

**MINUTES OF PUBLIC HEARING  
HELD BY THE PLANNING AND ZONING COMMISSION  
AUGUST 12, 2019**

**ROLL CALL:**

Members Present: Eric Prause, Chair  
Patrick Kennedy, Vice Chair  
Michael Stebe, Secretary  
Timothy Bergin  
Jessica Scorso

Alternate Members: Julian Stoppelman  
Teresa Ike  
Bonnie Potocki

Also Present: Gary Anderson, Director of Planning  
Matthew Bordeaux, Senior Planner  
David Laiuppa, Environmental  
Planner/Wetlands Agent  
Nancy Martel, Recording Secretary

The Chairman opened the Public Hearing at 7:00 P.M. The Secretary read the legal notice when the call was made.

KENNETH BOYNTON – Proposed 44-lot residential cluster subdivision served by sanitary sewer and public water at 426 Wetherell Street. – Inland Wetlands Permit (2019-036); Subdivision (2019-037)

Attorney Dorian Famiglietti, Kahan, Kerensky & Capossela, introduced herself. Attorney Famiglietti reminded the Commission that the applicant was before them in December 2018 for a zone change for this parcel of land, from Rural Residence to Residence AA zone. She explained that the applicant is the owner of the property and he is presently developing Phase 4A of the Manchester West Subdivision.

The applicant acquired the property in April 2018 and has worked diligently to come up with an appropriate development for the site, according to Attorney Famiglietti. She noted that the first step was to hire an environmental consultant, REMA Ecological Services, to work with the engineering team to design the most appropriate development. According to Attorney Famiglietti, after REMA completed their assessment, they moved into the design phase and were integral in working with Gardner & Peterson on the layout of the subdivision.

Attorney Famiglietti stated that the application is in two parts; a wetlands and a zoning application. She reminded the Commission that the applicant was before them previously, giving a brief overview of the property and explaining some of the activities. The Commission determined that there could be significant impact with the proposal, according to Attorney

Famiglietti. She explained that the applicant is not quite through the engineering component, primarily concerning the water distribution system as well as other engineering details. The applicant hired a design consultant, Lenard Engineering, to work specifically on the water distribution system. Therefore, she stated, the applicant has decided to focus on wetland issues at this meeting. Attorney Famiglietti explained that, statutorily, the applicant is running out of time.

Mr. Prause sought clarification that the applicant is not expecting an approval of an Inland Wetlands Permit at this meeting. He assumed that Attorney Famiglietti will present information that will not change between tonight's meeting and the September 4<sup>th</sup> meeting. Attorney Famiglietti reported that any additional Staff comments should not change the wetlands impact.

Mr. Eric Peterson, Gardner & Peterson, Tolland, introduced himself. Mr. Peterson detailed the size of the lot and surrounding properties. He reported that they are proposing to connect Wilson Way and Bayberry Road, which are temporary cul-de-sacs. There will be 44 new building lots, he explained, which will range from 12,000 sq. ft. to 30,000 sq. ft. in area, all of which will be served by public water, sewer and natural gas. There will also be over 10 acres of space which will be deeded to the Town of Manchester.

Mr. Peterson detailed the topography of the property, pointing out the drainage in each area, as well as the abutters to the development. Storm water has been studied to ensure there will be no increase in storm water in any direction. The basins are designed based on Town and DEEP standards and as such, not only will water be retained, but it will be cleaned. With the wetlands being considered, Mr. Peterson noted that the location of the storm water basins was critical to the design of the project, and provided an explanation for each site. All activities in the wetland areas and upland review areas were reported in detail. The regulations require the applicant to provide access to any abutting landlocked parcel, he stated.

Mr. Peterson indicated the areas where water, sewer and other utilities will be located. He explained the erosion and sediment control measures and stated that they will be in place to ensure that the construction does not send sediment to downstream property.

Mr. George Logan, REMA Ecological Services, introduced himself and described his career history. He explained that he has been involved with the project for over a year. A USGS map and an aerial photograph were displayed and Mr. Logan identified the property and explained the existing conditions and prior history. He reported the natural resources of the land as well as the wetlands and a manmade irrigation pond. Mr. Logan stated that they discovered that the pond has a vernal pool habitat. He pointed out the wetlands, soil types, amphibians, and vegetation on the property. The property is loaded with glossy buckthorn, an invasive species which is quite aggressive and will dry up the wetland over time.

Mr. Logan reported that, after speaking with the Conservation Commission, they were asked to delineate the western boundary of Wetland D. His findings, with all the wetlands and uplands, were explained in detail. The proposed condition is a residential subdivision with 44 single family residential lots and some open space. The direct wetland impacts and the uplands have been reassessed and were detailed by Mr. Logan. Indirect impacts were considered by looking at

short-term construction and long-term post construction phases. Erosion and sedimentation control must comply with the 2002 guidelines and there will be a state-of-the-art storm water management system, which complies with the Connecticut DEEP 2004 Storm Water Quality Manual and its addendum. Other potential indirect impacts include two ponds or pond/storm water wetland, both of which will be excavated.

Mr. Logan referred to the detailed plan for each of the water quality basins. He explained how he estimated how much of the area around the basins will be wetlands, which he explained in detail, and reported the planned compensatory wetland mitigation. There will be four years of monitoring the invasive eradication control. A general overview of the landscape plan was given. Mr. Logan stated his opinion is that there will be higher-functioning, diverse and productive wetlands post-construction.

There is a plan for habitat mitigation in regard to the vernal pools which were reported and 100 ft. from the edge of the vernal pool habitat. Currently, there is no habitat mitigation, according to Mr. Logan, and he noted that this is explained in his report. In an attempt to clarify the detention basin on the wetlands, Mr. Logan explained: (1) If left untouched, the invasive species will result in a dry spectrum habitat; and (2) any roadway uphill will likely dewater the wetland. In conclusion, Mr. Logan stated, "The proposed direct impact to Wetland D in regards to function and values it provides, current and future, will be more than offset by the creation of at least 31,000 sq. ft. of more productive and higher functioning wetland habitats." Therefore, the proposal is feasible and prudent with no significant indirect impact expected from the proposal.

Attorney Famiglietti stated that she did not expect the Commission to close the wetlands portion of the hearing because, if there are changes made from the Engineering Staff's comments, it may slightly alter some square footages of the disturbance. She added that she does not expect anything significant because they have laid all the infrastructures out in appropriate spots on the property, acknowledging that they will partially eliminate natural Wetland D. Attorney Famiglietti noted that, in the wetlands consultant's estimation, it will be replaced with something better and there will be a net gain of the other enhancements being done on the property. She reiterated Mr. Logan's estimation that there will be a net gain and increase in productive wetlands on the property. There will be some direct impacts on the wetlands but mostly indirect impacts, which are in the upland area. Attorney Famiglietti reported that the direct impacts are, in many cases, improvements, mitigation, compensation, and increased functions and values overall, which will result in a positive improvement to current conditions.

The overall proposed density, according to Attorney Famiglietti, is 1.45 lots per acre. The maximum density allowed in the zone is 2 per acre. She noted that there are slightly more than 10 acres of open space, or 30% of the site; 25% of the site is required to be open space. The outstanding items are the water distribution system and final engineering details on the infrastructure. Attorney Famiglietti conveyed that they will work diligently with Town Staff in order to satisfy any outstanding items for the September 4<sup>th</sup> meeting.

Ms. Potocki stated that, from an ecological standpoint, she did not think the proposal meets the standards of the Town wetland regulations in terms of an alternative analysis. The proposal is not a plan with no impacts.

Attorney Famiglietti reiterated Mr. Peterson's comment that the rationale for the basin in Wetland D is because it is the only feasible place for a detention basin to take the drainage off that half of the property. She restated that the detention basin must be at a low point for proper drainage and the proposal will result in a higher functioning wetland than the actual wetland itself.

Mr. Stoppelman referred to the comment that, if the detention basin were moved, it would be uphill from a house. He inquired whether the landlocked property would be downhill from the detention basin.

Mr. Peterson confirmed that the property would be downhill from the detention basin, though there is no structure on that property.

Attorney Famiglietti sought confirmation from Mr. Peterson that DEEP's requirement for a dam permit is based on whether or not there are downhill or down-gradient structures. Since there is no structure, the proposal would not trigger a dam permit in that location.

Ms. Potocki acknowledged Mr. Peterson's statement that the purpose of the storm water basin is to pipe the foundation drains into a system which will discharge at that location. She questioned whether there is an alternative rather than piping runoff from the roads or reconfiguration of the roads to prevent the need for a storm water basin of that size.

Mr. Peterson responded that it will pipe the road drainage and some of the foundations. He explained that the amount of water from a foundation drain, compared to the amount of water from the road drainage system, is far less. The storm water basins are sized based on the ground coverage today vs. the ground coverage post-construction. Mr. Peterson stated that the public improvement standards require that they do not increase storm water to a downstream property or to an existing drainage system, and that is the purpose of the detention basin.

Ms. Potocki asked about removing some of the lots along with multiple basins so there is no direct impact to the wetlands.

Mr. Peterson explained that, if the basin were put anywhere else, it would not collect water from the road.

Ms. Potocki reported that she had examined Wetland D and she respectfully disagreed that it is infested with glossy buckthorn. There is a very productive wet meadow, according to Ms. Potocki, and she stated that there is glossy buckthorn but she would not agree that it is an infestation.

Mr. Bergin appreciated the presentation by Mr. Logan and referred to the comment that there is no alternative location for the detention basin. He voiced his thoughts on alternatives, such as removing Lot 37.

Attorney Famiglietti reiterated that, in order to be completely out of Wetland D, the basin would have to be moved even further north into lots 38 and 39 as well. She stated that it is not rational to lose those houses, because moving the basin up there does not work from an engineering perspective.

Mr. Peterson noted that the drainage system on Bayberry Road is shallow and the pipe will be above ground.

Mr. Prause commented on the statement that, if impacts were avoided altogether, there would likely be impacts from uphill roadways that would eventually devastate what is in the wetlands now. He questioned whether that would be an issue with the other three wetlands, or if only Wetland D would be in that situation because it is so close to the proposed road.

Mr. Logan affirmed Mr. Prause's statement. He stated that his report includes a section on potential hydrologic impact to the plan's wetlands. Mr. Logan reported that, even without the basin, there would still be an issue with the hydrology of Wetland D. He referred to Ms. Potocki's statement regarding the glossy buckthorn and informed the Commission that the area will be filled with the glossy buckthorn within a year or two. There should be no de-watering problems with the other basins.

Mr. Prause referred to the map showing the subdivision layout, which illustrated the three phases of the development. He questioned whether the retention basin would be built as part of Phase 1, even though it is shown as Phase 3 in the progression map.

Mr. Peterson affirmed that the phasing is describing which lots can be built on.

Mr. Prause questioned whether Phase 1 would include Janice Drive; i.e., would all the roadways be put in during Phase 1?

Mr. Peterson stated that a portion of the infrastructure would be put in without the final curbing. They will be putting sewer, water and other utilities in that area.

Mr. Prause pointed out the new road leading toward the landlocked property and questioned whether that will be installed as part of the development, or if it is something that would be set aside as a potential future road.

Mr. Peterson referred to it as a "paper road," which is shown on paper but is not to be built at this time. They are essentially giving the right of that abutting property to use that as their frontage.

Mr. Stoppelman asked for delineation of the portion of open space that would go to the Town. Mr. Peterson reported that the Town would control the open space at both storm water basins and the wetland mitigation area around wetlands A, B and C.

Mr. Bordeaux stated that he has not prepared an extensive report of outstanding Staff comments due to the ongoing nature of the review. He noted that the most recent revision is under review.

Mr. David Laiuppa reported that the applicant met with the Conservation Commission on July 29<sup>th</sup>. There was a presentation with back and forth questions and answers. Mr. Laiuppa read through the comments and questions, which he highlighted:

1. The inclusion of more detailed information about soils within the wetland areas would be helpful to better understand the characteristics and functionality of the wetlands.
2. Because Wetland D was not delineated to the edge of the project on the original delineation efforts, delineation should be extended, which was addressed at the meeting.
3. There was discussion about alternative analysis showing the applicant's effort to avoid or minimize impact to wetlands, so when impacts are unavoidable, they could be minimized.
4. A request for more detailed information about the proposed detention basins.
5. The applicant noted that there are large stands of autumn olive, which is another invasive. It was suggested that the autumn olive should be removed from the site prior to maturation of the seeds.

He stated that his comments have to do with the larger picture of the project but, addressing the detention basins, due to the size of the project, a DEEP registration requirement for a general permit to discharge the storm water and dewatering from construction activity is required. It must be submitted to DEEP at least 60 days prior to the commencement of construction activities. As addressed at this meeting, reported Mr. Laiuppa, the original application talked about wetland impact areas but did not talk about the impact to the upland review areas. The most important part of this is the determination at the last meeting that there are statutory requirements within the Town that must be addressed:

1. Soil sample data shall show precisely where each specific soil type is found. (There has been an update to the soil maps that were presented to the Town that show the demarcations of the soil types.) As requested by the Conservation Commission, there was no additional detailed information about the soil profiles but there were additional soil mapping updates.
2. A description of the ecological communities, functions and values of the wetlands or watercourses involved with the application as well as the effects of the proposed regulated activities on the communities and the functions and values.
3. The description of analysis of alternatives which would cause less or no environmental impact to wetlands or watercourses and description of how the proposed activities and the alternative scenarios would change, diminish or enhance the ecological communities and functions and values of the wetlands and watercourses.
4. The analysis of chemical or physical characteristics of any fill material.

Mr. Prause asked for a clarification of the habitat enhancement area that will occur in the southeast corner.

Mr. Laiuppa stated that it is not a requirement in the Town regulations. The idea behind this is that it was recognized that there is a verified vernal pool, which is a protected habitat that can at times host endangered species. The vernal pool habitat itself is protected. He said that the enhancement area is intended to provide more upland habitat for those species that breed in the vernal pools.

Mr. Logan noted that there will be some grading and there are currently some invasive species in the general area. He stated that this is an opportunity to do something to, if not completely prevent, at least to a great extent eliminate invasives from one area. Therefore, immediately upon grading and topsoiling, they would go in with a very aggressive seed mix and shrubs, which will be better suited to push away invasives.

Mr. Stoppelman asked whether there is anything in the Town regulations that defines open space for this type of development.

Mr. Bordeaux replied that the subdivision regulations provide the Commission with a fair amount of flexibility in open space use; e.g., playgrounds or hiking trails. He acknowledged the maintenance load of the existing Parks staff. The proposal is for a passive open space. The value, in his opinion, is its location adjacent to the utility right-of-way.

Mr. Stoppelman questioned whether the access to the open space controlled by the Town is adequate for passive use. Mr. Bordeaux reported that the access to the development has been delineated, though he surmised that the frontage on Wetherell Street would be the principle access. He explained the frontage requirement.

Ms. Potocki asked Mr. Laiuppa if he was satisfied with the soil data that has been presented, or if some wetland soil could have been missed.

Mr. Laiuppa maintained that there are several levels of soil descriptions. The descriptions provided in the wetland report were for those wetland areas that were delineated. There are more detailed soil descriptions vs. the upland soils, he noted, and there are general broad descriptions of the upland soils included in the report. He explained that the descriptions of the wetland soils are a proprietary level description that Mr. Logan developed. Because the Town does not have standards defined, according to Mr. Laiuppa, they have to fall back to the State definition of wetlands, which is based on soils. He expressed that the Town relies on the scientific credentials of the wetlands scientist.

Ms. Scorso inquired about the monitoring for four years after construction and who will review that information.

Mr. Logan explained that both the plans and the report have all the wetland replication, invasive plant control notes, etc. There are two parts for monitoring: (1) How the wetlands will be replicated; and (2) Section 7 refers to monitoring, stating that a qualified wetlands professional will do the monitoring up to three seasons after the season of implementation, the report of which would go to the Staff. He described the details of the monitoring, which is to ensure in

those four years that, whatever has been planted and seeded, the progression of the evolution of the wetlands is headed in the right direction. Mr. Logan described the testing schedule going forward.

Mr. Edward Stearns, 32 Wilson Way, introduced himself. He reported that the water pressure to his home is poor and questioned what effect the proposed homes will have on his water pressure.

Attorney Famiglietti reported that she did not have the information at hand. She stated that, at the next meeting, there will be an engineer who will discuss the water pressure issues very specifically.

**MOTION:** Mr. Kennedy moved to continue the public hearing to September 4, 2019. Ms. Scorso seconded the motion and all members voted in favor.

The Chairman closed the public hearing at 8:55 P.M.

I certify these minutes were adopted on the following date:

September 4, 2019

Date

Eric Prause, Chairman

**NOTICE: A DIGITAL RECORDING OF THIS PUBLIC HEARING CAN BE HEARD IN THE PLANNING DEPARTMENT.**