

INLAND WETLANDS AND WATERCOURSES COMMISSION
TUESDAY, JANUARY 2, 2018
TOWN HALL 7:00 P.M.

Present: Chairman Bruce Burnett, Susan Ryan, Timothy Bobroske, Paul Whiton, Robert Wesneski, Merrill French, Alternate Member Robert Orciari, Alternate Member Eric Rahn, Land Use Coordinator Polly Redmond and IWZEO Thomas Mitchell

Absent: Victoria Elliott

1. OPEN MEETING – ESTABLISH QUORUM.

Chairman Burnett called the meeting to order at 7:00 p.m. All regular members present are seated with Alternate Member R. Orciari seated for V. Elliott.

2. APPROVE MINUTES OF PREVIOUS MEETING: 12/4/17

T. Bobroske **motioned** to approve the minutes of the previous meeting with amendment to Page 2, Item 4, to delete last sentence *“Zoning approval has already been received....”* Zoning approval has not been received. Amendments to Page 3, Item 7, Line 6 to read “easement in addition to other land *adjacent* to 330 North Road.” Page 3, Item 7, Line 9 to read *“contacted* (omit word “contracted”) Andrew Goldstein of 330 North Road...” Page 3, Item 7, Line 17 to read “be done for the Land Trust should *not* be borne by the property owner *but instead by Mr. Gagne.*” R. Orciari seconded the motion and it passed unanimously with R. Wesneski abstaining from vote due to his absence at the previous meeting.

3. TOWN OF HARWINTON – DISCUSSION/POSSIBLE DECISION - APPLICATION FOR SHINGLE MILL REPLACEMENT BRIDGE PROJECT, SHINGLE MILL ROAD.

John Wengell, W.M.C. Consulting Engineers, is present to represent the Town of Harwinton. He submits a copy of DEEP (Interagency Coordination Meeting) minutes dated 11/30/17 that remains on file in the Land Use office. Those minutes indicate that the proposed structure is a precast concrete arch with concrete abutments and precast concrete wingwalls. Unconfined in-stream activities will be restricted to June 1 through September 30. R. Orciari questions whether one side of the stream will be diverted at a time. Mr. Wengell explains that it is proposed to place temporary cofferdams on both sides of the river at the same time while leaving the center of the stream open for flows during construction. R. Orciari asks if any consideration was given to handling run off on the west side of Shingle Mill Road with Mr. Wengell stating that there are swales on private property but easements have not been acquired and that checkdams could be put in. R. Orciari questions whether some kind of detention basin could be put in with Mr. Wengell explaining that there isn't enough room but there will be a small depression in the upper west area of the stream. Upon questioning by T. Bobroske regarding inspections and reports, Mr. Wengell states that he will conduct erosion control inspections and submit reports to the town. He will also be notifying neighbors as a courtesy of when the work will begin. Mr. Wengell also submits a copy of notification received by W.M.C. of sign-off of Fisheries plans and states he will send the report to the Land Use office once he receives the actual sign-off. The DEEP Report states that Fisheries recommended that rounded boulders for scour protection, of similar dimension/size of those along eastern abutment, be installed at the base of the western abutment/wingwalls. They added that no broken concrete or angular stones be used. R. Orciari **motioned** to approve the application as a regulated non-significant activity with the condition that weekly erosion control inspection reports are sent to the Land Use office by W.M.C. and that Certificate of Mailings be sent to the neighbors of the project location giving notification of when work will begin. S. Ryan seconded the motion and it passed unanimously.

4. GRIFFIN ROSSI – DISCUSSION/POSSIBLE DECISION - APPLICATION FOR SINGLE FAMILY DWELLING, LOT 9B ORCHARD HILL ROAD, ASSESSORS MAP NO. B6-03-009B. PROPERTY OWNED BY TARA AND JOSEPH LOCKWOOD.

Mr. Rossi is present and presents revised Septic System Design Plans prepared by Berkshire Engineering dated 12/29/17 for Notification E&S Note and Wetland Mitigation Area. T. Bobroske **motioned** to approve the application as a regulated non-significant activity, seconded by P. Whiton. Motion passed unanimously.

5. ALYSEN ALMAND – APPLICATION FOR CONSTRUCTION OF 35' X 42' BARN (REBUILD OF PORTION ON SAME FOOTPRINT), 401 BURLINGTON ROAD.

Mrs. Almand is present along with her father who will be doing the work of tearing down the existing barn and rebuilding. Aerial photos of her property are provided with the location of silt fence marked and notation that the barn, after construction, will be 85 feet to wetlands on the west and 120 feet to wetlands in the back of the property. The existing barn is 32' x 20' and with the proposed barn addition to the west side will be 35' x 42'. TAHD approval has been received. No water or sewer is being proposed. T. Bobroske **motioned** to accept the application as a regulated non-significant activity, seconded by S. Ryan. Motion passed unanimously.

6. MICHAEL VIGUE – APPLICATION FOR CREATION OF POND AND CLEARING OF LAND, 63 HARMONY HILL ROAD.

Mr. & Mrs. Vigue are present. Mr. Vigue states that he is proposing a gravel access road to a proposed pond and that he is also clearing an area of land in order to plant Christmas trees. He states that the proposed pond location is a wetland area and no clearing would be required. Chairman Burnett questions whether work has been done in the wetland area already with Mr. Vigue stating, yes, a path was made to get to the back of the property. T. Bobroske questions IWZEO Tom Mitchell if he has been to the site that was subject to a complaint made. IWZEO Mitchell states he has been to the site and provides photos on his phone of the area where work has taken place. He explains that process material has been brought in and it appears that a driveway was being constructed within the wetlands. Mr. Vigue was instructed by LUC Redmond to visit the Northwest Conservation District for helpful information on pond construction. NWCD employee Karen Nelson left a message in the Land Use office that what Mr. Vigue is proposing should require an engineered plan to consider a pond in the wetlands as he will be diverting a stream. Mr. Vigue states that he does not wish to incur the expense of an engineer and will forgo creating a pond if an engineered plan is required and that he will just clear cut an area for the Christmas trees. R. Wesneski informs Mr. Vigue that he must be mindful of the wetlands on his property and asks that a buffer to protect the wetlands be left when clearing the area where the trees are to be planted. S. Ryan questions when the fill was brought in to create the path with Mr. Vigue stating about a month ago and that he didn't realize a permit was required to do so. T. Bobroske states for clarification and questions if this application is an after-the-fact permit along with an application for creating a pond with access road? R. Orciari states that it appears that many yards of material was brought in with the culvert installation and anyone who would come before this Commission with this culvert construction would be required to provide an engineered plan but that an engineered plan for the agricultural pond isn't necessary. Chairman Burnett states that Mr. Vigue has indicated that if the Commission wants an engineered plan for the pond, that he would not create the pond. R. Wesneski questions what the size of the pond would be with Mr. Vigue stating that it would be 8 feet with 2:1 slope on the sides. Chairman Burnett questions Commissioners on whether an engineered plan for the culvert would be required and then the application can move forward at the time it is presented? Commissioners agree with Chairman Burnett's assessment with R. Wesneski adding that he would like to see a buffer area to the north be labeled on any plan submitted. T. Bobroske **motioned** that the application be accepted as an incomplete application due to the Commission looking for the amount of fill that was brought in and the size of the culvert. R. Wesneski seconded the motion and it passed unanimously. The application fee will be determined once the information is received.

7. PICKETT BROOK PROPERTY, LLC – APPLICATION FOR TIMBER HARVEST, 609 & 587 LITCHFIELD ROAD.

*It is noted that activities include property located at 609 Litchfield Road and 587 Litchfield Road.

Charles Leigus, Certified Forester, Supreme Forest Products, is present to represent and states that 30 acres will be worked on with wetlands and steep slopes to be avoided. 609 Litchfield Road contains 49.93 acres and 587 Litchfield Road contains 2.67 acres and are both located in a Country Residential zone. Mr. Leigus states that the purpose of the harvest is to promote hard wood regeneration. Exhibit 1 is part of the application and is referred to by Mr. Leigus. Exhibit 1 states that Supreme Industries will be conducting a timber harvest on approximately 52 acres on the properties of Pickett Brook Property, LLC and will include some heavy mowing of brush to create small openings in the softwood understory that will enhance the cottontail habitat. Logs harvested will be located at two landing locations and be removed via tri-axle log truck using the access over an existing driveway at 587 Litchfield Road. One landing location will be on the property of 609 Litchfield

Road, in the center of the property, and the second landing location will be on the western side of 587 Litchfield Road in the front of the property. Exhibit 1 notes that the entire property is designated as a harvest area but actual cutting of trees will be limited to the areas of gentle topography, avoiding steep slopes. An established woods road will serve as the main skid trail servicing the two landing locations. Best Management Practices will be employed across the harvest area with respect to erosion and sedimentation concerns. Exhibit 1 notes that a 40 foot timber mat bridge will be placed over Pickett Brook along the main access into the property. The total bridge thickness will be 20" supporting in excess of 50 tons. Some light excavation and stump removal will be required adjacent to the stream to place the headwalls that will be made from concrete block or additional timber mats. A second wetland crossing (located along the existing woods road) of approximately 40 feet in width will be constructed using hardwood mats. Filter sock will be employed as erosion barrier in place of silt fence. A diagram of the timber mat bridge construction with mat or block headwall accompanies the application and remains on file.

R. Orciari states that this land is a unique area with core habitat and provides a map titled Habitat Cores & Connectors that shows this area as a habitat threat. Core habitats are areas containing plant or animal species of concern at the state or federal levels, exemplary natural communities, or exceptional native diversity. Core habitats delineate essential habitat that cannot absorb significant levels of activity without substantial impact to the elements of concern. He adds that Pickett Brook is a small but important cold water stream for native trout. He explains that any clearing can open the waters up to heating which is a problem for native trout, among other types of fish. Another feature of the property is a waterfall which is an important natural feature in Harwinton that should be protected. In reviewing the Wetlands application he believes that for a relatively small harvest, a lot of work will be done including the construction of the timber mat bridge. He points out areas of concern to him that include the chipping of 200 tons which goes against forest restoration. He also questions why grading is needed to be done and that cutting on a flat knoll is proposed that he believes there is no need for. He notes that an anti-tracking pad should be placed down and questions where silt socks for erosion control will be placed and points out areas where he believes they should be placed. He believes there is more work to be done on the plans and especially where the cutting is to take place. R. Orciari questions whether there will be any cutting taking place within 100 foot regulated areas with Mr. Leigus stating they do plan to do some but agrees to a 100 foot no harvest buffer to Pickett Brook. R. Orciari notes that this is forest regeneration and it was mentioned regeneration is through a percentage. He asks what that percentage is with Mr. Leigus stating 30 percent. R. Orciari states that this should be indicated in the text. R. Orciari also suggests that perhaps neighbors should be notified of what is being planned for this property and when. Mr. Leigus states that he will consider notification. T. Bobroske questions whether there are vernal pools on the property and whether a plan to stay 100 feet away from them can be provided. Mr. Leigus states that he will have to check the location of any possible vernal pools. T. Bobroske states that he would like to have someone check for that possibility and state that there are or there are not vernal pools on this property. Mr. Leigus states he will have someone go out to check. R. Orciari states that he sees this as a massive project for minimal harvesting for forest management and sees this as an incomplete application for lack of information. Chairman Burnett states that this is an as of right use and all the Commission can do is list their concerns. R. Wesneski **motioned** to deem this application as a *use of right* with the request that the following list of items be submitted to the Land Use office within two weeks from today. 1) Confirmation that there are no vernal pools. 2) Indicate on plan where grading will take place. 3) Indicate on plan the location of harvest area. 4) Indicate 30% cut and note that no clear cutting will take place except up to a ¼ acre area of "patches". 5) Show location of silt sock on harvest map and note location of silt sock placement where grading will take place and that silt sock shall be placed along the intermittent stream and along the existing road if grading is to be done in these areas. 6) Note on plan to "maintain a 100 foot 'no harvest' buffer area from the stream". 7) Indicate a tracking pad to be installed. 8) Meetings with the forester and the Harwinton Enforcement Officer will take place and the applicant will be responsible for the cost of a maximum of six visits/inspections by the enforcement officer as agreed upon by Mr. Leigus. 9) That no work shall begin until these items are presented to the Land Use office with a two week period of time from the Wetlands Commission meeting date of 1/2/2018. S. Ryan seconded the motion and it passed unanimously.

8. CITY OF TORRINGTON – ANIMAL CONTROL FACILITY UPGRADE, 252 BOGUE ROAD.

The applicant has informed the Land Use office that they are not ready to present at this time.

9. ANY OTHER BUSINESS.

LUC Redmond presents the Commission with plans for a six-lot subdivision on Hill Road (Assessors Map No. B3-03-0009), to be known as High View Estates, for Country View Properties, LLC, prepared by Robert Green Associates, LLC. Total acreage of land is 43.11 acres and total acreage of wetlands on site is 3.96 acres. The subdivision of land in this Country Residential zone proposes five front lots, all a little over two acres each, and one rear lot (32.43 acres) with all proposed site development outside any regulated areas. S. Ryan **motioned** to authorize LUC Redmond to sign off on the Wetland application for a six-lot Subdivision to be known as High View Estates, seconded by R. Wesneski. Motion passed unanimously.

LUC Redmond presents the Commission with plans for a two-lot subdivision on 131 Clearview Avenue, (Assessors Map No. B7-01-0022), for Harwinton Storage, LLC, prepared by Hrica Associates, LLC. Total acreage of land is 9.32 acres and wetlands have been flagged by Tom Stansfield, C.S.S. and are shown to be on the south east part of the property. The amount of wetlands on the property is not identified on the plans. The subdivision of land in this Light Industrial A zone proposes two lots; lot 1 consisting of 2.80 acres and lot 2 consisting of 6.52 acres with no proposed site development as the (proposed) two lots already have structures on them and no new structures are proposed at this time. R. Wesneski **motioned** to authorize LUC Redmond to sign off on the Wetland application for a two-lot Subdivision for Harwinton Storage, LLC, provided no new driveway will be constructed on the south eastern side of the property where there are wetlands. P. Whiton seconded the motion and it passed unanimously.

LUC Redmond informs the Commission that the Land Use office is in receipt of a Timber Harvest application for property owned by John McNabney, 370 Wildcat Hill Road. The Certified Forest Practitioner is Brennan Sheahan, Hull Forest Products, Pomfret, CT. The application was left in the Land Use office without any consultation between the Land Use Coordinator, the land owner or the forester. The application states that the timber harvest will take place on upland dry soils, that there are no stream crossings, wetland crossings or harvesting in a wetland. In reviewing the aerial photo accompanying the application, a stream is seen running north to south in front of the entire parcel. It is questionable how the timber will be taken off the property without crossing the stream in front. (*After LUC Redmond had discussion with the forester, the access will be via the existing driveway that the property owner assures can support the log trucks.) A landing area is shown on the aerial photo in an area south east of the home and close to the power lines that run behind the house and the harvest area is in areas shaded in grey that borders another stream to the rear of the property. It is unknown how close the harvest areas are to the stream. (*Furthermore, the LUC Redmond was assured by the forester that no activities will be taking place within regulated areas as noted on the Timber Harvest application.) The Commission wishes to have the forester or the property owner come before them at their next meeting on February 5, 2018 to further review the application.

William J. Tracy is present to discuss clear cutting activities on Land Trust Conservation Easement land located on 330 North Road. The Wetlands Commission instructed LUC Redmond to write a letter to the Land Trust asking that a wetland delineation survey of the conservation area be provided to the Commission. W. Tracy, as chair of the Board of Directors of the Harwinton Land Conservation Trust, Inc., responded with a letter dated 12/19/17 that remains on file in the Land Use office. W. Tracy reminds the Commission tonight that Wetland Regulation 6.2 states that the person who conducts a regulated activity without authorization shall be subject to enforcement proceedings and that the IWZEO should send notice of violation to that person, if the Commission so directs, who in this case is Mr. Gagne of 295 Harmony Hill Road. Discussions have taken place between the Land Trust and Mr. Gagne and there's been talk with a forester about remediation also. Remediation would be replanting of trees which would be a regulated activity and would require an application. W. Tracy adds that negotiations are in process at this point with R. Wesneski then questioning whether there is a need to do a Notice of Violation. W. Tracy states that no activities have taken place since the clear cutting. Chairman Burnett questions whether it is known if there are wetlands in the area of clear cutting with W. Tracy stating it is not known. Chairman Burnett states that perhaps the Commission would like to have the Land Trust pursue remediation and that would then take care of the wetland issue. Commissioners are in agreement.

10. COMPLAINTS/ENFORCEMENT ACTIONS/REPORTS.

IWZEO Thomas Mitchell submits a report dated 1/2/18 giving the Commission updates on his site visit to Michael Vigue's property at 63 Harmony Hill Road on 12/13/17. He shows Commissioners pictures of the property from his phone. A certified letter was sent to Mr. Vigue on 12/18/17 requesting his attendance at tonight's meeting. The report also notes that on 11/16/17 he was driving on Lead Mine Brook Road and noticed work being done with a backhoe alongside a driveway at 94 Lead Mine Brook Road, property owned by Eric Trent. He spoke with Mr. Trent regarding the proximity to a pond near the driveway without IWWC review or approval with Mr. Trent responding that his wife was just "playing around" with the machine and that no actual 'work' has begun. Mr. Trent was informed that any activity within 100 feet of wetlands must be reviewed by the Wetlands Commission with Mr. Trent stating he understood this and that no work will begin on or near the pond until that review takes place.

11. CORRESPONDENCE.

None.

12. INVOICES.

IWZEO T. Mitchell submits an invoice for 15 hours for the period 3/27/17 to 12/18/17. R. Wesneski **motioned** to approve the invoice, seconded by M. French. Motion passed unanimously.

R. Wesneski **motioned** to enter into Executive Session at 9:25 p.m., seconded by S. Ryan. Motion passed unanimously. R. Wesneski **motioned** to exit out of Executive Session at 9:35 p.m., seconded by R. Orciari. Motion passed unanimously. No action taken.

13. ADJOURN.

P. Whiton **motioned** to adjourn the meeting at 9:35 p.m., seconded by R. Wesneski. Motion passed unanimously.

Respectfully submitted,

Polly Redmond
Land Use Coordinator

RECEIVED FOR RECORD AT HARWINTON CT
ON 01/11/18 AT 12:52 PM
ATTEST NANCY E. ELDRIDGE TOWN CLERK