



TOWN OF RIDGEFIELD Inland Wetlands Board

RESOLUTION OF DENIAL **PLENARY RULING APPLICATION**

Plenary Ruling Application for proposed apartment complex and associated parking and drainage infrastructure within the upland review area of wetlands and watercourses.

27 Abbott Avenue

Assessors ID: E15-0085

Owner/Applicant: Veton Alimi/Brian Carey

File IW-23-18

WHEREAS, on 4/21/2023 the Inland Wetlands Board of the Town of Ridgefield received a Plenary Ruling Application for proposed apartment complex and associated parking and drainage infrastructure within the upland review area of wetlands and watercourses on 0.44 acres; located at 27 Abbott Avenue, Assessor's ID No: E15-0085 and

WHEREAS, a public hearing was held on 6/8/23 and continued on 6/22/23, 7/13/23, 8/24/23; and was closed on 9/14/23, after receiving proper extensions from the Applicant; and

WHEREAS, the following documents were submitted by the applicant, peer reviewers, and office staff:

1. Site Improvements for a Proposed Residential Townhouse Complex, dated March 6, 2023, prepared by Landtech.
2. Proof of Notice by Applicant to Water Company, submitted May 15, 2023.
3. Proof of Notice by Applicant to the Commissioner of Public Health, submitted May 15, 2023.
4. Wetlands and watercourse delineation/soil report by a soil scientist, dated November 7, 2022, prepared by Landtech.
5. Drainage Report, dated January 31, 2023, revised March 23, 2023, prepared by Landtech.
6. Description of the ecological communities and functions of the wetlands or watercourses and the effects of the proposed regulated activities on these communities and wetlands functions, dated April 18, 2023, prepared by Landtech.
7. Description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application and each

of the alternatives, and a description of why each alternative considered was deemed neither feasible nor prudent, dated April 18, 2023, prepared by Landtech.

8. Analysis of materials to be deposited within the affected property, dated April 18, 2023, prepared by Landtech

9. Measures which mitigate the impact of the proposed activity, submitted April 18, 2023, prepared by Landtech.

10. A biological evaluation of any marsh, swamp or bog or other wetland within then affected property, dated April 18, 2023, prepared by Landtech.

11. A full and detailed description of the proposed construction or the erection of structures on the affected property including blueprints, engineering and architectural plans or designs where available and reasonable obtainable. Such description shall include the purposes of such construction, use or activity, submitted April 20, 2023.

12. Proof that notices of public hearing were mailed to all property owners within 100 feet of the subject property no less than (10) days prior to the hearing, submitted June 8, 2023.

13. Written narrative of proposed activity, submitted on March 6, 2023, prepared by Landtech.

14. Location Map, submitted March 14, 2023.

15. Plenary –Existing Conditions Site Plan, submitted April 18, 2023.

16. Plenary - Erosion and Sedimentation Control Plan, submitted April 20, 2023, prepared by Landtech.

17. Property deed, submitted on April 18, 2023.

18. Letter of authorization, submitted on April 18, 2023.

19. NDDDB Request, submitted on April 18, 2023.

20. 2023.04.19 - 277 Abott Avenue - Alternative 1 (No Build), submitted on April 21, 2023.

21. 2023.04.19 - 27 Abbott Avenue - Alternative 2, dated March 6, 2023, prepared by Landtech.

22. Application cover letter, submitted April 21, 2023.

23. Correspondence letters and emails numbered 1-72.

24. Legal notice 27 Abbott Avenue – May 25, 2023, submitted on June 1, 2023.

25. Legal notice 27 Abbott Avenue – June 1, 2023, submitted on June 1, 2023.

26. Certificate of Mailing – Neighbors 5-25-23, submitted on June 2, 2023.

27. Inland Wetlands Board Neighbor Notice Letter, submitted on June 2, 2023, prepared by Carmody Law.
28. Site walk 27 Abbott Avenue 6-04-23 – public, submitted on June 5, 2023.
29. Steve Trinkaus 27 Abbott Avenue Review, dated June 7, 2023, prepared by Trinkaus Engineering, LLC.
30. Engineer Peer Review Proposal, dated June 6, 2023, prepared by Artel Engineering Group, LLC.
31. Electronic petition, submitted on June 9, 2023.
32. Alan Pilch resume, submitted on June 21, 2023.
33. Brian Carey resume, submitted on June 22, 2023.
34. Site Improvements for a Proposed Residential Townhouse Complex, dated March 6, 2023, revised March 28, 2023, revised June 23, 2023, prepared by Landtech.
35. 27 Abbott Avenue - Alternate Site Plan 3, dated June 21, 2023, prepared by Landtech.
36. Drainage Report, dated January 31, 2023, revised March 23, 2023, revised June 23, 2023, prepared by Landtech.
37. Landtech response to Trinkaus Engineering comments, submitted on June 22, 2023, prepared by Landtech.
38. 27 Abbott Avenue aerial, submitted on June 22, 2023.
39. 27 Abbott Avenue approved site plan, submitted on June 22, 2023.
40. Tracey Miller resume, submitted on July 13, 2023.
41. 27 Abbott Avenue Wetlands Permit 2018, submitted on June 26, 2023.
42. Engineer Peer Review Report, dated July 6, 2023, prepared by Artel Engineering Group, LLC.
43. Steve Trinkaus 27 Abbott Avenue Review, dated June 7, 2023, revised July 8, 2023, prepared by Trinkaus Engineering, LLC.
44. 27 Abbott Avenue – OM Report, dated July 10, 2023.
45. Drainage Report, dated January 31, 2023, revised March 23, 2023, revised June 23, 2023, revised July 10, 2023, prepared by Landtech.

46. Site Improvements for a Proposed Residential Townhouse Complex, dated March 6, 2023, revised March 28, 2023, revised June 23, 2023, revised July 10, 2023, prepared by Landtech.
47. Landtech response to Artel Engineering Group, LLC comments, submitted on July 10, 2023, prepared by Landtech.
48. Biological Evaluation Peer Review Report, dated July 10, 2023, prepared by Southwest Conservation District.
49. Landtech Response to Southwest Conservation District comments, dated July 12, 2023, prepared by Landtech.
50. Final Wetlands Standards Analysis Memo, dated July 13, 2023.
51. Extension Letter, dated July 13, 2023.
52. 27 Abbott Avenue – Invasive Species Control Plan, submitted August 23, 2023, prepared by Landtech.
53. Engineer Peer Review Report, dated July 24, 2023, prepared by Artel Engineering Group, LLC.
54. Biological Evaluation Peer Review – Final Comment, submitted on July 27, 2023.
55. Extension Letter, dated July 27, 2023.
56. Petition to Intervene – 27 Abbott Avenue, dated July 24, 2023, submitted by David Sachs.
57. Site Improvements for a Proposed Residential Townhouse Complex, dated March 6, 2023, revised March 28, 2023, revised June 23, 2023, revised July 10, 2023, revised July 28, 2023, prepared by Landtech.
58. Drainage Report, dated January 31, 2023, revised March 23, 2023, revised June 23, 2023, revised July 10, 2023, revised July 25, 2023, prepared by Landtech.
59. Landtech response to Artel Engineering Group, LLC comments, submitted on July 28, 2023, prepared by Landtech.
60. 27 Abbott Avenue – OM Report, dated July 28, 2023.
61. Landtech Response to Comments from Public Hearing, dated August 11, 2023, prepared by Landtech.
62. Biological Evaluation Peer Review Comment – Petition to Intervene, submitted on August 16, 2023.

63. Steve Trinkaus 27 Abbott Avenue Review, dated August 10, 2023, prepared by Trinkaus Engineering, LLC / Steven Danzer 27 Abbott Avenue Review, dated August 16, 2023 prepared by Steven Danzer, PHD & Associates, LLC.
64. Murphy – Position statement utilization of 100-foot buffer, submitted on August 24, 2023.
65. Engineer Peer Review Report, dated August 24, 2023, prepared by Artel Engineering Group, LLC.
66. 2004 Connecticut Stormwater Quality Manual, submitted on August 24, 2023.
67. Anthony Zemba resume, submitted on August 24, 2023.
68. Extension Letter, dated August 28, 2023.
69. Site Improvements for a Proposed Residential Townhouse Complex, dated March 6, 2023, revised March 28, 2023, revised June 23, 2023, revised July 10, 2023, revised July 28, 2023, revised September 8, 2023, prepared by Landtech.
70. Drainage Report, dated January 31, 2023, revised March 23, 2023, revised June 23, 2023, revised July 10, 2023, revised July 25, 2023, revised September 7, 2023, prepared by Landtech.
71. Landtech response to Steven Danzer comments, dated September 8, 2023, prepared by Landtech.
72. Steve Trinkaus 27 Abbott Avenue Review, dated September 13, 2023, prepared by Trinkaus Engineering, LLC
73. Ridgefield – MLS Rentals as of 8/30/23, submitted on September 14, 2023.
74. 8-30g Affordable Appeals List 2022, submitted on September 14, 2023.
75. 27 Abbott Avenue Power Point Presentation, submitted on September 14, 2023.
76. 27 Abbott Avenue – Previous Approval vs. Proposal Exhibit, dated August 28, 2023, prepared by Landtech.
77. Landtech response to Artel Engineering Group, LLC comments, submitted on September 14, 2023, prepared by Landtech.
78. Landtech response to Inland Wetlands Board Comments, submitted on September 14, 2023, prepared by Landtech.
79. Landtech response to Trinkaus Engineering comments, dated September 12, 2023, prepared by Landtech.
80. Engineer Peer Review Report, dated September 14, 2023, prepared by Artel Engineering Group, LLC.

81. Downstream Defender, submitted on September 14, 2023.

82. Canadian ETV vs. TFS Hydro International, submitted September 14, 2023.

Intervention of David Sachs

On or about July 28, 2023, the Intervenor filed a petition to intervene in accordance with CGS section 22a-19. The Board granted intervenor status to the Intervenor. The Intervenor's burden was to prove that the activities (the project), as ultimately proposed, designed and engineered, would result in a reasonable likelihood of unreasonable pollution, impairment or destruction of the public trust in the water or other natural resources of the State within the jurisdiction of the Board.

Following the close of the public hearing, and after discussion of the merits of the application and the evidence presented by all parties and persons, including the Intervenor, the Board determined, based upon consideration of all of the credible evidence and testimony in the record, that the project, as designed and constructed, will have an actual unreasonable impact upon the wetlands. In light of this conclusion of the Board, the Board also finds, pursuant to CGS section 22a-19, that the project, as designed, will have the effect of unreasonably polluting or impairing the wetlands, which are, pursuant to the Connecticut Inland Wetlands and Watercourses statutes, an important "natural resource of the State." Accordingly, the Intervention Petitioner has met his burden. Based upon these conclusions, the Board must deny the application if there is "a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety and welfare." The Board concludes that such a feasible and prudent alternative exists as set forth in this resolution.

The Board, in rendering its decision, considered all matters required by CGS 22a-19.

Considerations, Reasons and Conclusions:

In evaluating this application, the Inland Wetlands Board considered the "Standards and Criteria for Decision" in Section 10.2 of the IWWR and "Feasible & Prudent Alternatives" in Section 10.3 of the IWWR, as well as sections 10.4 through 10.6, and determined that, upon consideration of all of the credible evidence and testimony in the record, including the reports and testimony of numerous experts, the proposed construction and final project will have an actual detrimental impact on the wetlands located at the eastern boundary of the subject site.

During the public hearing, Board members repeatedly requested changes to the plans that would increase the distance between the limits of construction and the subject wetland and expressed concerns about the impact to the wetland from runoff flowing directly into the wetland and the thermal effects of that runoff as well, particularly during hotter times of the year. The Board's decision is also based upon the evidence that the stormwater management system will not sufficiently remove harmful sediments, chemicals, and substances prior to flows reaching the wetland. The close proximity of the outfall as well as likely overflow runoff to the wetland during storm events leaves little or no room for natural or other additional filtration before flows enter the wetland. Overall, the evidence establishes that the stormwater management facilities are located too close to the wetland boundary and that close proximity will lead to permanent

negative impacts to the wetland. The Board concludes that, to avoid unreasonable impacts to the wetland, a feasible and prudent alternative exists consisting of an increased buffer between the wetland and the limits of construction of at least 50 feet, a more robust planting plan, incorporation of LID stormwater management techniques such as, but not limited to, natural swale(s), and the relocation of the snow removal storage area.

In accordance with the above, the Board finds that the project proposed in the Applicant's final revised plans is not, in fact, the only alternative that is both feasible and prudent.

NOW THEREFORE BE IT RESOLVED, that the Inland Wetlands Board of the Town of Ridgefield hereby Denies the Plenary Ruling Application for regulated activities in conjunction with site work, erosion control, and storm water management for the construction of the above-referenced project.

Adopted:
Published:
Effective: