

**TOWN OF CROMWELL
INLAND WETLANDS AND WATERCOURSES AGENCY
7:00 PM WEDNESDAY, JUNE 1, 2022
COUNCIL CHAMBERS CROMWELL TOWN HALL, 41 WEST STREET
MINUTES AND RECORD OF VOTES**

Present: Vice Chairman Stacy Dabrowski, Joseph Corlis, Robert Donohue, William Yeske, Wynn Muller, Peter Omicioli and Chairman John Whitney (via phone)

Absent: No one was absent.

Also Present: Director of Planning and Development Stuart Popper and Development Compliance Officer Bruce Driska

1. Call to Order:


The meeting was called to order by Vice Chairman Stacy Dabrowski at 7:04PM.

2. Roll Call:

The presence of the above members was noted.

3. Seating of Alternates

No alternates were seated.

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Jun 08, 2022 03:47P
JoAnn Doyle
TOWN CLERK
CROMWELL, CT 

4. Approval of Agenda

Peter Omicioli made a motion to approve the agenda. Seconded by Joseph Corlis. *All in favor, motion passed.*

5. Approval of Minutes:

Peter Omicioli made a motion to approve the amended minutes of May 4, 2022. Seconded by Joseph Corlis. Robert Donahue abstained. *All in favor, motion passed*

6. Development Compliance Officer Report:

Status of On-going Project and Existing Cease and Desist Orders

Mr. Driska was outside the room and Mr. Popper gave the report.

Mr. Popper said our last application was #22-01: Request to conduct activities within the Upland Review Area to allow for the construction of a commercial building at 5 Berlin Road which was approved on May 4th. He said they will not start work until they are approved for a Special Permit by the Planning and Zoning Commission, which will be later this summer. Mr. Popper asked if anyone had any questions for Mr. Driska which can be discussed later. The commission did not have any questions.

7. Town Planner Report:

Mr. Popper said we do not have any other applications this evening, except for the Public Hearing. He said the Hicksville Road Subdivision is under construction and they started working on one lot off of West Street which was approved by IWWA last year. Mr. Popper said at the last Planning and Zoning Committee meeting, the Lord Cromwell site

was approved for the zone change from a mixed-use development to a Highway Business zone. He said there will be an application for activities within an Upland Review area for this site which will most likely be seen towards the end of the summer.

8. Public Comments:

Vice Chairman Dabrowski said any public comments made at this time cannot be related to the application for the Public Hearing this evening. She said the only comments can be regarding Inland Wetlands and Watercourses.

No Public Comments were made.

9. New Business Accept and Schedule New Application:

Mr. Popper said we do not have any new business or any new applications to schedule.

10. New Business:

Mr. Popper read the Legal Notice. Application #22-02: Request to conduct activities within the Inland Wetlands and Upland Review Area to allow for the construction of a road and warehouse at 94A and 102 Court Street, 76 and 80R Geer Street and 210 Shunpike Road. Scannell Properties #576, LLC is the Applicant and Dilys B. and Henry P. Jr. McIntyre, Gardner's Nurseries Inc. and Paramount Property LLC are the Owners. John Whitney Chairman Dated in Cromwell, Connecticut this 16th day of May 2022.

Mr. Popper said before we start the Public Hearing, he would like to read the memo from the town attorney regarding the jurisdiction of Inland Wetland and Watercourses agency:

CROMWELL IWWA STATEMENT REGARDING JURISDICTION

By statute, a wetlands agency only has jurisdiction over regulated activities that impact wetlands or watercourses. Pursuant to state law and our regulations, "Regulated Activity" means any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetland or watercourse.... Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removing of material and discharging of stormwater in an upland review area is a regulated activity.

The commission's consideration of activities in the upland review area, which is generally 100 feet from a wetland or watercourse, is authorized only if those activities are likely to have a negative impact on a wetland or watercourse.

The Agency does not have jurisdiction over exempt activities or activities that do not relate to a regulated activity such as traffic, noise or aesthetics. Those are more likely within the purview of the and zoning commission. So we ask that you keep your comments and submissions focused on only those issues within the jurisdiction of the commission.

Mr. Popper said if someone does not want to speak tonight, but would like their statement read into the record, we can read it into the record. He said, there is a sign-in sheet for people who like to speak and we ask you to write your name and address so we can record it into the minutes. Mr. Popper said if someone has a long statement and they have a copy, it would be very helpful. He said this is not a court and we do not have a court

stenographer, so no one is here to record every word that is said. Mr. Popper said, we try our best to get the general content of the statements and record them into the minutes. He said after the Public Hearing is opened, the applicant and their representatives will make a presentation and the commission may have questions for them. Mr. Popper said after that, the public will be able to speak, but we ask to keep statements to approximately 3 minutes, so we can accommodate everyone.

Peter Omicioli made a motion to open the Public Hearing. Seconded by Joseph Corlis. *All in favor, motion passed.*

Mr. Thomas Cody: an Attorney with Robinson & Cole LLC at 280 Trumbull St # 28, Hartford, CT represented the Applicant. He said notices were sent by certified mail to approximately sixty different property owners regarding the accordance to the Wetland regulations. Attorney Cody said the mailings were also previously sent to Town Staff and public notice signs were created and installed 15 days before the Public Hearing in locations where the project site has frontage on the street which includes Shunpike Road, Court Street and Geer Street.

Attorney Cody said Scannell Properties #576 submitted a wetlands Application in 2021 to conduct regulated activities on property located at 210 Shunpike Road and other parcels (Application #21-06). During the course of the public hearing, the IWWA determined that it wanted to have a peer review of the application completed by a third-party consultant. The IWWA selected LandTech, and LandTech completed a thorough review of the application which was detailed in a letter submitted on January 14th, 2022 (the date on the first page of the letter-December 14, 2022-was incorrect.) The statutory time frame for completion of the public hearing on Application #21-06 expired before Scannell could complete its response to the peer review letter. As a result, Scannell withdrew Application #21-06, and devoted the next several months to completing additional site work, engineering design, and wetlands analysis to respond to LandTech's peer review. This work culminated in May of 2022 when Scannell resubmitted an application to the IWWA for Project Highlands (Application #22-02).

Attorney Cody discussed the changes that were made to the project design to respond to LandTech's questions and comments. He explained the general site design changes as follows:

- Shifted main access driveway and associated ponds to the south to increase separation from vernal pool/wetlands and reduce impacts to upland areas.
- Combined two previously proposed ponds along the access driveway into one larger basin located within the limits of the existing contractor yard, thus eliminating the clearing and impacts to existing wooded areas associated with the two previously proposed ponds.
- Eliminated water storage tank.

- Added Animex wildlife isolation fencing to prevent creating of “decoy pools” at stormwater ponds and infiltration basins and restrict vernal pool indicator species and other wildlife from entering the development.
- Shifted welcoming center to the west to provide space for a pond to be located internal to the site instead of adjacent to Geer Street/residential properties.
- Removed retaining wall along the eastern side of the employee parking lot and eliminated 15 parking spaces to eliminate impact to this upland review area.
- Revised alignment of emergency access driveway to Geer Street and design of berms to increase screening from Geer Street properties.
- Revised truck driveway alignment at southwestern corner of development to shorten drive aisle length and reduce pavement area.
- Reduced truck Court Drive aisle widths from 75 feet to 65 feet.
- Shifted southern drive aisle to the north and reduced width from 60 feet to 32 feet to increase separation from Geer Street.
- Attorney Cody summarized wetlands/geotechnical concerns as follows:
- Reduced direct wetland impacts.
- Reduced the 100-foot wetland upland review area activities.
- Reduced the 200-foot vernal pool upland review area activities.
- Added/expanded wetland mitigation efforts.
- Completed additional geotechnical and wetlands studies on-site.

Attorney Cody discussed the revisions to drainage system as follows:

- Replaced previously proposed Wet Pond B-5 (previously adjacent to Geer Street.) with Extended Detention Basin B-5 and moved it to the area between the welcoming center and western truck court.
- Increased size of proposed box culvert by Shunpike Road from 5’x12’ to 5’x16’.

- Removed Infiltration Basin F-4 as a result of the realignment of the proposed driveway.
- Added hydrodynamic separators/water quality units to treat stormwater before entering Extended Dry Detention Basin B-5 (CLCBs B5-2, B5-5, B5-8 and CCBs B5-11, B5-12 and B5-13).
- Included an emergency spillway at Extended Detention Basin B-4 to bypass runoff in excess of 100-year event to Design Point B.
- Rerouted the discharge from Underground Detention System B-3 from Extended Detention Basin B-4 to the newly proposed extended Detention Basin B-5.
- Relocated the outfall from Extended Detention Basins B-4 and B-5, from the south side of the receiving wetland area to the north side.

Attorney Cody said the proposed use is a warehouse which is a permitted use in the zone with special permit approval. He said they will be going in front of the Planning and Zoning Commission after the conclusion of this proceeding with IWWA. Attorney Cody said this warehouse will not be a truck terminal or a freight terminal. He said the project site is approximately 250 acres and it is an assemblage of twelve different parcels of land and much of the site will not be disturbed within the wetlands. Attorney Cody introduced Mr. Dean Gustafson.

Mr. Dean Gustafson; Professional Soil Scientist/Senior Wetland Scientist from All-Points Technology Corporation, P.C. at 567 Vauxhall Street Extension Suite 311 Waterford, CT summarized his professional background and experience. He presented an overview of wetlands, vernal pools, flood compensatory storage and soil types located within the subject property. Mr. Dean Gustafson discussed the following:

- The site location map
- The aerial map
- The existing wetland resources map
- The vernal pool and terrestrial habitat map
- The regulated activities map
- The wetland and vernal pool creation map

- The forested floodplain creation area map
- The terrestrial habitat enhancement map
- The conservation easement map

Mr. Dean Gustafson said the proposed facility has been thoughtfully designed to minimize direct wetland and vernal pool impacts, while also minimizing encroachment into the 100-foot wetland and 200-foot vernal pool upland review areas while satisfying the proposed building program needs.

He said as a result of design considerations and various mitigation strategies, the proposed project represents the most prudent and feasible alternative and will not result in a likely adverse impact to nearby wetland resources.

Mr. Gustafson said to compensate for unavoidable resource impacts, a comprehensive and extensive mitigation plan has been designed to compensate for these unavoidable impacts. The totality of this extensive and significant mitigation plan will more than compensate for the project's unavoidable wetland areas lost. In addition to preserving extensive areas of wetlands, vernal pools and upland review area, important terrestrial habitat will be protected that serve multiple wildlife habitat functions, including those important to vernal pool indicator species as well as other wildlife.

He said, as a result of the comprehensive mitigation plan, the project's proposed regulated activities will be properly balanced with the creation of wetland, vernal pool and buffer habitats that provide higher function and value services than being lost. As a result, the project will not diminish the wetland resources within the Town of Cromwell either on site or downstream of the site.

Mr. Gustafson said he respectfully requests that the Town of Cromwell Inland Wetlands and Watercourses Agency find these measures adequately protected of the interests contained in the Act and its regulations and issue a wetland permit approving the project.

Mr. Tim Onderko; Professional Engineer and Certified Professional in Stormwater Quality from Langan Engineering at 555 Long Wharf Dr #9B, New Haven, CT summarized his professional background and experience. He said all comments from the peer review have been taken into consideration and have been incorporated in the revised plan.

Mr. Onderko summarized the presentations from Attorney Thomas Cody and Mr. Dean Gustafson. He compared the previous IWWA application from October 2021 to the current application and said the square footage has been reduced. Mr. Onderko

summarized the stormwater basin modifications and said the size of the employee parking lot has been reduced to avoid regulated activity in that area.

He discussed the employee parking and the trailer parking. He said the entrance drive has been realigned to maximize wetland and vernal pool buffers. Mr. Onderko said they also narrowed the shoulders from the entrance drive from Shunpike to minimize the direct wetland impact and the culvert crossing size has been reduced as a material change. Mr. Onderko showed the modifications to the storm water basin on site. The basin on Geer Street has been eliminated and moved to the trailer parking area and the truck entry drive. Mr. Onderko said they looked into the snow removal. He said the area will be fenced and snow will be stockpiled, and the access will go through the stormwater basin.

Mr. Popper asked the consultants that the Town of Cromwell hired to do the peer review for this project to make a brief presentation about the comments and changes they made.

Mr. Robert Pryor: Professional Engineer from LandTech at 518 Riverside Ave, Westport. discussed his role for the peer review.

Mr. Pryor said as peer reviewers, LandTech is neither in favor of this project or against it. He said they looked into the engineering aspects of the project including the stream crossing near Shunpike and the stormwater management. Mr. Pryor said overall, he thought the project is soundly designed, but they had concerns with some of the documentation and some of the analysis that was done. He said after they reviewed the project, they found ways to make the project less intrusive and better to the inland wetlands and watercourses.

Mr. Prior requested more soil testing as requested by the stormwater quality manual. He said the project has been thoughtfully designed and feels that the stormwater management they have suggested have been improved and addressed. Mr. Pryor said the new application looks better than the first application from 2021.

Tom Ryder: Senior Environmental Scientist from LandTech at 518 Riverside Ave, Westport said his role was to point out the things they thought were missing or anything they disagreed with. He recommended addition information about the vernal pools which have been addressed by the applicant. Mr. Ryder had a comment about the road because originally the road was going along the 200-foot buffer, and he hoped they would give a lighter buffer which was addressed by the applicant. He said they also asked for additional information the migration of the amphibians which was also addressed. Mr. Ryder said wetland and the proposed building has been cleared and is in a good place to be part of the planting plan.

Vice Chairman asked the commission if they had any questions.

Robert Donohue said the two applications have significant changes and asked if there will be steps taken to make sure the new proposed plans will be monitored to make sure

there will not be any issues.

Mr. Dean Gustafson said it will be monitored during construction by avoiding the wetland areas and educating the contractors by informing them where the wetlands are and the importance to control these areas. He said they will also sweep the entire area to move any animals so they will be safe. Mr. Dean Gustafson said everything will be monitored for up to five years and if there are any issues, they will extend the monitoring process.

Mr. Popper asked Mr. Driska to comment. Mr. Driska said part of his plan review was to discuss the recommendations to the wetlands agency. He said, should they consider approving this application, he recommends to include the following comments as conditions of the approval. Mr. Driska read the following conditions:

- The applicant shall employ an independent erosion and sedimentation control professional to conduct daily erosion and sediment inspections, along with documentation
- To conduct pre and post storm inspections with documentation.
- To conduct weekly erosion and sedimentation special reports which to be submitted to staff
- The erosion and sedimentation control professional shall continue until the project is deemed complete or the issuance of certificate of occupancy
- The condition of the approval includes the addition of the words IWWA Agent (the Inland Wetlands Agency Agent) to several notes found on page four. CE 100, 101, 102, 103, 200, 201, 202, 203, 300, 301, 302 and 303 which is in the form of a memo.

Mr. Dean Gustafson said on behalf of the applicant he finds these conditions approvable.

Mr. Yeske asked Mr. Popper what our engineer thinks. Mr. Popper said it has not been reviewed yet, and it has to go to the Planning and Zoning commission first.

Mr. John Parks: an Attorney with the Law Offices of John H. Parks at 362 Billings Road Somers represents the intervenors Mr. Benjamin Conroy. Attorney Parks said he hired a soil scientist from Rema Ecological Services LLC. He said the project is a complicated site and the entrance roads are in front of the vernal pools which is a very sensitive area for the wildlife. Attorney Parks said the project will have a highway of heavy industrial type vehicles that will disrupt the habitat and wildlife.

Ms. Sigrun N. Gadwa an Ecologist, Professional Wetland Scientist at 164 East Center Street, Suite 2, Manchester gave a brief presentation.

Ms. Gadwa said at the request of the Intervenor, REMA Ecological Services has been asked to review the plans and other supporting documentation for an application for a 1,042,849 square foot warehouse on 250-acre property in Cromwell, in the Mattabasset River watershed.

Ms. Sigrun N. Gadwa said the application materials reviewed include, but are not limited to the following:

1. A 17-sheet set of plans dated 5/3/22 prepared by Langan Engineering & Environmental Services, Inc. (Langan).
2. Wetland Assessment Report, dated May 2022, prepared by All Points Technology.
3. Third Party Review by LandTech, with responses, dated May 25, 2022.
4. Application, 210 Shunpike Road, dated 5-3-22.

Ms. Sigrun N. Gadwa discussed the project overview. She said this site includes a major complex of vernal pools and forested wetlands traversed by three perennial water courses, all tributaries to the Mattabasset River. Off-site forested wetlands immediately to the east and to the north are ecologically and hydrologically connected to this wetland ecological system. The footprint of the rectangular warehouse building will be 23.94 acres. There will be associated parking, stormwater facilities, mitigation earth-work and a very long 36-foot wide entry road from Shunpike Road (almost half a mile to the west). Parking will consist of 518 spaces for trailers, 369 car spaces and 163 loading docks.

Ms. Sigrun N. Gadwa summarized the following:

- Application insufficiencies and the analysis of impacts to ecological integrity of vernal pool complex.
- Incomplete wetland and URA characterization.
- Areas most vulnerable to air pollution fallout.
- Need for reference data for wetland mitigation.
- Need for wetland functions and values characterization.
- Planning project layout.
- Invasive data to minimize on-site invasive spread.
- Lack of characterization of terrestrial mitigation sites.

- Delayed, rare and listed species assessment.
- Incomplete mitigation implementation notes.

Ms. Sigrun N. Gadwa said aside from this substantial direct adverse impacts to wetlands and vernal pools, this project will diminish the ecological integrity of the overall wetland complex. Insufficient data was this June. corrected to formulate a plan that minimizes adverse impacts; The plan lacks data on wetland characteristics, (other than vernal pools), Rare species, and onsite invasive species distribution. It also fails to provide enough detail on follow up measures, to provide reasonable assurance of success for the proposed mitigation. Ms. Gadwa said in her professional opinion, as currently proposed, there is a reasonable likelihood that the proposal will result in unreasonable impacts to regulated wetlands and watercourses.

Peter Omicioli made a motion to continue the Public Hearing on July 6, 2022. Seconded by Robert Donohue. *All in favor, motion passed.*

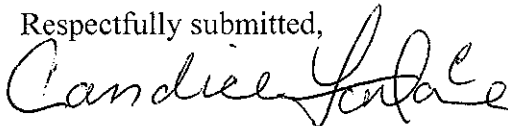
11. Commissioners' Comments and Reports:

No comments were given.

12. Adjourn:

Peter Omicioli made a motion to adjourn at 10:11 PM. Seconded by Robert Donohue. *All in favor, motion passed.*

Respectfully submitted,



Candice Fontaine

Recording Clerk