Hoosier Environmental COUNCIL

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August 3, 2023

Via Email: wrobinso@idem.in.gov
William Robinson, Wetland Project Manager
Wetlands and Stormwater Section, Office of Water Quality
Indiana Department of Environmental Management

RE: Public Comments of the Hoosier Environmental Council on the Joint Application for an Isolated Wetland Individual Permit and Section 401 Water Quality Certificate for the I-65 and County Line Road Development, IDEM ID # 2023-605-49-WLR-A

Dear Mr. Robinson,

Please accept these public comments on behalf of the Hoosier Environmental Council (HEC) regarding the application for an Isolated Wetland Individual Permit and Section 401 Water Quality Certificate (Application) submitted by Gershman Partners (Applicant) as part of its proposal to impact 8.078 acres of jurisdictional emergent wetlands, 2.173 acres of emergent no-permit needed wetlands, and 0.244 acre of forested Class III isolated wetlands to develop the property into commercial warehouses along County Line Road and Arlington Road in Marion County, Indiana.

HEC is a non-profit in Indiana that advocates for equitable and ecologically beneficial development and policies. One of HEC's core initiatives is to track permits in the Upper White River watershed to promote the responsible development of wetlands and streams and protect Indiana's water quality.[1] This Permit will permanently impact wetlands that are within proximity to Pleasant Run Creek, which flows into the White River. Therefore, the Permit is of interest to HEC.

Significance of the impacted wetland ecosystem

The Application, and specifically, the 401 Water Quality Certificate (WQC), will permit water quality impacts a 45-acre wetland ecosystem – a combination of ponds, ephemeral wetlands, near-permanent wetlands, some forested and some not.[2] Within and near the wetland

[1] This program work is funded by the Nina Mason Pulliam Charitable Grant, and it is part of a regional initiative to reduce pollution, improve wildlife habitat, and increase awareness of the White River. Accessible at https://www.ninapulliamtrust.org/programs/environmental-initiatives/.

[2] The Applicant has applied for two Isolated Wetland Permits, one Water Quality Certificate, and one Dredge & Fill Permit, with a total amount of 45.542 wetland acres delineated on the development site.

ecosystem, much wildlife has been observed, including osprey, great egrets, sandhill cranes, solitary sandpipers, and American bitterns, all of which are either state special concern or state endangered species.[3] These species are in danger of disappearing from the state or have a known or suspected limited abundance in Indiana.[4]

In the Application, an Early Coordination/Environmental Assessment Report (environmental assessment report) was prepared by the Indiana Department of Natural Resources ("DNR"). In this letter, the DNR makes the following observations:

- There are a number of forested and wetland areas within the project limits that are *likely important habitat sites* in a rapidly developing urban area.
- Submitted maps and aerial photos appear to show a pond in the northwest corner of the project area. *Ponds can be important habitat features in urban areas. Avoiding impacts to the pond is recommended* if possible.
- Several of the areas identified as wetlands often maintain surface water for extended periods. *The forested areas around these wetlands provide an important refuge to wetland species in an otherwise urban landscape.* Avoiding wetlands and nearby forested areas will significantly reduce impacts to wildlife.[5]

If the Application is approved, the developer will be permitted to impact wetlands that are likely important habitat sites, support species in need of conservation, and can provide an important refuge to wetland species in an urban landscape. Impacting a high-quality wetland ecosystem of this significance could lead to a reduction in water quality unless appropriate measures are taken to *mitigate wetlands on-site or within the same sub-watershed* and to *avoid and preserve the natural hydrology of the area by utilizing conservation development approaches.*

Water quality concerns

The most recent data from the Indiana Department of Environmental Management (IDEM) shows that this segment of Pleasant Run Creek is considered impaired.[6] The Pleasant Run Creek watershed is experiencing tremendous development pressure, with nearly 82 percent of land urbanized.[7] Estimates also show that the watershed has the smallest percentage of wetlands out of the 17 sub watersheds in the Upper White River watershed.[8] Wetlands are considered "virtually non-existent" here.[9] The need to protect wetlands and water quality in the Pleasant Run Creek watershed is not a matter of speculation.

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[3] I-65 and County Line Road wildlife observations, Exhibit 1.
[4] Indiana Species of Greatest Conservation Need, Indiana DNR. Accessible at https://www.in.gov/dnr/fish-and-wildlife/nongame-and-endangered-wildlife/species-of-greatest-conservation-need/.
[5] Page 27-28, Full Joint Application.
[6] https://www.in.gov/idem/nps/online-e303d-tool/
[7] Land use change from 1992 to 2021, Exhibit 2.
[8] Page 29-32, 161 Upper White River Regional Plan. Accessible at https://thewhiteriveralliance.org/wp-content/uploads/2018/08/Upper-White-River-Watershed-Regional-Plan.pdf.
[9] Page 161, Upper White River Regional Plan.

HEC is concerned that the approval of the Application will degrade the water quality of Pleasant Run Creek. Indiana's wetland mitigation program does not require applicants to mitigate wetlands in the same sub-watershed. Thus, approval of the Application could lead to a very real and substantial degradation of Pleasant Run Creek because the wetlands will be filled and/or urbanized, with no requirement for them to be placed near or within the Pleasant Run Creek watershed.

In addition, the state's mitigation program is becoming backlogged, and wetlands are being lost without a timely replacement of the functions and values to the watershed as required.[10] A recent report commissioned by the Indiana legislature cautioned that "Indiana is at a point where the cumulative loss of wetlands is having a measurable negative impact on residents, particularly from a water quality standpoint."[11]

Watershed management plans, insights from a study commissioned by the state legislature, local development plans for this area, and guidance from state and federal agencies like IDEM and the DNR all encourage the protection of wetlands and water resources within development footprints to mimic natural water systems as much as possible. Yet, despite this myriad of recommendations, the Applicant has continued to jump through all the regulatory hurdles without incorporating this scientific guidance into the development layout.

Preserving and incorporating the natural hydrology to protect water quality

HEC believes that the current Application and proposed development plans could be vastly improved by incorporating conservation development principles that are protective of the site's natural hydrology and wetlands, given the significance of the impacted wetland ecosystem and the need to protect wetlands in the Pleasant Run Creek watershed. The environmental assessment report for the development supports this claim by making the following statements:

- The Division of Fish and Wildlife *recommends that the developer further explore ways to minimize and avoid impacts using conservation design principles* and practices.
- Conservation design is a design system that *takes into account the natural landscape and ecology of a development site* and facilitates development while maintaining the most valuable natural features and functions of the site.
- The main principles for conservation design are *flexibility in site design* and lot size, *thoughtful protection and management of natural areas, reduction of impervious surface areas,* and sustainable stormwater management.
- The traditional model of stormwater management aims to drain runoff as quickly as possible with the help of channels and pipes, which increases peak flows and costs of stormwater management. *This type of solution only transfers drainage problems from one section of a basin to another*.
- *A more sustainable approach should aim to rebuild the natural water cycle* by using storage techniques (retention basins, constructed wetlands, raingardens, etc.) and

[10] Page 3, Indiana Wetlands Task Force Final Report, accessible at https://www.hecweb.org/wp-content/uploads/2022/09/Final-Wetlands-Task-Force-Report-9.26.pdf.
[11] Page 4, Indiana Wetlands Task Force Final Report.

recharging groundwater using infiltration techniques (infiltration basins or trenches, pervious pavement, etc.).[12]

Incorporating conservation development approaches can even be more cost-effective than traditional development because they require less pavement, less stormwater management infrastructure, and less resource use overall. Auburn Hills, a residential subdivision in southwestern Wisconsin, conserved about 40 percent of the developable area, which included wetlands, green space, and natural plantings. The subdivision also included green infrastructure elements, including vegetated swales and bioretention. The cost of this conservation development layout was compared to a traditional development approach. The clustered development design reduced clearing, grading and pavement costs, while utilizing the site's natural hydrology to covey stormwater, and adding green infrastructure controls reduced stormwater costs.

The stormwater costs associated with the conservation approach totaled $241,497, while the traditional development approach would have totaled $664,276. By preserving wetlands and implementing green infrastructure, developers experienced a cost savings of nearly 56 percent.[13] The resource cited contains several additional examples in which developers have experienced a cost savings associated with conservation development approaches. Improved water quality is just one of the many community benefits that can be realized by centering natural resources within a development and implementing conservation approaches.

Conclusion

Approval of the Application will permit impacts to a 45-acre wetland ecosystem that is an important habitat site, supports species in need of conservation, and can provide an important refuge to wetland species in an urban landscape. It will likely lead to adverse water quality impacts because the 45-acre wetland ecosystem will be fragmented and degraded with no requirement to replace any of the wetlands nearby or within the Pleasant Run Creek watershed. For this reason, HEC urges IDEM to deny the Application until the Applicant presents a proposal that incorporates the natural hydrology into the development to protect the water quality and preserve the existing wetlands to the maximum extent possible.

With Appreciation,

Susie McGovern

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[12] Page 27-28, Full Joint Application.
[13] Reducing Stormwater Costs Through Low Impact Development (LID) Strategies and Practices, US EPA. Accessible at https://www.epa.gov/sites/default/files/2015-10/documents/2008_01_02_nps_lid_costs07uments_reducingstormwatercosts-2.pdf.