

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

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JoAnn Doyle
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REGULAR MEETING
7:00 WEDNESDAY, JULY 6, 2022
TOWN COUNCIL CHAMBERS
CROMWELL TOWN HALL, 41 WEST STREET

AGENDA

1. Call to Order
2. Roll Call
3. Seating of Alternates:
4. Approval of Agenda:
5. Approval of Minutes:
 - a. June 1, 2022
6. Development Compliance Officer Report:
 - a. Status of On-going Project and Existing Cease and Desist Orders
7. Town Planner Report:
8. Public Comments:
9. New Business: Accept and Schedule New Applications:
10. Public Hearing:
 - a. 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)
11. Commissioners' Comments and Reports:
12. Adjourn

**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.*

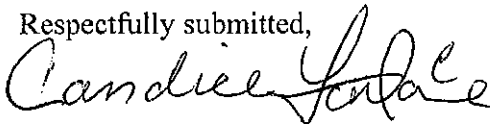
11. Commissioners' Comments and Reports:

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

**TOWN OF CROMWELL
INLAND WETLANDS AND WATERCOURSES AGENCY**

APPLICATION TO CONDUCT REGULATED ACTIVITY

Street refer to Attachment 1: Parcel List Address:	Map/Block/Lot: refer to Attachment 1: Parcel List Volume/Page:
Applicant: Scannell Properties #576, LLC	Owner: refer to Attachment 1: Parcel List
Address: 8801 River Crossing Blvd. Suite 300, Indianapolis, IN 46240	Address: refer to Attachment 1: Parcel List
Phone: (763) 331-8853; Daniel Madrigal	<i>I hereby consent to the Applicant acting as my agent for the purpose of this application. I hereby permit the members and agents of the Agency to inspect the subject land both before and after a final decision has been issued.</i> refer to Attachment 3: Letters of Authorization Signature:
Parcel ID #: refer to Attachment 1: Parcel List	

Reason for the Proposed Wetland or Upland Review Area Disturbance <i>(not a description of the project, but an explanation of why this disturbance is necessary to complete the project):</i>
The proposed warehouse building and the proposed access road off Shunpike Road will result in unavoidable direct wetland impacts and encroachment into upland review areas.
The proposed driveway off Shunpike Road will require replacing an old culvert at the location of the historic stream crossing.
Please see Attachment 2: Project Narrative for additional discussion.

Area of Wetland Impacted by this Project 19,394 SF (0.445 AC) (in square feet or acres):
Area of Upland Review Area Impacted by this Project Development: 195,252 SF (4.48 AC) (in square feet or acres): Mitigation: 214,065 SF (4.91 AC)

Application # 22-02

Description of Alternative Methods Considered, and Justification for Method Chosen:
Alternate locations for the proposed warehouse building would result in significantly greater wetland impacts. Filling of the man-made irrigation pond is considered the most prudent alternative compared to impacting higher functioning wetlands elsewhere on the property.
The use of a former stream crossing near Shunpike Road is considered the most prudent alternative since it is an existing disturbed area and avoids creating a new stream impact.

Certification of Notice to Neighboring Municipalities	
Is any portion of the wetland or watercourse impacted by this application within 500' of Rocky Hill, Berlin, or Middletown?	<input checked="" type="radio"/> Yes / <input type="radio"/> No Not Applicable
Has a copy of this application been sent to the Rocky Hill, Berlin, or Middletown municipal Inland Wetlands and Watercourses Agency?	<input checked="" type="radio"/> Yes / <input type="radio"/> No Not Applicable
Has a copy of the plans been sent to the Rocky Hill, Berlin, or Middletown municipal Inland Wetlands and Watercourses Agency?	<input checked="" type="radio"/> Yes / <input type="radio"/> No Not Applicable

I, the undersigned, hereby certify that the information presented as part of this application is to the best of my knowledge, true and accurate and that should such information be proved to be inaccurate or misleading, any permit issued on the basis of this information may be revoked.

Thomas P. Cody
Applicant's Signature

May 3, 2022

Date of Submission

Thomas P. Cody, Robinson & Cole, LLP, Attorneys for Scannell Properties #576, LLC

Printed Name

The Cromwell Inland Wetlands and Watercourses Agency has detailed environmental information on many of the wetland areas in town. The applicant is strongly encouraged to request a copy of this information.

Attachment 2

Scannell Properties #576 Application for Inland Wetlands Permit 210 Shunpike Road, Cromwell

Project Narrative

This Project Narrative is in support of Scannell Properties #576, LLC's application for an inland wetlands permit for property located east of Shunpike Road (State Route 3), north of Court Street and Geer Street, west of Watrous Park, and south of the Rocky Hill municipal boundary ("Property"). The 250-acre Property consists of the entirety of 10 different parcels of land, together with portions of 2 other parcels. The land involved in the Project would be merged to form a single parcel of land. Please see the Table of Properties included in the Application for information about each of the parcels included in the Property. Please also note that, while this application includes all of the land that will be part of the Project, regulated activities are proposed on only five of the parcels that are part of the Property.

Scannell previously applied for an inland wetlands permit for the same Property in 2021. A public hearing was opened, and the application was referred to LandTech to conduct a peer review of the application for the Commission's benefit. LandTech prepared a comment letter dated January 14, 2022, which asked the applicant several questions, and included requests for additional analysis of the proposal. Unfortunately, the statutory time limit for the public hearing ran out before the applicant could complete its responses to LandTech's questions. Scannell withdrew the 2021 application, and utilized the next few months to perform the additional analysis that had been requested. This application is the culmination of the additional work that was done to fully address LandTech's comments and questions.

Overview of Property

The predominantly historical agricultural use of the Property has resulted in landscape-wide anthropogenic (man-made) changes and associated vegetative communities, including: existing cultivated agricultural fields, landscape nursery fields, associated barns and outbuildings, residences, dug irrigation pond, Algonquin gas ROW, contractor material storage yard, old field, successional forest (from historic agricultural fields), wetland resources, vernal pools, and unnamed perennial and intermittent streams. The vicinity of the Property consists of commercial and industrial development along Shunpike Road to the west, residential development to the south, a town park (Watrous Park) is to the east and an Algonquin Gas compressor/transmission station and gas line Right-of Way ("ROW") and agricultural land to the north in Rocky Hill.

Several wetland areas were identified and delineated on the Property including an isolated irrigation pond located centrally in the eastern portion of the Property. Additional wetland systems, including complexes of forested seep systems, vernal pools, and unnamed perennial watercourse systems located in the northern and western portions of the Property were also delineated and are depicted on plan sheets in the application materials.

Overview of Project and Regulated Activities

This application is in support of a project that would include the development of a warehouse building with an approximate footprint of 1,042,840 sq. ft., as well as associated improvements such as an entrance driveway, parking and loading areas, landscaping, lighting, and stormwater management features ("Project"). The vast majority of the Property is zoned Business Industrial Park (BP). Warehousing is permitted in the BP zone with special permit approval by the Planning and Zoning Commission. Two parcels located along Shunpike Road (Map/Lot 25-3 and 25-4) are zoned Industrial, and warehousing is permitted in the I zone with site plan approval only. A small portion of one parcel fronting on Court Street (Map/Lot 35-69) is located in the R-25 zone. The R-25 zoned area is not included in the activities proposed in the application.

The applications comply with all bulk and dimensional criteria as set forth in Zoning Regulations sections 3.4.B and 3.5.B. A Zoning Chart demonstrating zoning compliance is included in the application materials.

The Project will have a single driveway access point on Shunpike Road. This is an important feature of the Project, because the Project will have no regular access from any other streets. One gated and locked driveway for emergency access only will be located on Geer Street. This emergency access driveway will have a "Knox box" installed which will enable emergency responders to gain access to the site if necessary, but will prevent all other non-emergency access.

The specific location for the driveway along Shunpike Road was selected for having the least impact on wetland resources. The driveway will result in a small amount of unavoidable direct wetland impacts and encroachment into upland review areas, due to the crossing of an unnamed perennial stream. The installation of a culvert for the driveway crossing will result in approximately 1,387 sq. ft. of direct impact to wetlands that border on the stream, along with activities within the upland review area. The proposed stream crossing is sited at an old farm road crossing that contains remnants of a culvert and associated filling and grading.

The proposed warehouse building will also result in the filling of the approximately 18,007 sq. ft. irrigation pond located near the center of the Property (76 Geer Street parcel), in addition to development within the upland review area. Additional regulated activities isolated to work within the upland review area associated with the proposed access road would occur on the 94A Court Street, 102 Court Street, and 80R Geer Street parcels.

Stormwater Management

The Project includes an extensive stormwater management system which has been designed in general accordance with the 2004 Connecticut Stormwater Quality Manual and includes several stormwater Best Management Practices (BMPs) to treat and attenuate increases in runoff from the project site. The stormwater management system has been designed to satisfy the Groundwater Recharge Volume requirements as well as temporarily store and infiltrate the Water Quality Volume. The system reduces peak flow rates from the sites for all storm events up to and including the 100 year. A summary of on-site systems and supporting calculations can be

found in the Stormwater Management Report prepared by Langan and submitted as part of the application.

Soil Erosion and Sediment Control Plan

A detailed soil erosion and sediment control plan has been included in the application. The plan has been divided into three phases of work showing the various soil erosion and sediment control components that will be in place as the project progresses from initial site preparation, to building construction, and establishment of the final treatment of all of the Property's disturbed areas. In addition to review by the Town of Cromwell, the Project will also be required to secure a Connecticut Department of Energy and Environmental Protection General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities. This application requires the review and approval of an independent third party engineer who was not involved in the preparation of the plans prior to the State's release of the permit.

Proposed Wetland Mitigation

To compensate for the unavoidable wetland impacts, three types of mitigation are proposed in the application: wetland creation and associated buffer enhancement areas, terrestrial wetland enhancement areas, and conservation easement areas.

1. *Wetland Creation and Buffer Enhancement Areas.* Three wetland and vernal pool creation areas are proposed. Approximately 6,514 sq. ft. of wetlands will be created near Wetland 4. This mitigates the wetland impact associated with 1,387 sq. ft. of direct wetland impact associated with the Wetland 4 crossing by creating new forested floodplain wetland habitat. Approximately 71,014 sq. ft. of wetlands will be created near Wetland 12 as mitigation for the 18,007 sq. ft. of wetlands and vernal pool impacts associated with the filling of the manmade irrigation pond. This new wetland will include areas of seasonal shallow inundation and will be planted with native wetland trees, shrubs, and herbaceous plants. Finally, 50,485 sq. ft. of new vernal pool area will be created. Surrounding the wetland and vernal pool creation areas will be a 280,500 sq. ft. buffer enhancement area that will consist of various native upland trees, shrubs, grasses, and flowering herbaceous species.
1. *Terrestrial Habitat Enhancement Areas.* Five areas of habitat enhancements are proposed totaling 824,610 sq. ft. (18.9 acres). These enhancement areas are associated with vernal pools numbered 2, 4 and 6, which include fallow nursery meadow, disturbed contractor yard, cultivated field and cleared areas, and floodplain enhancement areas.
2. *Conservation Easement Areas.* Four areas are proposed to be encumbered with permanent conservation easements totaling 4,317,700 sq. ft. (99.12 acres). Habitats associated with Wetland areas 2, 3, 5, 6, 7, 8, 9, 10, 12 and 13; Vernal Pool areas 1, 2, 6, and 9; and other buffer enhancement and terrestrial habitat areas will all be protected by these extensive permanent conservation easements.

Taken together, the proposed mitigation areas will support a variety of wetland functions and values with a focus on wildlife habitat function. The proposed wetland creation is at a

creation/impact ratio of 4:1, and the vernal pool creation area is at a ratio of 2.8:1 (not counting the extensive vernal pool areas that will be protected by new conservation easements).

Conclusion

The proposed development plan and associated regulated activities represent the most prudent and feasible alternative for the Project, as other alternatives would result in significantly greater impacts to wetland resources.

Attachment 1 – Table of Properties included in Application

Parcel Address	Map-Lot Number	GIS Parcel ID	Owner	Owner Address	Regulated Activity (Direct Wetland Impact)	Regulated Activity (Upland Review Area Activity)
210 Shunpike Road	25-3	05058000	Dilys B. McIntyre and Harry P. McIntyre, Jr.	102 Court Street, Cromwell, CT 06416	Yes (stream crossing)	Yes (driveway)
222 Shunpike Road	25-4	00184000	Estate of Sonia Ann Fuller	Garfield Avenue, Middletown, CT 06457	None	None
94A Court Street	35-69	00190600	Gardners Nurseries Inc.	Brook Street, Rocky Hill, CT 06067	None	Yes (driveway)
102 Court Street (rear portion only)	25-72	00314900	Dilys B. McIntyre and Harry P. McIntyre, Jr.	102 Court Street, Cromwell, CT 06416	None	Yes (driveway)
50 Geer Street	35-53	00190800	Gardners Nurseries Inc.	Brook Street, Rocky Hill, CT 06067	None	None
52 Geer Street	35-54	00191700	Gardners Nurseries Inc.	Brook Street, Rocky Hill, CT 06067	None	None
58R Geer Street	35-58	00196900	William R. Gibb and Jean H. Gibb	Geer Street, Cromwell, CT 06416	None	None
62 Geer Street	35-61	00434800	Tanya Spada	Geer Street, Cromwell, CT 06416	None	None
64 Geer Street	35-63	00191400	Gardners Nurseries Inc.	Brook Street, Rocky Hill, CT 06067	None	None
76 Geer Street	35-55	00191100	Gardners Nurseries Inc.	Brook Street, Rocky Hill, CT 06067	Yes (proposed building)	Yes (proposed building)
80R Geer Street	36-10	00000500	Concezio Pace and Steven Reilly	83 Kimberly Rd, Newington, CT 06111	None	Yes (driveway)

88R Geer Street (rear portion only)	35-9	00341400	Carol A. Nettis Revocable Living Trust	Geer Street, Cromwell, CT 06416	None	None
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The Law Offices of John H. Parks

352A Billings Road, Somers, CT 06071 • Phone: 860-749-0797 • Fax: 860-749-0453

June 23, 2022

Mr. John Whitney, Chairman
Cromwell Inland Wetland & Watercourse Agency
c/o Stuart B. Popper, Director of Planning and Development
Town of Cromwell
41 West Street
Cromwell, CT 06416

Sent via email: spopper@cromwellct.com

Re: Application 22-02
Scannell Properties
94A & 102 Court Street, 76 & 80R Geer Street & 210 Shunpike Road
Cromwell, CT

Dear Chairman Whitney:

On June 1, 2022, I attended a meeting on the above application on behalf of a large group of Cromwell residents, who oppose the above application. This being my first appearance before this commission, I was not aware of how the meeting on this application would be conducted.

I went to the third floor, the council chambers, and it appeared to be small for the number of residents expected to attend. At the beginning of the meeting Bruce Driska, Development Compliance Officer, announced to those attending that no one could stand in the room. There were only 88 seats in the room which were completely filled with residents standing in the hallway. Everyone else, approximately 60 residents were told to get on the elevator and go to a room on the ground floor of the town hall building where they could watch the meeting on a screen. Your ground floor is a slow elevator ride away from what is going on in the council chambers, and those on your ground floor could not see the applicant's presentation.

The accommodations for a matter this important are the worst I have seen in the 42 years that I've been appearing before Wetlands Commissions throughout the State of Connecticut. The unlucky 60 residents relegated to the ground floor of your town hall

building, were unable to fully view the presentation and/or fully participate in the meeting.

These accommodations are wholly inadequate and need to be changed for the upcoming meeting, so that the concerned residents of the Town of Cromwell can witness and participate in this matter. These accommodations violate the Fundamental Fairness that a municipal agency is required to afford its citizens. Fundamental Fairness requires that every concerned citizen has the opportunity to fully participate in, and prepare for, an agency's meeting. See generally *Grimes v. Conservation Comm'n of Town of Litchfield*, 243 Conn. 266, 273-74 (1997) ("The only requirement [in administrative proceedings] is that the conduct of the hearing shall not violate the fundamentals of natural justice"..."[d]ue process of law requires that the parties involved have an opportunity to know the facts on which the commission is asked to act...and to offer rebuttal evidence" (Internal citations omitted).

I understand from my clients that the Town of Cromwell has spaces adequate to accommodate all the residents in one room and that would be the fair thing to do in this situation. Every concerned resident must be able to attend and fully participate in the next meeting. Would your commission please change the venue for the upcoming meeting?

Very truly yours,



John H. Parks



- Soil & Wetland Studies
- Ecology • Application Reviews
- Listed Species Surveys • GPS
- Environmental Planning & Management
- Ecological Restoration & Habitat Mitigation
- Expert Testimony • Permitting

May 31, 2022

Town of Cromwell
Cromwell Inland Wetlands & Watercourses Commission
Town Hall
41 West Street
Cromwell, CT 06416

RE: PRELIMINARY APPLICATION REVIEW

“Proposed Warehouse Facility,” Scannell Properties, LLC
210 Shunpike Road, Cromwell, CT

REMA Job #: 22-2499-CRO49

Dear Chairman Whitney and Commissioners:

At the request of the Intervenor, REMA ECOLOGICAL SERVICES (“REMA”) has been asked to review the plans and other supporting documentation for an application for a 1,042,849 square foot warehouse on a 250-acre property in Cromwell, in the Mattabesset River watershed.

The application materials reviewed include, but are not limited to:

- 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 Land Tech, with responses, dated May 25, 2022.
- 4) Application, 210 Shunpike Road, dated 5-3-22.



We have reviewed the application for completeness and consistency with the Town's Inland Wetlands and Watercourses Regulations, based on Sections 22a-36 to 45 of the Connecticut General Statutes. We were not able to observe the site first hand, but hereby request permission of the applicant to do so. We found the application to be thorough in several areas, namely the vernal pool study, but deficient in data and analysis in other important regards.

1.0 PROJECT OVERVIEW

Scannell Properties, LLC seeks a permit from the Cromwell Inland Wetlands and Watercourses Commission, to fill 21,054 square feet (0.51 acres) of regulated wetlands, including a highly productive vernal pool for spotted salamanders and assorted other aquatic wildlife (i.e., Vernal Pool 7). A permit is also needed for 195,253 square feet of encroachment within the 100-foot upland review area (URA). Impacts to the 200-foot URA of multiple vernal pools will total 272,445 square feet. Direct permanent impacts of 1,387 square feet are required for the entry road crossing of a perennial stream corridor (Wetland 4) parallel to Shunpike Road. The crossing will be a 16-foot wide open bottom box culvert.

The site includes a major complex of vernal pools and forested wetlands traversed by three perennial watercourses, all tributaries to the Mattabesset 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.

2.0 APPLICATION INSUFFICIENCIES

2.1 ANALYSIS OF IMPACTS TO ECOLOGICAL INTEGRITY OF VERNAL POOL COMPLEX

Appropriate data was collected on the vernal pools, including two years of egg mass counts and information on maximum water depth and hydroperiod. However, impacts to the vernal pool complex as a whole, were not adequately analyzed. Connectivity among pools is key for long term sustainability; it allows recolonization after local extinctions, and creates a



large, genetically diverse metapopulation, able to adapt in response to ecological change. Unfortunately, this application calls for filling of Vernal Pool 7, located approximately midway between Vernal Pool 4 and Vernal Pool 6. This pool was excavated about 70 years ago, as an irrigation pond. It is deep, with highly successful spotted salamander breeding, and serves as a reservoir for recolonization of other pools with less reliable hydroperiods. Distances between Vernal Pool 7 and the two nearest pools are about 700 to 800 feet, which falls within the migration range of spotted salamanders. However, post-construction the connection between Pools 4 and 6 will be severed, occupied by the massive facility and adjacent pavement. The fact that this is an interconnected complex of vernal pools, raises its ecological and functional value to an unusually high level, with statewide and regional significance.

Of grave concern is the nearly half mile-long, 36-foot wide long entry road, which will impede connectivity between multiple pools in the northwestern and north-central portion of the site. It will increase mortality, not only for recently metamorphosed amphibians, but also for an important suite of vernal pool predators: garter snake, water snake, ribbon snake, spotted turtle, painted turtle, and Eastern box turtle. These species are all active during daytime, and vulnerable to roadkill, as are wood frogs.

Conversion of open habitat into wooded habitat, as terrestrial mitigation, is expected to result in loss of needed nesting and basking habitat for these reptiles, which prey on tadpoles, and are an important component of a balanced vernal pool food web, which helps maintain good water quality in the pools.

The dry soil conditions in the 100-foot envelope of Vernal Pool 7 were cited as a drawback, lessening the impact of its loss. This is certainly the case for wood frogs - which barely breed in the pool (a single wood frog egg mass in 2022), but not for spotted salamanders.

2.2 INCOMPLETE WETLAND AND URA CHARACTERIZATION

Only one component of the on-site wetlands has been adequately characterized: amphibian breeding pools. Stream corridors and wooded swamps/shrub swamps have been mapped but not characterized or inventoried. Cromwell's inland wetland regulations do call for ecological characterization of wetlands. We note that one of the undersigned reviewers, that



is, George Logan, helped conduct a town-wide inventory and functions and values assessment of all wetlands in Cromwell in the late 1980's, providing all these characterization elements. This readily available data and analysis should have been consulted and part of the application. Moreover, the town-wide study mapped all of the wetlands within the municipality, at a much higher accuracy than the typically used USDA-NRCS Soil Survey mapping. At a minimum a comparison between this higher resolution mapping of wetlands and those provided by the applicant should have been undertaken.

The application lacks narrative or descriptive information on the three perennial stream corridors, including instream habitat, bank condition, aquatic fauna and riparian vegetation: Wetlands 4, 5, and 8. The multiple wooded swamps areas (including Wetlands 12, 6, and 3) have also not been characterized, in terms of plant diversity, vegetation structure, herbaceous diversity, proportions of seasonal versus semi-permanent flooding, clearings, semi-permanent seepage areas, and invasive status.

2.2.1 Areas most Vulnerable to Air Pollution Fallout

The wetland areas with the most diverse plants and aquatic insects would be most vulnerable to toxic /teratogenic compounds in air pollution fallout from diesel truck traffic along the entry road; a 100 foot swath on both sides of a road, has been found to be subject to the highest fallout concentrations. Roadside buffer plantings of dense evergreens, also serving as noise abatement, could be warranted in some areas, but without baseline vegetation data, such as an assessment cannot be accomplished. We note that mugwort-infested portions of the former nursery would not be vulnerable to toxicants in air-pollution fallout.

2.2.2 Need for Reference Data for Wetland Mitigation

Especially when substantial forested wetland creation and terrestrial mitigation is proposed, planting plans and grading for the mitigation wetlands should be based on nearby reference wetlands, including the plant species composition, vegetation structure, and other physical/hydrologic characteristics. Species already present on the site are likely to do well on the soils at the site and support existing insects. The same limited list of woody species (3 trees, 2 open site shrubs, and 4 forest shrubs) is proposed for each terrestrial enhancement and the upland roadside matrix seed mix consists mostly of herbs of dry, open habitats. The New England Wetmix is an expensive "shotgun mix" of many species adapted to different



light and hydrologic regimes. Native seed vendors will also provide custom wetland seed mixes with a small number of species that are actually found in a comparable reference wetland.

The fauna occupying a large forested ecosystem such as this one is closely tied to the flora the flora, for example insects with obligate host plants. The USACE functions and values assessment methodology calls for lists of both fauna and flora.

2.2.3 Need for Wetland Functions and Values Characterization

Without detailed wetland characterization data, and some data on the URAs, it is not possible to properly assess wetland functions and values, using the set of rationales provided for each function. Even if the full detailed forms are not filled out, a substantive narrative needs to describe the wetland characteristics that influence each function.

2.2.4 Planning Project Layout

This data should also have been part of the planning process for the project layout. Direct impact for a road segments or parking area are more appropriate for portions of upland review areas with a concentration of invasive species, than those with high understory diversity or a high proportion of diameter large trees.

2.2.5 Invasive Data to Minimize On-Site Invasive Spread

Project notes do call for washing trucks arriving at the site, to remove invasive propagules, and they caution against using infested soil. However, there is no mention of collecting approximate baseline information as to existing locations of invasive concentrations, which is important for planning mitigation work. Such infestations should not be allowed to set seed. Construction vehicles should not drive through dense infestations, as their tires will pick up invasive seeds and rhizome fragments. The soil with dense mats of invasive rhizomes or seed banks can be excavated and buried on areas of existing site disturbance. Such depressions could be used as wetland creation areas or replaced with clean topsoil from under the proposed warehouse before planting and seeding. The former nursery was reported to be infested with mugwort (*Artemisia vulgaris*), which is very difficult to control



with herbicide. The dense mugwort areas should have been mapped. Soil and rhizomes in those areas would be best excavated.

2.2.6 Lack of Characterization of Terrestrial Mitigation Sites

Almost three (i.e., 2.79) acres of terrestrial mitigation is proposed in non-forested, open areas, but very little information is provided as to the existing vegetative cover in these areas. Many wildflowers with high pollinator value are early colonizers of bare soil. So are grasses and forbs of with high seed production, of value to birds; rare plant species with poor competitive ability; and seedlings of nearby trees and woody vines in the forest. Some terrestrial areas in the 100-foot URA will be less suitable than others for conversion to wooded habitat. Each terrestrial habitat area should be roughly mapped, and vegetation to preserved should be noted and flagged. Also, as discussed above, reptile predators of vernal pools need open habitat. During vegetation surveys, the remains of turtle nests, or basking snakes are often observed.

2.3 DELAYED RARE AND LISTED SPECIES ASSESSMENT

The application states that the NDDDB rare species survey is in progress and that assessment will be forthcoming, but does not provide the CTDEEP list of the target NDDDB rare species. It makes reference to the usual protection measures for rare herptiles often found on Connecticut sites, but these differ depending on the species.

In fact, NDDDB information is very important for project planning and design. For example, if spotted turtle (*Clemmys guttata*), a wetland-dependent (CT Special Concern) species, is present on this site, it needs to be able to move overland among multiple vernal pools, and streams, feeding in different ones in succession. Spotted turtle travels during daylight hours and is very vulnerable to roadkill, such that the proposed entry road becomes a major issue.

We are also aware of a recent smooth green snake (*Opheodrys vernalis*) (CT Special Concern) record nearby in Rocky Hill. If this snake is on the CT NDDDB list for this site, terrestrial habitat mitigation should also include areas with meadow cover types and long term meadow maintenance plan



A localized rare plant population may be found, often not a species on the CTDEEP NDDB list. It would be avoidable, if its location is known prior to site plan and road alignment finalization.

The large acreage of open land at this site increases the likelihood of rare grassland birds such as kestrel, savannah sparrow, meadowlark; also, of rare butterflies associated with field habitat, especially now that it is fallow. They would likely colonize cropland areas planted with hay grasses. Leaving substantial areas as managed field habitat would be an appropriate design goal, especially if any birds in this suite of rare species have been observed in the vicinity.

Regardless of rarity, the open field habitat supports a suite of raptors, both hawks and owls, according to residents along Geer Street. By controlling white-footed mouse populations, the raptors prevent high densities of deer ticks (Lyme disease carriers) in the larger vicinity. This is a largely public health and Planning & Zoning issue, but Lyme disease does affect wildlife, including wetland-dependent wildlife, as well as humans. Dense tick populations do reduce wetland functions and values for example Recreational Value for trail users in Watrous Park, including forested wetlands, just east of the site.

2.4 INCOMPLETE MITIGATION IMPLEMENTATION NOTES

The proportions of target cover types, seasonal windows for seeding and planting, and the duration and all the components of follow-up care are not provided in the wetland mitigation implementation notes. Will it continue for three years after the year of installation? Sufficient detail on invasive control methods are lacking, just the statement that herbicides will be used to control invasives.

Will invasive seedling pulling and cut-stump treatment be used to reduce the volume of herbicide use? Will the more selective triclopyr (Garlon) herbicide be used so as not to harm graminoid species? Will competing weeds be pulled or cut, and will invasives be controlled, throughout the entire wetland and terrestrial mitigation areas? Will watering as needed be done throughout the first growing season? These questions, at a minimum, would need to be addressed.



3.0 CONCLUSION

Aside from the substantial direct adverse impacts to wetlands and vernal pools, this project will diminish the ecological integrity of the overall wetland complex. Insufficient data was collected to formulate a plan that minimizes adverse impacts; the plan lacks data on wetland characteristics, (other than vernal pools), rare species, and on-site invasive species distribution. It also fails to provide enough detail on follow-up measures, to provide reasonable assurance of success for the proposed mitigation. In our professional opinion, as currently proposed, there is a reasonable likelihood that the proposal will result in unreasonable impacts to regulated wetlands and watercourses.

Respectfully submitted,

Rema Ecological Services, LLC

Sigrun N. Gadwa, MS, PWS
Ecologist, Professional Wetland Scientist
Registered Soil Scientist

George T. Logan, MS, PWS, CSE
Professional Wetland Scientist
Registered Soil Scientist
Certified Senior Ecologist