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April 11, 2022

Jonathan Luiz
Administrator
Town of Weston
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RE: Inland Wetlands and Watercourses Application to Conservation Commission
Modification of Dog Park Permit 18-01
Lords Highway East & Davis Hill Road

Dear Jonathan,

This office represents Weston residents Freda Welsh, Carolyn Welsh, William Kolbert, Ellen Strauss, Clifford Feller, Joan Dudash, Frank Costello, Dania Feller Anderson and Seth Anderson in connection with the above-captioned Application concerning Town-owned property.

I write on their behalf to advise you that they have concluded that the above-captioned Application filed on March 17, 2022, is incomplete in several respects:

A. Compliance with Weston Town Code Section 215-7 D: .

If the proposed activity involves a significant activity as determined by the Commission and defined in § 215-2 of these regulations, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following, may be required:

- (4) Description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed regulated activities on these communities and wetland functions.
- (5) 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 with each alternative, a description of why each alternative considered was deemed neither feasible nor prudent.
- (7) Measures such as sedimentation and erosion control plans which mitigate the impact of the proposed activity. Such measures include, but are not limited to, plans or actions which avoid destruction or diminution of wetland or watercourse

functions, recreational uses and natural habitats; which prevent flooding, degradation of water quality, erosion and sedimentation and obstruction of drainage; or which otherwise safeguard water resources.

(8) Analysis of the downgradient and downstream impact of the proposed activity.

We assert that the proposed activity, an off-leash dog park, meets the definition in 215-2 and the application is deficient in not addressing it. Ample information is available to the Applicant through general knowledge, the Town's own documentation and from prior testimony given to the Town and Commission during 2018 public hearings on the earlier version of the application now under consideration that includes the following:

- The U.S. Environmental Protection Agency lists pet waste as a significant source of non-point pollution;
- Links on the Town of Weston's website on the topic of stormwater management refer to pet waste as a known pollutant and disease; vector <https://www.westonct.gov/government/municipal-departments/public-works/stormwater-management-program>;
- **The Town of Weston's MS4 Annual report acknowledges, in 6.3 Pollution Prevention/ Good Housekeeping reporting metrics, "Lands with high potential to contribute bacteria (dog parks, parks with open water, & sites with failing septic systems)"** <https://www.westonct.gov/home/showpublisheddocument/4566/63749152977177000>;
- There are mapped and unmapped but acknowledged wetlands within the down slope review area adjacent to the dog park;
- The water runoff from the proposed off leash dog park location runs into storm drains on Davis Hill road, and moves untreated into a watercourse, the Saugatuck River;
- The express purpose of a dog park is to cause dog owners to congregate with their dogs within an designated and publicized area, an activity that will by design concentrate dog activity as well as the deposition of dog feces;
- The express purpose of an off-leash dog park is to allow dogs to be able to run freely in a manner that raises a substantial likelihood that dog owners will not be able to completely monitor the activity of their dogs;
- The large size (2.8 acres) and sloping characteristics of the terrain within the enclosed off-leash area will further make it difficult to control pollution of the wetlands;
- The terrain of the dog park, which applicant acknowledges by design is intended to be left in a natural state with trees and leaf cover, will make the location of dog feces difficult if not at times impossible;

- The intent of the natural state is not in accordance with design recommendation of the American Kennel Club, intended to create a safe and manageable off leash dog park. The AKC guidance states a site should be, "A safe, accessible location with adequate drainage and a grassy area that is mowed routinely;"
- The Commission is already aware and will be presented with additional evidence that the proposed activity created a significant potential for pollution of the adjacent wetlands;
- Multiple studies on owner compliance with picking up dog feces demonstrate compliance rates in the range of up to 60%;
- Multiple studies, including documentation previously provided to the Commission, show how dog waste is a source of pollution;
- Multiple news sources show how other dog parks have created pollution and acted as vectors for disease, and
- Clean-up of contaminated off leash dog parks requires the use of chemicals and disinfectants that can have a detrimental impact of the environment, including nearby wetlands.

The application is thereby deficient in the foregoing respects because the Applicant has failed to provide any indication that it considered whether the proposed activity met the definition of a Significant Activity, and does not provide any detailed analysis and supporting information used to reach that conclusion, one way or another, so that the Conservation Commission can assess the information and render a determination.

The Application requirements of the Weston Conservation Commission at Section 215-7 D (1) further require that an Application must contain:

Site plans for the proposed use or operation of the land which will be affected, which show existing and proposed conditions, wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses, and other pertinent features of the land and the proposed activity, prepared by a licensed surveyor, professional engineer or architect registered in the State of Connecticut or by such other qualified person acceptable to the Commission.

The Application thereby fails to contain the following additional information:

1. Land contours within and below the area of the proposed dog park. This is highly material since the proposed dog park would be located on and immediately above a steep slope and wetlands below.

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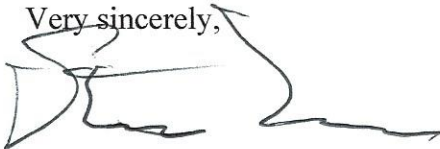
2. Wetland boundaries. My clients and their expert witness have determined that the wetland boundaries identified on Plan SE1 filed with the Application have not been fully identified or marked and the identification of wetlands is substantially incomplete. This is particularly material since my clients will show that the wetlands will be polluted by the proposed activity.

3. Other pertinent features of the land and the proposed activity. Plan SE 1 states that the activity will “Remove all trees within 20” of proposed driveway and parking.” The number and size of the trees that would be removed have not been provided. Trees that would be removed currently absorb stormwater on land that is regularly subject to flooding of this and adjacent properties and should be reflected in the resulting stormwater calculations that accompany the Application.

Moreover, the request for approval to the Planning & Zoning Commission pursuant to Connecticut General Statutes Section 8-24 filed on March 28, 2022 was based on a similarly incomplete request. It should be withdrawn and resubmitted to the Commission for an appropriate public hearing with appropriate notice to the public.

For each of these reasons both Applications are incomplete and should be withdrawn and, if the Town desires, corrected and resubmitted.

Very sincerely,



Stephen E. Nevas

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