

What Changes Were Made?

Changes to the peer review as orchestrated by Ross, Shapiro, Milone & MacBroom, and probably others include the following:

Example 1

Original text: “Overall, it is our professional opinion that water quality has been suitably addressed in the application through the use of multiple treatment practices in series. While calculations have been provided regarding removal percentages, those calculations should be considered an approximate representation based on a chosen method of computing them. While the validity of method chosen could be argued and there may be other methods available that are considered more accurate, the fact is that the results of these calculations vary widely and only post development testing would provide real confirmation.”

Altered Text: “Overall, the design of the storm water management system includes several best management practices that are intended to filter and improve the water quality of the runoff from the proposed development. The design incorporates multiple treatment practices in series, which have been proven to increase removal efficiency.”

Significance: The entire opening portion of the report, which states that overall water quality issues have been “suitably addressed” and that, because of inherent limitations with any calculating method only post development testing will confirm the actual numbers, has been replaced. What appears instead is the inconclusive and far less favorable statement that the storm water management system “includes several best management practices that are intended to filter and improve water quality.” In addition, as occurs oftentimes throughout the altered peer review, Milone & MacBroom’s use of words such as “in our view” or “in our opinion” have been removed to make their statements look like fact.

Example 2

Original Text: “The “requirement” to provide an internal roadway results in most of the wetland impacts, albeit to a wetland of low ecological value. The proposed roadway is awkward and looks costly. The two sections of the 595 parcel that it connects already have access to main roadways. And, both have easy links to the proposed Costco via the accessway across Exit 56 and from East Main Street.”

Altered Text: “Milone & MacBroom, Inc. (MMI) raised this topic under its review of direct wetland impacts from the proposed internal roadway and the selected box culvert crossing. At that time, the applicant responded that the internal roadway was a requirement of the PDD approval and also presented a variety of box store and parking arrangements very similar in configuration to the existing submittal. The Commission must judge whether these responses are adequate to comply with the statutory requirement. For example, it is easy to envision many alternative layouts with less square footage of direct and indirect wetland impact that allow ample development of the three sites:

- a.) As the public commented, the gas kiosk is not critical to the proposed commercial use, and there is an abundance of such amenities in close proximity to the site. The elimination of the gas kiosk or its relocation (see next) removes the need for the box culvert crossing of the central watercourse (direct wetland impact).
- b.) The gas kiosk can be relocated to pad 3,4,5,6, or 7.

- c.) The access road from East Industrial Road can be relocated through pad 6, pad 7, or the developed parcel in between.
- d.) Reduced building/parking footprint will lessen direct/indirect short-term and long-term wetland impacts and impacts to the riparian/wetland buffers. Staff asked us to consider, for example, if the building was downsized to the average Costco size of 143,800 square feet as listed in the corporate profile online. This could allow a reduction of the length of the building, and the limit of disturbance could be pulled back from the wetlands to the east.

The currently proposed building is generally 475 feet long by 325 feet wide. The perimeter is not a perfect rectangle, but that is the general shape of the building. The current parking count is 637 spaces, which is just over the typical four spaces per 1,000 square feet, which at that rate would equate to 632 spaces for the 158,070 square feet promised.

Reducing the building to the average size would decrease the building square footage by 14,270 square feet. If the length was reduced by holding the 325' width, the length would be reduced by 44 feet. At a parking rate of 4/1000, the parking could be reduced by 57 spaces.

If it was desired to back pull the edge of development from the wetlands to the east, one could eliminate the full row of parking on the east side (shown as 53 spaces), which would gain about 20 feet. If the building was pulled back, this could potentially pull the limit of the development back 44 feet for the width of the building, which would cover about 2/3 the length of the wetland between the proposed wetland crossing and the Route 1 frontage. If the +/- 44-foot building reduction provides suitable additional buffer width without eliminating the parking row on the east side, the the 57-space parking reduction could be utilized to gain some buffer in other areas that may warrant some additional buffer protection. Other options exist, but we thought this was a reasonable example.

Significance: What began as a single comment in which MMI raises only the placement of the project's internal roadway as having an alternate possibility, escalates—at the hand of Diana Ross—into a page right out of the BCRD playbook. Prompted by Ross' email of February 26th in which she instructs them to analyze the effects of reducing the project in size—MMI adds to their final peer review a reply of several paragraphs in which the “alternatives” being campaigned for by BCRD to stop the project are characterized by MMI as “reasonable” and “easy to envision.” As MMI themselves confirm in both their emails and the final peer review (i.e. “Staff asked us to consider”), it is only through the efforts of Ross--in her role as a BCRD operative--that such information appears in the report.

Example 3

Original text: “At that time, the applicant responded that the internal roadway was a requirement of the PDD approval and also presented a variety of box store and parking arrangements very similar in configuration to the existing submittal. The Commission may wish to refer this matter to its Counsel as to whether these responses are adequate to comply with the statutory requirement”.

Altered Text: “At that time, the applicant responded that the internal roadway was a requirement of the planned development district (PDD) approval and also presented a variety of box store and parking arrangements very similar in configuration to the existing submittal. The commission must judge whether these responses are adequate to comply with the statutory requirement.

Significance: Shapiro and Ross specifically remove MMI's suggestion that the Commission seek the town attorney's opinion on this matter. The issue is “feasible and prudent alternatives” to the

proposed plan and whether Costco has already fulfilled this statutory requirement by presenting such alternatives at the PDD level hearings. MMI's suggestion to forward this matter to the town attorney for a legal interpretation is critical since the BCRD is hoping to kill the project by convincing the Commission that alternatives have not been explored and the building should be smaller.

Example 4

Original text: "The Commission must weigh the short and long term negative impacts to the wetland against the anticipated economic benefits of the project."

Altered Text: This sentence has been removed entirely.

Significance: Although Connecticut State Statute 22a-36 specifically calls for the preservation of inland wetlands "while providing an orderly process to balance the need for the economic growth of the state" the inclusion of this balance in the report is counter to BCRD's goal of stopping the project and is thus removed by Ross.

Example 5

Original text: North of the box culvert and west of the stream, several large trees will be impacted by construction of the retaining wall. This area constitutes one of the closest approaches to the wetland boundary. Wetland habitat will be improved by saving the two red maples here. These trees will better augment wetland functions and values here, especially wildlife habitat, if they are better protected by providing another 15 to 20 feet of riparian buffer. However, the catalpa tree at wet flag #89 is less valuable to the wetland. It can be removed.

Altered Text: North of the box culvert and west of the stream, several large trees will be impacted by construction of the retaining wall. This area constitutes one of the closest approaches to the wetland boundary. Wetland habitat will be conserved by saving the two red maples here. These trees will better augment wetland functions and values, especially wildlife habitat, if they are better protected by providing another 15 to 20 feet of riparian buffer. However, the catalpa tree at wetland flag 89 is less valuable to the wetland. It can be removed.

Significance: The changing of a single word changes the impact of the improvements Costco is making to wetlands. Although MMI deemed that the wetland habitat would be "improved", Ross and Shapiro diminish this with the use of the word "conserved."

Example 6

Original text: The Engineering Reports indicate a reduction in contributory watershed to these two wetlands, which may have long-term, negative effects. For example, although most of the wetland plants are facultative (adapted to seasonal changes in hydrology), the loss of so much of the contributory watershed will shift the vegetative suite toward species that are more upland in character.

Altered text: The Engineering Reports indicate a reduction in contributory watershed to these two wetlands, which will likely have long-term, negative effects--changing the trajectory of the two wetlands. For example, although many of the wetland plants are facultative (adapted to seasonal changes in hydrology), the loss of so much of the contributory watershed will shift the vegetative suite away from wetland species toward species that are more upland in character.

Significance: Multiple times, the altered document replaces "may" with "will likely" when referring to potential impacts.

Example 7

Original text: Inspection showed recent high water marks approximating the through capacity of the crossing. Increases in peak flow are likely to negatively impact the stability and safety of this crossing. The effect of volumetric increases are unknown since the design capacity of the crossing is unknown.

Altered Text: MMI observed recent high water marks approximating the through capacity of the bridge crossing. Any increases in peak flow rates are likely to negatively impact the stability and safety of this crossing as well as cause erosion that would contribute to sedimentation of the pond. The effects of volumetric increases are unknown since the design capacity of the crossing is unknown.

Significance: The changes from Shapiro and Ross add additional language to increase potential impacts downstream.

Example 8

Original text: “In summary, we believe that there are wetland impacts proposed and potential alternatives that the commission needs to consider and balance against the economic development benefits of the project.”

Altered text: “In summary, there are wetland impacts proposed and potential alternatives that warrant consideration.”

Significance: As in Example #4, the initial letter instructs the Commission to weigh the wetland impacts of the development against the financial gains it may bring, which is exactly the balance CT statute 22a-36 requires. Shapiro and Ross remove this directive entirely and, as they do with the peer review in general, insert changes that exaggerate potential impacts and eliminate any benefits.

Example 9

Original text: “Efforts have been made to minimize impacts and, where appropriate, provide for enhancement of buffers and other mitigation efforts to maintain protection of the wetlands. As for stormwater management, we believe that the water quality aspects of the design have been adequately addressed, but some additional detail should be presented to confirm the stormwater basin designs.”

Altered text: “Efforts have been made to minimize impacts, provide for enhancement of buffers where appropriate, and present other mitigation efforts to maintain protection of the wetlands. As for stormwater management, several water quality design elements have been incorporated into the proposed development, but some additional detail must be presented to confirm the stormwater basin designs, and appropriate calculations should be submitted to support the design.”

Significance: As in Example 1, although the original wording states water quality has been “adequately addressed,” the altered version eliminates this and states that several water quality design elements have been incorporated into the design...but some additional detail must be presented.”

Example 10

Original text: “If this is adequately addressed and the goal of zero increase in peak rates of runoff is still achieved with some level of infiltration included in the design where appropriate, we believe that the design has adequately provided protection to downstream resources. There has been a lot

of discussion about mitigating developed condition volume increases, and a reasonable amount of soil testing has been done to support the limitations of the native soils to infiltrate stormwater. At this point, we believe that the applicant has adequately demonstrated that their ability to reduce stormwater volumes is limited to what is currently proposed. In addition, the downstream channels show no signs of abnormal erosion, and they appear adequately stable to pass an increase in stormwater volume.”

Altered text: “If these remaining issues are adequately addressed and if the goal of zero increase in peak rates of runoff is still achieved with some level of infiltration included in the design where appropriate, then the issue of downstream impacts can be properly evaluated. There has been a lot of discussion about mitigating developed condition volume increases, which are principally achieved through infiltration. A reasonable amount of soil testing has been done to determine the characteristics of the native soils. At this point, the applicant should summarize this information, confirm any post-development volume increases, and clearly explain why further volume reduction cannot be achieved. For any increases in volume, an explanation should be provided regarding the ability of downstream resources to withstand the changes.”

Significance: The altered text here completely changes the conclusion of the report. The original text concludes that the design adequately addresses stormwater concerns and were reasonable in their approach. In the altered version, there is demand for more information, further explanation of issues that have been detailed multiple times, and providing more work than any applicant has ever been asked to do.

As the Branford Seven summarizes:

“Certainly some of the above is confusing, but put simply, Diana Ross and Daniel Shapiro received the peer review, lied about receiving it to others who had a right to know, held an ongoing dialogue with the peer reviewer Milone and McBroom to push an agenda through their document. Why Milone and McBroom would put their professional reputation in jeopardy for Ross and Shapiro is unknown.

What is also key is that all of the changes and alterations push the talking points of the BCRD. If the BCRD can push the concept of a smaller Costco than Costco would build, and have the Commission buy into it, they can kill the project. If they can muddy the water and demand a never ending list of more tests, analysis, and studies, they can kill the project, as is their goal.

There remain additional questions as well. We know both Shapiro and Ross, in addition to Milone and McBroom, saw the original and know it was modified. We do not know whose handwriting belongs to whom on the document, or if another party saw the document and made notes on it. There are also clearly conversations that took place either in person or on the phone, which we do not have a record of, that play a role; however, we do have a series of documents and emails that paint a clear picture of what took place in the time period in question.”

(In short), details of email interactions show that town employee Diana Ross and Inland Wetland commissioner Daniel Shapiro were working with the peer reviewers, Milone & MacBroom, to drastically alter the filing, turning a document that generally acknowledged that the Costco plan worked and was adequate to one that raised new questions and alleged that there were more viable alternatives. The final draft of the revised document then saw many of its points closely mirror those of the BCRD, the Penny Bellamy-led group fighting the Costco proposal. Among the handwritten edits from Ross’ office were notes to include statements from Trinkaus Engineering, the firm hired to fight the project by the BCRD. Emails (also) show that Ross repeatedly lied to other parties in the filing, including Costco, Costco’s engineering firm, and town officials on the arrival of the peer review, and she and Shapiro continued making changes to the document with Milone & MacBroom.”