercourses. No copy of this required document has been provided with the application.**
3. **The Floodplain limits need to be shown on the plans, including reference to FEMA map panel. The entire site is within the FEMA floodplain for the 100 year storm.**

- 4. Colored wood chips are shown stored directly on the ground. There is nothing preventing the colorant leaking into the adjacent watercourses in the event of a 100-year (or worse) storm event.**

The two adjacent brooks have been noted by the State as areas with impaired water quality; adding to this environmental burden is not acceptable. Overall, the applicant has not demonstrated that impacts within the watercourse, including the 50-foot regulated area, have been minimized or mitigated, or that the proposed activity will not have an adverse impact on the watercourses.

Application Evaluation Criteria: In reviewing a Class B or C Application, the Commission must consider the following environmental impact criteria in its evaluation, as stated in Sections 7.2 and 7.3 of the City's Inland Wetlands and Watercourses Regulations.

- The ability of the regulated area to continue to absorb, store or purify water or to prevent flooding.
- Increased erosion problems resulting from changes in grades, ground cover, or drainage features.
- The extent of additional siltation or leaching and its effect on water quality and aquatic life.
- Changes in the volume, temperature, or course of a waterway and their resulting effects on plant, animal and aquatic life.
- Natural, historic, or economic features that might be destroyed, rendered inaccessible or otherwise affected by the proposed activity.
- Changes in suitability of the area for recreational and aesthetic enjoyment.
- Existing encroachment lines, flood plain and stream belt zoning and requirements for dam construction.
- Any change in the water effecting aquatic organisms or other wildlife, water supply and quality, or recreational and aesthetic enjoyment.
- The existing and desired quality and use of the water in and near the affected area.
- Reports from other City agencies and commissions not limited to the Environmental Advisory Council, Building Official, and City Engineer.
- The importance of the regulated area as a potential surface or ground water supply, a recharge area or purifier or surface or ground waters, a part of the natural drainage system for the watershed, a natural wildlife feeding or breeding area, its existing and potential use for recreational purposes, existence of rare or unusual concentrations of botanical species, availability of other open spaces in the surrounding area, or its value for flood control.

The Commission must consider the following **additional** criteria:

- Environmental Impact:
- Feasible and Prudent Alternatives:
- Short vs Long Term Impacts:
- Potential Loss of Irreplaceable Resources:
- Potential Property Impairment:
- Outside Impact:

Required Findings for a Class B Application:

The Commission must make the following findings for a Class B Application:

1. There is no preferable location on the subject parcel or no other available location could reasonably be required;
2. No further technical improvements in the plan or safeguards for its implementation are possible, or taking into account the resources of the applicant, could reasonably be required; and
3. The activity and its conduct will result in little if any reduction of the natural capacity of the wetlands or watercourses to support desirable biological life, prevent flooding, supply water, facilitate drainage, and provide recreation and open space.

INLAND WETLAND FINDING

The application is incomplete and inconsistent. It does not address the technical issues required by NHZO as discussed above. Of specific concern is the lack of detailing for proposed new outfalls and slope armoring, inconsistent grading plans which may or may not require additional compensatory storage in the floodplain, lack of adequate description of vehicular maintenance issues, lack of a valid SWPP as required by CTDEEP, and lack of adequate, non-floodable storage for colored mulch. Without this information, the Commission is unable to make any of the three required findings for a Class B application. For these reasons, the application must be denied.

ADOPTED: April 20, 2016
Edward Mattison
Chair

ATTEST: 
Karyn M. Gilvarg, AIA
Executive Director