

TOWN OF CROMWELL
INLAND WETLANDS AND WATERCOURSES AGENCY
41 WEST STREET, CROMWELL, CT 06416

***REGULAR MEETING
7:00 WEDNESDAY, AUGUST 3, 2022
TOWN COUNCIL CHAMBERS
CROMWELL TOWN HALL, 41 WEST STREET***

Minutes and Record of Votes

Present: Chairman John Whitney, Joseph Corlis, Peter Omicioli, Robert Donohue, William Yeske, Wynn Mueller (via phone),

Absent: Vice Chairman Stacy Dabrowski

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

1. Call to Order

The meeting was called to order at 7:01pm by Chairman John Whitney.

2. Roll Call

The presence of the above members was noted.

3. Seating of Alternates:

No alternates were seated.

4. Approval of Agenda:

Mr. Popper asked the that the agenda be amended to include Application #22-06, Request to conduct activities within the Upland Review area at 100 Berlin Road and 15 Christian Hill Road. He said the activities include demolishing the existing building and parking lot and grading and constructing the new parking lot and buildings at 100 Berlin

Road. M360 Berlin Land Holdings LLC is the Applicant and the Owner. A motion was made by Peter Omicioli and seconded by Robert Donohue to amend the agenda to include Application #22-06. All were in favor; the motion passed.

5. Approval of Minutes:
July 6, 2022

A motion was made by Peter Omicioli and seconded by Joseph Corlis to table the minutes. All were in favor; the motion passed.

6. Development Compliance Officer Report:

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

Development Compliance Officer Bruce Driska said he has nothing new to report. Mr. Donohue asked about the gas station on lower Main Street and said the windows were blown in. Mr. Driska said it's not a wetlands matter but he did not know about it and will be addressing it.

7. Town Planner Report:

Mr. Popper said the Application #22-06 for the former Lord Cromwell site has been added to the agenda. He said construction of the new Burlington Store at the Shop Rite Center is moving along as well as construction at other developments in town. He said we expect to see new applications in the Fall for older properties on the Shunpike and Route 372.

8. Public Comments:

Chairman Whitney asked if any members of the public had any comments on anything other than what is on the agenda tonight. No one came forward.

9. New Business: Accept and Schedule New Applications:

Mr. Popper said that a brief presentation will be made on Application #22-06 and the Commission will need to decide if the activity is either insignificant or significant enough to require a public hearing. He said all of the work will be in the upland review area. He said the Planning and Zoning Commission has already approved a zone change from Highway Business Zone District to a Mixed-Use Zone District. He said there will be 260 multi-family units as well as 30,000 square feet of commercial space in the front. He said the rear will have 26 townhouse condos. He said the activity is only in the upland review area and there are no wetlands on site. He said the wetlands are contained between the Lowes site and this site so it's within the 100-foot setback.

Jim Cassidy, an Engineer with Hallisey, Pearson and Cassidy said he represents 360 Land LLC the present owner of this property. He said the site has moderately sloping

grades and the Mattabesset trunk lines runs through here. He said only the current parking deck will remain. There will be retail use in front and the upper 3 levels will be residential. There will be 260 apartment units and 20 townhouses for sale or lease each with individual garages. He showed the surface parking area and said there will be 437 parking spaces. He also said that 50% of the parking would be in a structure. Mr. Cassidy said there will be a 17,000 square foot reduction in the building area with a slight reduction in impervious areas. He said there will be courtyards above the parking garage. He said there will be no direct impact to the wetlands, only the upland review area. He said there are currently no storm water quality measures now but we will install various brand-new systems for quality measures.

Mr. Cassidy said the site demolition plan is included in the package and that work is what will be done in the upland review area. He said the development will be in the current developed area. Mr. Popper said he has Mr. Cassidy's narrative and read the significant activity clause from the regulations to the Commissioners.

A motion was made by William Yeske and seconded by Joseph Corlis to find application 22-06 to be an insignificant activity because there is no impact to the inland wetlands. All were in favor; the motion passed.

A motion was made by Peter Omicioli and seconded by Joseph Corlis to accept and schedule application 22-06 for the September 7, 2022 meeting. All were in favor; the motion passed.

10. New Business:

a. Application #22-03: Request to conduct activities within the Upland Review Areas to allow for the construction of a 6-lot subdivision at 170 Evergreen Street. Roswell Development, LLC is the Applicant and Robert Grinold Estate c/o Adam Berkeley Grinold is the Owner.

Mr. Popper said he was asking the Agency to table this application until the next meeting.

A motion was made by Robert Donohue and seconded by Peter Omicioli to table application 22-03 until September 7, 2022. All were in favor; the motion passed.

b. Application #22-04: Request to conduct activities within the Upland Review Areas to allow for the grading of the site to construct a 4,992 square foot building at 263 Main Street. Cromwell Automotive LLC is the Applicant and the Owner.

Jim Cassidy an Engineer with Hallisey, Pearson and Cassidy said this is a 1.4-acre site is home to Cromwell Automotive. Mr. Cassidy described the location of the site and the surrounding area. He said the area to the south is where the wetlands are and a portion of the grading and construction of the building will be within the Upland Review area. He said the applicant is proposing to construct a 1 story, 4,992 square foot building to

be used for storage. He noted the grading and construction of the building will disturb about 8,390 square feet of the upland review area.

He explained that the property is also located within the 100 Year Flood Zone and will require a special permit from the Planning and Zoning Commission. He said the proposed building will be designed so it is not susceptible to flooding.

Mr. Popper said if the project is approved by the IWWA the applicant will be submitting applications a site plan modification and a special permit to the Planning and Zoning Commission.

A motion was made by Peter Omicioli and seconded by Joseph Corlis to approve application 22-04. All were in favor; the motion passed.

11. Public Hearing:

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. (public hearing continued)

Mr. Popper read the legal notice for the public hearing into the record.

A motion was made by Peter Omicioli and seconded by Joseph Corlis to reopen the public hearing for application 22-02. All were in favor; the motion passed.

Mr. Whitney told the audience that the public comments portion will only hear new comments and people should refrain from repeating past comments or concerns. He said the meeting will end at 10:00am.

Mr. Popper said a reply from the applicant was posted on the town website last Wednesday.

Attorney Tom Cody of Robinson and Cole, 280 Trumbull Street in Hartford said that Dean Gustafson, a professional Soil Scientist will share his review of the REMA presentation.

Dean Gustafson of All Points Technology Corporation referred to his report dated July 28, 2022 and also showed slides from a project at Uconn in Mansfield, CT and said this project required wetlands approval and approvals from both State and Federal agencies. He said there are recognized strategies to mitigate vernal pools. He also showed a Vermont project that showed the wildlife openings. He said we are proposing 4 openings in the access road. He said you can make a condition of approval that the vernal pool has to be revived. Mr. Gustafson read from his report.

Mr. Whitney asked if any members of the Commission had any questions for Mr. Gustafson. No one did.

Attorney Cody said that they asked Langan, an air quality specialist company to do a national standards comparison.

Tim Onderko of Langan Engineering and Environmental Services said he is an air quality specialist and he showed a graph with air quality results. He said air particles are not a concern to plants. Chairman Whitney asked the effect of the air quality in 10 years and Mr. Onderko said this graph shows what happens every 24 hours in Connecticut and what this project will add to it. He said the levels are below EPA standards and they pose no hazard.

A break was called at 8:20pm and the meeting was called back to order at 8:25pm.

Attorney Cody said that we have shown you the intervenors have not established that this project will cause unreasonable harm to the wetlands and there is no showing of harmful effects as a result of this application. He said we have satisfied every criteria and after this we will still have to move to the Planning and Zoning Commission which will require a public hearing. He said they will have to go to the State DOT As well. He said we still have a long review process to go.

Attorney John Parks said he represents the residents who live in this neighborhood and has a question to Mr. Gustafson from his report and presentation regarding page 4 in the section that references vernal pool filling precedent. He asked if those vernal pools were as interconnected as vernal pool 7.

Dean Gustafson said we don't have the details of those 3 projects but it is reasonable to assume that 1 of the 3 pools filled in was a productive pool.

Attorney Parks said that was the answer I expected. He said I don't know much about aquatic life but the judicial system is based on precedent. He said if you don't know if those 3 vernal pools establish precedence then you don't know. He said that Mr. Logan said this is unprecedented. Attorney Parks said an intervenor, Robin Swanson said you only need one reason to deny and it's the unprecedented filling of pool 7.

George Logan, professional Wetland Scientist with REMA handed out a report. He said his job is to provide a 3rd party review not to provide objection to an application. He said he took exception to the tone of the letter from Dean Gustafson.

Sigrun Gadwa, professional Wetland Scientist handed out 2 reports to the Commission. She said that vernal pool 7 is deep and that means in severe drought the salamanders can still reproduce in vernal pool 7.

Chairman Whitney left the room at 9:07pm.

Ms. Gadwa said the long-term concern is pollutants not ambient particles. She said it is like a steady rain of toxic dust.

Chairman Whitney returned to the room at 9:10pm.

Ms. Gadwa said what hasn't been addressed is that the upland mitigation may result in loss of open wildlife habitat.

Mr. Logan reads the report from page 5 and the impact of the wood frog population.

Mr. Whitney asked if that concluded their presentation and Mr. Logan said yes.

Mr. Whitney asked for any members of the public who wanted to speak.

Patricia Jepson of 44R Geer Street said she is an intervenor and that the applicant has issues with the intervenors referring to an outdated 30-year report but they talk about old practices. She handed out a letter to the Commission.

Nicole McHugh of 17 Botelle Manor said that the DEEP prohibits anything that potentially traps wildlife. She said please have the DEEP review the culvert and request that the DEEP look at the environmental impact of air particulates of fauna at adjacent Watrous Park.

Mike Baecher of 71 Geer Street said he is an intervenor and the applicant is not basing things on facts. He said this is questionable because of the size and impact of the application. He said they are drawing conclusions based on pollutants on the site but they have no knowledge of how many trucks would be going in and out. He said you are drawing conclusions on what you want.

Attorney Cody said I only know of 2 intervenors but others are referring to themselves as intervenors. Mr. Popper said the last page of the packet shows the additional intervenors. Attorney Cody said we have received none of this and we should have received copies of this before. He also said that the two copies we received were identical and no additional issues were raised. Mr. Popper said he would get them right now for him.

Robyn Swanson said she is an intervenor living at 1 Walnut Tree Road and said she stands by her position and this decision falls to the Commission. She said it is your responsibility to look out for the best interest of the residents. She presented her memo to the Commission.

Ben Conroy of 59 Geer Street said your regulations say you may consider our comments and our opposition is unanimous. Mr. Conroy asked what reassurances do we have that if this approved that the applicant adheres to any conditions.

Zoning Compliance Officer Driska said that any land use application that is approved with conditions is memorialized in the town clerk's office.

The recording tape was changed at this point.

Abby asked not to provide her name or address due to personal reasons and said that she is familiar with the Vermont application that Mr. Gustafson referred to and said the salamander crossings worked for a period of time but degraded quickly.

Dmytro Grebenyk of 202 Coles Road said he read the report from All Points and said it is arrogant and is borderline insulting to REMA. He said I expected to read a scientific report. Mr. Grebenyk handed his comments to the Commission.

Jamin DeProto said he didn't hear anything on methodology and this didn't pass the sniff test. He said the applicant is missing details that make a big difference. He said this project needs to die here tonight.

Attorney Tom Cody said shame on Attorney Parks for untrue statements. Attorney Parks told you that you would be the first Commission in the State of Connecticut to fill in a vernal pool but Mr. Logan wouldn't say that. He said based on your regulations this application should be approved. Attorney Cody said shame on Mr. Logan for claiming Mr. Gustafson didn't write the report. He said he did write the report based on research he conducted. Attorney Cody also said that Mr. Logan made a comment that you could do a different layout of the building. He said we are trying to have a fair balance of property and understand the site as a whole while doing what is best. He said the feasible and prudent alternative is this application when you take into consideration the entire site. Attorney Cody also said that no part of Ms. Gadwa's presentation was relevant to this site. He said none of that should be considered by you. Attorney Cody addressed the comments received by the public by saying we have satisfied the regulations He said he had a chance to look at the other intervenors and they are all identical with nothing new on any of them.

Chairman Whitney asked the Commissioners if they had any comments or questions. Mr. Omicioli asked REMA if they had a chance to visit the site/property.

Mr. Logan said we asked to visit and received no response. He said they were able to get onto 46R Geer Street and the Eastern Perimeter of Watrous Park. Mr. Omicioli clarified that they asked the property owner for access and didn't receive a response. Mr. Logan said that is correct. Mr. Omicioli also asked if Mr. Logan reviewed the 3rd party review and if he thought it was accurate and Mr. Logan said he had no issue with it. Mr. Omicioli asked if the 3rd party would have questioned the APT evaluation and Mr. Logan said they should have. Mr. Omicioli said his concern is if you haven't been on the site then lots of things come into question on your report. Ms. Gadwa said the botanist report is very detailed and Mr. Logan asked how much time did the peer reviewer spend on the property.

Attorney Cody showed the DPT report and said the DR's who wrote this report state these are not regulations, just guidelines.

William Yeske said he is trying to use logic when making a decision. He said you can have the site plan changed at Planning and Zoning and we are just going by law. He said you have never been on the land and this should have been done properly.

Attorney Parks said respectfully he wants to ask why we have to go on the property to know they are filling in a vernal pool. They stated they are doing that. Mr. Yeske said you don't have solid proof. He said section 10 of the regulations say a consideration of decision means if they can move it then they can move it. Attorney Parks said you have to protect the wetlands.

Mr. Omicioli said you are looking at one vernal pool but we are looking at the whole project. He said there are other vernal pools on this property and one attempt to contact the property owner is not acceptable. He said 4-5 times would be doing your due diligence. He said one call or email is not enough.

Attorney Parks said they don't have to invite us on site but that doesn't mean our information is not relevant. Mr. Omicioli said you are asking us to deny this application for multiple reasons.

Mr. Popper told the audience that there has to be order.

Attorney Cody said that Attorney Parks just told you that he doesn't understand wetlands law and you can't approve the filling of wetlands. Yes, you can. It's not illegal for you to do that.

A motion was made by Peter Omicioli and seconded by Joseph Corlis to close the public hearing for application 22-02. All were in favor; the motion passed.

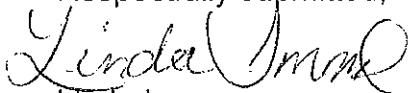
Mr. Popper said that the next meeting is Wednesday, September 7, 2022 and the Commission will discuss this and likely vote.

12. Commissioners' Comments and Reports:

13. Adjourn

A motion was made by Joseph Corlis and seconded by Peter Omicioli to adjourn at 10:08pm. All were in favor; the motion passed.

Respectfully submitted,



Linda Imme
Recording Clerk