OFFICE OF ADJUDICATIONS

IN THE MATTER OF : ***APPLICATION NO. IW-2000-111***

UNIVERSITY OF CONNECTICUT : ***AUGUST 23, 2001***
(BOLTON/HILLSIDE ROAD CONNECTOR)

PROPOSED FINAL DECISION

I

SUMMARY

The University of Connecticut (Applicant) applied to the Department of Environmental Protection (DEP) on July 25, 2000 for a permit to conduct regulated activities in 0.11 acres of inland wetlands. Specifically, the Applicant seeks to construct a road (the Connector) that will join Bolton and Hillside Roads, which are located on the Storrs campus. This application was filed pursuant to the *Inland Wetlands and Watercourses Act.* General Statutes §§22a-36 through 22a-45. On November 3, 2000, the Commissioner issued a Notice of Tentative Determination to approve the application.

The parties to this proceeding are the Applicant, the DEP Inland Water Resources Division (Staff), and the Town of Mansfield Inland Wetlands Agency (Intervenor). The Staff supports issuance of the permit and has entered on the record a draft permit that would authorize the proposed regulated activities. Hearings on the application were held on April 3, 5, and 18, 2001, after Staff received a petition signed by more than twenty-five people. The record on these proceedings was closed on April 25, 2001.

Upon review of the relevant facts and applicable law in this matter, I find that the proposed regulated activities, if conducted in accordance with the terms and conditions of the draft permit as modified herein, are consistent with the applicable legal standards for permit issuance. General Statutes §§22a-36 and 22a-41; Regs. Conn. State Agencies §22a-39-6.1. I therefore recommend issuance of the permit to conduct the proposed regulated activities based on the terms and conditions set forth in the draft permit with the additional condition incorporated herein. (See Attachment A.)

II

DECISION

A

Findings Of Fact

THE PROJECT

1. The Connector will be approximately 2000 feet long and 30 feet wide, and will include a large curve in order to go around two buildings on the Storrs campus. This roadway alignment[1] (Applicant's Alternative A), runs from Hillside Road eastward for approximately 300 feet, curves southward, runs behind a row of houses, passes behind the Phillips Communications Science Center (Speech Center), and continues to the rear of the Child Development and Family Relations Building (Child Labs). The roadway then runs eastward, south of the Child Labs, curves northward and connects to Bolton Road. (See "Alternative A Grading Plan," Attachment B.) (Exs. APP-1, 2, 7, 8, 8a; test. J. Keefe, 4/3/01, p. 40.)

[1] The alignment is the ground plan or layout of the roadway.

2. The need for the Connector is identified in the Applicant's revised Master Plan.[2] The Plan calls for the construction of a perimeter road for vehicular traffic allowing the Applicant to close several roads that pass through the center of the campus. The overall goal of this portion of the Plan is to address concerns regarding pedestrian safety. To meet this goal, the Plan contemplates the campus interior primarily as a pedestrian area with vehicular traffic circling the campus on its perimeter. The Connector is also a mitigation requirement of the Applicant's State Traffic Commission master plan permit. (Exs. APP-2, 6; test. L. Schilling, 4/3/01, pp. 31-32, 35-36, 4/5/01, pp. 8-11; test. J. Keefe, 4/3/01, p. 40.)

3. Alternative A provides for a small parking lot behind the Speech Center and larger hotel patron parking areas that are consolidated in one area on campus. (Test. J. Keefe, 4/3/01, pp. 44-45; test. T. DeSantos, 4/5/01, p. 62.)

4. The design speed[3] for this alignment is twenty-seven miles per hour so that the posted speed limit can be twenty-five miles per hour. This speed limit will move traffic at an acceptable rate, particularly during sports events held on campus. (Test. T. DeSantos, 4/5/01, pp. 47, 132.)

5. The original alignment of the Connector contemplated by the Applicant's Master Plan ran between the north end of the Speech Center and the South Campus dormitories (Alternative B). This route was changed to that currently proposed in Alternative A, when the Applicant determined that the most appropriate site for an on-

[2] This Plan, adopted in 1998 by the Applicant's Board of Trustees, updated a 1987 Master Plan for the University to incorporate all of the projects that were part of what the Applicant called "the UConn 2000 Program. Part of the planning activity involved a review of campus parking and transportation issues. (Test. L. Schilling, 4/3/01, pp. 31-32.)

[3] Design speed is the speed at which a road should be traveled. The design speed determines the character of the road in terms of grade, curves and tangents, and sight distance. The design speed is not necessarily the speed limit of a road. (Test. T. DeSantos, 4/5/01, p. 127.)

campus hotel was the area adjacent to the South Campus and directly in the path of the proposed Alternative B. That hotel is currently under construction and will be operated by a private developer (developer). The Applicant and the developer executed a land lease and operating agreement in February, 2000 that contains provisions that pertain to the location of the hotel on the campus. The developer is unwilling to modify its agreements with the Applicant because it would have to reconfigure the hotel parking areas and hotel access, and the proximate pedestrian access between the hotel and the Rome Commons facility[4]. (Exs. APP-4, 14, ex. H.O.-1; test. L. Schilling, 4/5/01, pp. 8-16; 4/18/01, pp. 152-154; test. J. Keefe, 4/3/01, pp. 52-53; test. T. DeSantos, 4/5/01, p. 90.)

6. During the design phase of the proposed project, the Town of Mansfield (Town) and members of the public expressed concern over the proximity of the road to the Child Labs. There is a covered porch at the back of the Child Labs that provides an outdoor classroom and a play area for toddlers. There is also a paved playground on the westerly side that is used by toddlers, preschoolers and kindergarten-age children. In the initial Alternative A design, the edge of the road pavement was approximately ten to twelve feet from the back of the building. (Ex. APP-8a; test. T. DeSantos, 4/5/01, pp. 62-63; test. C. Madison, 4/18/01, pp. 44-47.)

7. In response to the concerns of the public and the Town, the Applicant modified the alignment of Alternative A. That portion of the Connector that passes behind the Child Labs will now be thirty feet south of the building and at an elevation

[4] The Applicant and the developer have also entered into an agreement that provides for shared use of the hotel rooms and conference facilities in conjunction with events held at the Rome Commons. It was therefore desirable to have the hotel located close to the Rome Commons. (Ex. APP-14; test. L. Schilling, 4/5/01, pp. 15-16.)

approximately ten to twelve feet below the Child Labs floor elevations. The road will be thirty feet from the playground and at an elevation of approximately four feet below the ground surface of the playground. The Applicant intends to construct an eight-foot stockade fence to serve as a visual barrier between the Child Labs and the road. (Ex. APP-5; test. J. Keefe, 4/3/01, p. 41, 43, 4/5/01; test T. DeSantos, 4/5/01/, pp. 64, 69, 75, 115; test. L. Schilling, 4/18/01, pp. 149-150.)

8. One of the wetland areas that will be impacted by the proposed project is located south of the Child Labs. The area is also abutted by privately owned property and by the E.O. Smith High School athletic field. If the Applicant were to align the roadway behind the Child Labs further south, the result would be a greater impact on the adjacent wetland or an encroachment on private property.[5] (Exs. APP-8, 9; test. T. DeSantos, 4/5/01, pp. 62-63.)

PROPOSED REGULATED ACTIVITIES/WETLANDS AND WATERCOURSES

9. In order to construct the Connector, 0.11 acres of wetlands will be altered. The Applicant proposes to remove vegetation and fill approximately 4760 square feet of a wetland area that is located on its northwestern section (Wetland 1) and approximately 230 square feet of a wetland area located on its southernmost section (Wetland 2). (Exs. APP-1, 2; test. R. Russo, 4/3/01, p. 63; test. B. Golembiewski, 4/5/01, p. 205.)

10. Wetland 1 is located at the start of the southward curve closest to the Hillside Road end of the Connector, and consists of approximately 13,500 square feet of lightly forested land. Wetland 2 is located at the southern portion of the Connector

[5] The Applicant has already obtained an easement from the abutting landowner to encroach on a portion of the high school property in order to align the roadway as it is presently proposed. (Test. T. DeSantos, 4/5/01, p. 66.)

approximately in the center of the arc of the curve in the road as it passes behind the Child Labs. Wetland 2 has no man-made features but appears to be the result of continual storm water runoff from the building and parking areas located to the north. (Exs. APP-1, 2; test. J. Keefe, 4/3/01, p. 44; test. R. Russo, 4/3/01, p. 59, 4/5/01, pp. 143-144.)

11. The Applicant proposes to fill approximately 4760 square feet of Wetland 1, in order to raise the existing ground elevation in that area to avoid having a sharp incline on the approach to the Connector from the Hillside Road intersection. This wetland is a palustrine, forested, hardwood swamp. Vegetation in the area consists of red maple, yellow birch, ash, black birch, and ironwood trees, and barberry, multiflora rose, and spicebush shrubs. This wetland is located behind a private residence house and the surrounding land use includes the backyard of that property, a sidewalk, and a driveway. (Exs. APP-1, 2; test. R. Russo, 4/3/01, pp. 60-62, 4/5/01, pp. 145-146; test. D. Santos, 4/5/01, p. 67.)

12. The functional value of this wetland is low. It contains poorly drained soils although it does retain some nutrients and sediments. The surface water quality flowing into the area is questionable and is probably impaired due to the development of adjacent areas. Much of the wetland has been filled, the surrounding land is densely inhabited and there is a high level of nearby human activity. The wildlife habitat value is low and there is no permanent water at the site. Hydrologic benefits such as flood control or ground water discharge are minimal. Although this wetland does serve as a natural buffer between private residences and the campus, there is little aesthetic value or potential for educational opportunities. No noteworthy or protected species are present in

this wetland area. (Ex. APP-2, ex. DEP-7; test. R. Russo, 4/5/01, pp. 145-147; test. B. Golembiewski, 4/5/01 p. 204-205.)

13. The Applicant proposes to fill approximately 230 square feet of Wetland 2 to accommodate the Connector alignment in that area. This wetland is located next to the high school athletic field, and near paved and regraded surfaces. This wetland is a palustrine, scrub/shrub swamp near the paved area and is a wet meadow/drainage swale near the playing field. Vegetation consists of red maple, yellow birch, black birch, and aspen trees, highbush blueberry and willow shrubs and sensitive fern. (Exs. APP-1, 2; test. R. Russo, 4/3/01, pp. 60-62, 4/5/01, p. 149; test. T. DeSantos, 4/5/01, p. 70.)

14. The functional value of Wetland 2 is low. It contains poorly drained soils and the quality of surface water inflow is questionable due to the surrounding development and the presence of the athletic field. Much of the wetland is located at the toe of a fill slope. There is a high level of human activity around the area. There is no permanent water in the area that would provide fish habitat or recreational functions. The area does receive storm water and retains some sediment and nutrients. Hydrologic functions of the wetland are low and there is minimal aesthetic or educational value. No noteworthy or protected species are present in the area. (Ex. APP-2; test R. Russo, 4/5/01, pp. 149-151.)

15. The impacts on Wetland 1 will be minimal. The flood flow alteration and nutrient retention functions served by Wetland 1 may be slightly minimized but should continue. The impacts to Wetland 2 are minor. There will be no habitat bisection or larger fragmentation of the area. There will be no increased storm water runoff into either wetland area as a result of this project. The Connector construction and subsequent

traffic flow will not have an adverse impact on the functions and productivity of the remaining wetlands in either area. (Test. R. Russo, 4/5/01, pp. 164-165; test. B. Golembiewski, 4/5/01, pp. 207-208.)

16. To avoid any additional impacts to the wetlands during construction, the Applicant's soil erosion and sedimentation plan includes an anti-tracking pad apron on both ends of the Connector, silt fences on all downhill sides of the cuts and fills, and hay bale silt fences adjacent to the wetlands. (Exs. DEP-13; ex. APP-12; test. A. Christian, 4/5/01, p. 198.)

17. Staff has included a special condition in the draft permit that requires the Applicant to plan for and install a pavement underdrain adjacent to Wetland 1 that will create a barrier to the movement of ground water from Wetland 1 to the underdrain. Staff has also included a special condition that provides for buffer and wetland enhancement planting along the roadway and each wetland edge, and restoration of some of the area of Wetland 2. The recommended plantings include fruit and nut bearing shrubs and will enhance the buffer value of the wetland area and will compensate for some of the wildlife functions that will be minimized by the project. The soil scientist for the Applicant recommends that oversight of the planting and restoration activities should be by a qualified biologist or soil scientist. (Ex. DEP-12; test. B. Golembiewski, 4/5/01, pp. 206-209; test. R. Russo, 4/05/01, p. 157.)

ALTERNATIVES

18. The Applicant considered a number of alternatives to Alternative A which were rejected for reasons that included increased safety risks, violation of the hotel lease provisions, and the consequence of more significant environmental impacts. These

alternatives included taking no action. This was rejected because it will not promote the goals of the Applicant's Master Plan to provide a safe pedestrian infrastructure on campus and will not meet the requirements of the State Traffic Commission permit. Another alignment that the Applicant considered would begin at Hillside Road, run east between the new hotel and the Speech Center, proceed through the existing turnaround area in front of the Child Labs, and connect with Bolton Road adjacent to the "S" parking lot (Applicant's Alternative B-2001). This alignment was rejected because it does not fulfill the objectives of the Applicant's Master Plan, incorporates three reverse curves,[6] lowers the preferred design speed of the roadway and eliminates the ability to provide separate parking behind the Speech Center. This alignment also conflicts with the Applicant's agreements with the hotel operator because it segregates the hotel parking into three areas with one area on the opposite side of the roadway. Although this alternative will eliminate any impact on Wetland 2, it will have an impact on an additional 1200 to 1400 square feet of Wetland 1.[7] (Exs. APP-2, 9; test. R. Russo, 4/3/01, p. 64; test. J. Keefe, 4/3/01, pp. 52-55; test. L. Schilling, 4/18/01, p. 152)

19. The Intervenor proposed several alternative alignments that do not pass behind the Child Labs. The alternatives would therefore also eliminate any impact on Wetland 2 and avoid any increase in traffic noise around the Child Labs. The Applicant had considered these alternatives or something very similar and rejected them. For example, the Applicant rejected an alignment very similar to Intervenor's Alternative 1 because the vertical alignment would have the effect of lowering the preferred design

[6] "Reverse curves" are continuous curves with no tangent area for recovery between them.

[7] If a retaining wall were to be constructed in the wetlands crossing area, the total impact on Wetland 1 might be reduced under either Alternative A or Alternative B-2001, however, the benefits will be minimal compared to the cost of constructing such a wall. (Test. T. DeSantos, 4/5/01, p. 104.)

speed of the roadway. This alignment also incorporates a reverse curve and the roadway would run too close to the Speech Center. Intervenor's alignment Alternative 2 would run from Hillside Road to a stop sign and, after a left turn, pass between the hotel and Speech Center. This alternative does not meet the objective of a free flow of traffic on the perimeter of the campus. The Applicant looked at an alignment very similar to Intervenor's Alternative 3 and rejected it because it incorporates reverse curves, restricts the driver's sight line due to the curves, impacts the hotel parking lot, and does not eliminate the pedestrian/vehicular concerns expressed in the Applicant's Master Plan. Intervenor's Alternative 4 alignment passes through private property that the Applicant does not currently control. (Exs. INT-8, 9a-9d; exs. APP-15, 16; test. G. Meitzler, 4/18/01, pp. 114-126; test. J. Keefe, 4/18/01, pp. 158-164 and pp. 168-172.

20. All of the Intervenor's proposed alternative alignments to reroute traffic away from the Child Labs address residents' concerns that traffic moving around the Child Labs will have an adverse impact on air quality.[8] These concerns include the possibility of an increase in certain air pollutants, including $PM_{2.5}$ concentrations,[9] above the current ambient levels around the Child Labs. Many of the children who attend the Child Labs have asthma and certain air pollutants have been determined to be associated with respiratory disease, including aggravation of asthma. Diesel-fueled vehicles emit higher levels of air pollution than vehicles that operate on other fuels, especially emissions of fine particulate matter. It is expected that some diesel-fueled vehicles will use the Connector at certain times during the day. The current air quality standards that

[8] During the hearing, the Applicant requested a ruling on the relevancy of an air quality analysis report and corroborating expert testimony. On April 17, 2001, I issued a ruling that the exhibit and any corroborating testimony were immaterial and would not be part of any consideration of the relevant issues in this matter.

[9] $PM_{2.5}$ are particulates that measure less than 2.5 microns in diameter.

establish acceptable limits of fine particulate matter emissions address PM_{10} concentrations but do not presently provide for $PM_{2.5}$ analytical guidance.[10] (Test. C. Perkins, 4/18/01, pp. 22-32, 35; test. T. Lavelle, 4/18/01, pp. 138, 141.)

B

Analysis

1

Jurisdiction

The DEP has jurisdiction over all matters relating to the preservation and protection of the state's water resources. General Statutes §22a-2. The *Inland Wetlands and Watercourses Act* (IWWA) is part of a comprehensive body of laws to protect and maintain these resources and grants to the Commissioner the authority to consider this application. General Statutes §§22a-36 through 22a-45.

[10] The U.S. Environmental Protection Agency has established a set of baselines for certain air pollutants. These baselines are set out in the National Ambient Air Quality Standards and are used for comparison purposes, air quality modeling, and other analyses of potential air pollution.

2

Statutory Considerations

The legislature enacted General Statutes §22a-41 in order to implement the policies set forth in the IWWA. Section 22a-41(b) provides that where a public hearing has been held on an application, no permit shall be issued unless no feasible and prudent alternative is found to exist. See *Madrid Corporation v. Inland Wetlands Agency,* 25 Conn. App. 446, 450 (1991). In making that determination, the facts and circumstances set forth in General Statutes §22a-41(a) and the corresponding regulations must be considered. These factors include:

(1) The environmental impact of the proposed action;

(2) The alternatives to the proposed action;

(3) The relationship between short-term uses of the environment and the maintenance and enhancement of long-term productivity;

(4) Irreversible and irretrievable commitments of resources which would be involved in the proposed activity;

(5) The character and degree of injury to, or interference with, safety, health or the reasonable use of the property which is caused or threatened; and

(6) The impacts of the proposed action on wetlands outside the area and future activities made inevitable by the proposed activity that may have an impact on the wetlands.

See also Regs., Conn. State Agencies §22a-39-6.1.

(1) *Environmental Impact on Wetlands*

The record shows that the proposed regulated activities will result in the loss of 0.11 acres of wetlands and some temporary disturbance to other wetlands during the construction of the Connector. The short-term impacts that are expected to occur during construction will be mitigated through implementation of the Applicant's soil erosion and sedimentation plan. The loss of wetlands will not permanently impair the low-level functions currently provided by these wetlands. Buffer and enhancement plantings, including fruit and nut-bearing shrubs, and regrading of portions of Wetland 2 will mitigate some impacts, restore portions of the wetlands, and compensate for some of the limited loss of wildlife habitat functions in both wetland areas. I therefore conclude that the impacts to the wetlands will be minimal and will not diminish the wetlands' natural capacity to support desirable biological life, prevent flooding, control sediment, facilitate drainage and promote public health and safety.

(2) *Alternatives*

The Applicant considered a number of alternatives to Alternative A, its preferred Connector alignment. Certain alternatives would cause greater adverse impact to the wetlands. Those alternatives, including those proposed by the Intervenor, which might minimally reduce the impact of the project on the wetlands, will significantly and negatively impact pedestrian safety, violate the Applicant's legal agreements with the hotel developer, or require the Applicant to acquire interests in portions of the residential properties that abut the particular alternative alignment. The alternative of taking no action will not meet the permit requirements of the State Traffic Commission or allow the

Applicant to meet the objectives of its Master Plan to provide a safer campus infrastructure for pedestrians. Given the characteristics of the wetlands and the Applicant's purposes for the Connector, Alternative A is "sound from an engineering standpoint and is economically reasonable in light of the social benefits derived from the activity." *Samperi v. Inland Wetlands Agency of the City of West Haven,* 226 Conn. 579, 596 (1993), citing *Manchester Environmental Coalition v. Stockton,* 184 Conn. 51, 63 (1981). I conclude that the Applicant has adequately demonstrated that "its proposed development plan, insofar as it intrudes upon the wetlands, is the only alternative that is both feasible and prudent." *Samperi,* supra, 226 Conn. 593.

(3) *Short-term Uses and Long-term Productivity*

The record demonstrates that the short-term impacts of the proposed regulated activities will be minimal, provided the Applicant adheres to the permit terms and conditions and to the implementation of the soil erosion and sedimentation control plan. While the proposed regulated activities will result in some permanent loss of wetlands following cessation of those activities, the long-term productivity of the remaining wetlands in the area will not otherwise be adversely affected. There is no evidence that the Applicant intends to provide short-term or long-terms benefits to the wetlands beyond the planting and restoration plans called for in the draft permit. However, the record demonstrates that the long-term productivity and future development of the wetlands will remain the same following construction of the Connector. I therefore conclude that the proposed activities will not have a significant long-term impact on the existing wetlands or on the natural development of the wetlands in the future.

(4) *Commitment of Resources*

The record clearly shows that constructing the Connector will result in the permanent loss of approximately 4990 square feet of wetlands. The wetlands are functioning but at a low level, and the record indicates that this loss will be mitigated in part by implementation of the special permit conditions pertaining to planting and restoration plans. I therefore conclude that the commitment of wetlands resources associated with the proposed regulated activities is not significant and the special conditions of the permit will adequately minimize pollution or other environmental damage and maintain the existing environmental quality of the wetlands.

(5) *Impact on Safety, Health and Reasonable Property Use*

The project, which will contribute to establishing a safer campus infrastructure, has been designed to avoid additional adverse impacts to the wetlands. The Applicant will take measures to mitigate the potential for harm during and after construction, including protection of ground water. Potential impacts to wildlife resources and other wetlands functions will be minimized through measures that include the incorporation of recommendations of the DEP. I therefore conclude that the minor impacts of the proposed regulated activities, which will improve pedestrian safety, do not pose a threat of injury or interference with the public health or the reasonable use of property.[11]

[11] See also Section 3, "General Statutes §22a-19 Alternatives Analysis," infra.

(6) *Impact on Wetlands Outside the Area and Inevitable Future Activities*

There is no evidence that the proposed regulated activities will have an impact on wetlands outside the proposed project area. The record demonstrates that the presence of traffic in the area after the Connector is constructed will not adversely impact the remaining wetlands. I conclude that the future activities that will result from the construction of the Connector and the deposition of fill in the wetlands will not adversely impact the wetlands.

3

General Statutes §22a-19 and Alternatives Analysis

The Intervenor has intervened under the provisions of §22a-19. Under this statute, an intervenor must allege that a proceeding or action "involves conduct which has, or which is reasonably like to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the state." Subsection (b) of this statute further provides that no conduct shall be authorized or approved that does have such an effect if there exists, considering all the relevant surrounding circumstances and factors, "a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety and welfare."

The Intervenor and sworn public speakers claim that the construction of the Connector along the Applicant's preferred alignment will have unreasonable environmental effects due to the diminution in air quality that will occur around the Child Labs as a result of increased vehicular emissions, especially the emission of fine

particulate matter. According to the Intervenor, the Commissioner is therefore authorized to consider the impact of these emissions on the health of the children who attend the programs at the Child Labs. In addition, within the context of his determination of whether a feasible and prudent alternative exists, the Commissioner may consider the increased air emissions and noise, attendant loss of educational and aesthetic value of the wetlands, and the increase in traffic on Bolton Road that the Intervenor alleges will result from the proposed project.

The burden of proving that the proposed project will have unreasonable environmental effects belongs to the Intervenor. *Manchester Environmental Coalition v. Stockton,* 184 Conn. 51 (1981). The Intervenor has not presented sufficient evidence to support such a conclusion. The Intervenor has not demonstrated that the proposed project will alter the aesthetic and educational value of these wetlands that are impaired and of limited function. There is no evidence that the filling of these wetland areas will result in adverse air quality impacts or excessive noise. The Intervenor has not shown that any pollution that would result from the construction of the Connector will be unreasonable. There is no evidence that the proposed project is inconsistent with statutory and regulatory requirements, or with state policies designed to protect the natural resources of the state.

The Intervenor maintains that the Commissioner must consider that the effects of possible increased emissions on the health of the children who attend the Child Labs are a component of the "social benefits" test of a prudent alternative. The record indicates that diesel-fueled vehicles are the more likely source of such emissions. Even if I were to agree that the Commissioner must consider these impacts, the Intervenor's evidence was

speculative and insufficient to establish that any increased emissions will have a detrimental effect on the health of the children at the Child Labs.

However, although it is beyond the jurisdiction of the Commissioner to impose requirements for routes of truck traffic under the IWWA, to the extent possible, the Applicant should be encouraged to employ any and all means available to divert diesel fueled traffic to another campus road whenever possible.

I conclude that the proposed regulated activities will have minimal adverse environmental impacts and will enhance the campus infrastructure by reducing the pedestrian/vehicle conditions that currently exist. The proposed project strikes an appropriate balance between the state's interest in economic development and its need to protect the environment.

The record amply demonstrates that the requirements of General Statute §22a-41(b)(1) have been met. The application received a public hearing pursuant to §22a-39(k). Based on the record of that hearing and taking into account the facts and circumstances set forth in§22a-41(a), I find that a feasible and prudent alternative to the proposed regulated activities does not exist.

IV

CONCLUSION

The proposed project is consistent with and satisfies all applicable provisions of all relevant statutes and regulations. General Statutes §§22a-36 through 22a-45; Regs., Conn. State Agencies §§22a-39-1 et seq. The proposed activities will not unreasonably

pollute, impair or destroy the public trust in the natural resources of the State. §22a-19. The Applicant has worked with Staff to minimize impacts to the wetlands, which will be further protected by the planting and restoration plans provided for in the draft permit conditions. A number of alternatives have been explored that are sufficiently representative of the range of possibilities such that a determination can be made that no feasible and prudent alternative exists.

V

RECOMMENDATION

In light of the foregoing, I recommend that the Commissioner issue the requested permit incorporating the terms and conditions set forth in the draft permit (Attachment A) as modified below.

The following language is to be added to the *SPECIAL CONDITIONS* section of the Permit:

5. In developing and implementing the planting and wetlands restoration plans as specified in Special Conditions nos. 3 and 4 above, the permittee shall retain the services of a qualified biologist or soil scientist to oversee those activities.

August 23, 2001
Date

/s/ Jean F. Dellamarggio
Jean F. Dellamarggio, Hearing Officer