

Wallingford Inland Wetlands & Watercourses Commission

Wednesday, July 18, 2018: 7:00 p.m.

Robert F. Parisi Council Chambers, Second Floor, Town Hall

45 South Main Street, Wallingford, CT

MINUTES

PRESENT: Chairman James Vitali; David Parent, Vice-Chairman; Commissioners Deborah Phillips; Aili McKeen (arrived at 7:10 p.m.); Daryll Porto and Robert Simon, Alternates; Erin O'Hare, Environmental Planner.

NOT PRESENT: Nick Kern, Secretary; Commissioner Mike Caruso.

Chairman Vitali called the Meeting to order at 7:02 p.m. and the Pledge of Allegiance was recited.

CONSIDERATION OF MINUTES

1. Regular Meeting, April 4, 2018

Ms. O'Hare noted that Commissioner Simon was a voting member, but did not vote on one motion.

MR. PARENT: MOTION TO APPROVE THE APRIL 4, 2018 REGULAR MEETING

MINUTES AS AMENDED

MS. PHILLIPS: SECOND

**VOTE: PARENT – ABSTAIN; PHILLIPS – YES; SIMON – YES; PORTO –
YES; VITALI – ABSTAIN**

Ms. O'Hare noted the May 2, 2018 Meeting Minutes were approved but pointed out that Commissioner Kern said there was confusion as to whether Commissioner Simon was in attendance at the May meeting. Commissioner Simon indicated he was not present at the meeting.

2. Regular Meeting, June 6, 2018

MR. PARENT: MOTION TO APPROVE THE JUNE 6, 2018 REGULAR MEETING

MINUTES AS PRESENTED

MS. PHILLIPS: **SECOND**

VOTE: **MCKEEN – ABSTAIN; PARENT – YES; PORTO – ABSTAIN;**
PHILLIPS – YES; SIMON – YES; VITALI – ABSTAIN

3. Special Meeting, June 14, 2018

MR. PARENT: **MOTION TO APPROVE THE SPECIAL MEETING OF JUNE**
14, 2018 AS SUBMITTED

MS. PHILLIPS: **SECOND**

VOTE: **MCKEEN – YES; PARENT – YES; PHILLIPS – YES;**
PORTO – ABSTAIN; SIMON – YES; VITALI – ABSTAIN

Chairman Vitali took the agenda in the following order:

OLD BUSINESS

1. **#D18-6.1/15 Windswept Hill Road** – Paradise Hills Vineyard and Winery – Request for Determination of Exemption for Agriculture Under Section 4.1.a – (several site improvements)

Appearing in front of the Commission was Atty. Daniel Mara, Sandler & Mara and Richard Ruggiero, Paradise Hills Vineyard and Winery. Atty. Mara noted that since the last meeting, there has been a site visit by the Commission and a new report by Ms. O'Hare. He went over the printout of the Statute he provided to the Commission. Atty. Mara said the Town's regulations define farming pursuant to the State definition. He said his client wants to add parking, a tent, and a patio to the sales amenities at the winery. Atty. Mara said his client also wants to construct a small addition to the back of the winery for equipment, repair and storage of the processing areas.

Atty. Mara said all of this activity occurs outside of any upland review or wetlands area. He noted there are wetlands on next door property, 12 Windswept Hill Road. He said there is a drainage way that has been identified across the rear parking lot which has been cited as, a potential intermittent watercourse. He said his client is requesting to be exempt from wetlands regulations as it pertains to the activities and amenities that are planning to be installed at the winery. Atty. Mara said the Statute defines farming as the business of farming, the production of agricultural commodities, preparation, shipping and direct sale of agricultural commodities.

He said everything his client is looking to do is in connection with the growing of grapes, the production of wine and the direct sale of wines to customers.

Atty. Mara said the tent and the patio located on the winery lawn, will only provide a place for people to sit after they purchase wine at the winery. He noted wine sales from wineries in CT occur over the counter at the tasting rooms; they don't occur in liquor stores. Atty. Mara pointed out that no CT winery that he knows of produces a sufficient volume of wine to be able to get its products into a liquor store. Atty. Mara said this is the only way his client sells wine and the amenities at the winery are intended to augment sales. He said Paradise Hills is like every other winery in Connecticut. Atty. Mara said Ms. O'Hare and Atty. Small refer in the memo to the "new normal of farming". Atty. Mara said he doesn't know if that is the new normal, but it is normal and is what winery agriculture in CT is. Atty. Mara said the only question the Commission should have is this related to farming and is an agricultural commodity being grown and produced. He said the answer is yes to all of this. He said the grapes are grown and the wine is made at the facility, and is outside the normal jurisdictional area of the Commission's review.

Chairman Vitali asked Atty. Mara why he and his client was in front of the Commission if this issue was outside of the Commission's jurisdiction. Atty. Mara said not everyone in the Town agrees with him. Chairman Vitali said if this is outside the 50 ft. upland review area, Mr. Ruggiero shouldn't be here. Atty. Mara said he believed his client was here because of the 20,000 sq. ft. requirement and there was a view of a drainage issue across the rear of the parking area. Chairman Vitali asked if the surface area was impervious at 20,000 sq. ft. He said he believed there were different pieces of this.

Atty. Mara noted there are different pieces of this; a driveway which comes up to the winery; a parking area around the winery and a hardscaped roof patio/tent. Chairman Vitali asked why the Applicant didn't apply for a wetlands permit if he believed he was over the 20,000 sq. ft. Atty. Mara said if a wetlands permit is needed, one will be obtained. He said he believes his client is outside the wetlands jurisdiction because this is a matter of right.

Chairman Vitali noted he saw parking spaces for buses. Atty. Mara said that people come in at the end of the season to pick grapes; he said there were people who come in larger vehicles and buses to purchase wines; he said people go on winery tours and come in on buses. He said the buses just show up and there needs to be a parking for them. Chairman Vitali said he had read in various media outlets about entertainment, functions and a banquet hall. Atty. Mara noted Paradise Hills is not allowed to have any of this. He said there can be indoor music in the tasting room, but are not allowed to have reserved events without Town permission; a banquet hall is not allowed, but people can bring in food. Atty. Mara said the zoning requirements are tight; Paradise Hills can sell up to 8 p.m. and then they have to close. He said if there is any sort of event, notice must be provided to the Town; Paradise Hills cannot serve their own food, but catered food is allowed. Atty. Mara said Paradise Hills sells wine, not food.

Chairman Vitali cited Ms. O'Hare's Environmental Planner's Report, dated July 13, 2018, and noted she has dealt with different facets of this application. He said he believed some seem to qualify under agriculture and some drift more into the commercial side. Ms. O'Hare she had a second meeting with Corporation Counsel Janis Small and also conferred with DEEP's wetland staff. She said there have been a lot of court cases on agricultural exemptions and noted that one has to adhere strictly to the regulations. She said the regulations are narrowly construed and have to be read word for word and not stray left or right from what is being stated. Ms. O'Hare said Atty. Small submitted a second opinion on July 12, 2018 which went out to the Commission in their packets. Ms. O'Hare said in her new opinion letter, Atty. Small said the Commission should examine "all relevant facts and make a determination as to whether all or some of the activities fall within the farming exemption and base it on the law".

Ms. O'Hare referred to Section 1-1.q, the State's definition of agriculture which she noted was in our regulations. She said she wanted the Commission to look at the relevant parts of this Section and the language which states "incident to ordinary farming operations; the sale of agricultural commodities." Is growing grapes ordinary farming", she asked; let's look at these things as ordinary farming, Ms. O'Hare said.

Chairman Vitali remarked that the law needs interpretation every time a statute is written. He said there is always a gray area and one is supposed to pick out at the time depending upon the court case one is involved in. Chairman Vitali asked why a permit is needed for just the 20,000 sq. ft. Ms. O'Hare said she looked at the parking lot which is uncontrolled erosion today and the parking lot will be expanded which will result in more uncontrolled erosion which runs 120 ft. into the wetlands especially in early spring. Ms. O'Hare also noted the Applicant is way over the 20,000 sq. ft.; the new parking area is approximately 22,000 sq. ft. in itself. Ms. O'Hare said Atty. Small said to ask if this will impact wetlands and watercourses and one has to take the residence into consideration because Mr. Ruggiero lives on the property. She said the roof doesn't impact the wetlands, but the parking area does. She said if Mr. Ruggiero is exempt, they are exempt from everything. She asked the question "should Paradise Hills be exempt; for the vineyard yes they are exempt, because growing grapes is ordinary farming".

Ms. O'Hare said the problem is where the Statute says "as an incident to ordinary farm operations, the sale of agricultural commodities". She said the sale of wine under the Statute, is called farming. She cited a farm stand as an example where people can buy produce. Ms. O'Hare said people can park their cars and purchase wine. She asked where this ends; if there is an event, is this incidental to the sale of wine and is there a limit as to what can be characterized as incident to the farming of grapes. She said if the Dept. of Agriculture says it is all one; they want the wineries in CT to be successful.

Chair Vitali asked about the last sentence in the Statute which states "nothing herein shall restrict the power of local zoning authority under Chapter 124." Atty. Mara said Chapter 124 is the zoning statute and didn't believe the IWWC falls under this because they are a wetlands

commission. He pointed out the Town Regulations invoke and include the State Statutes. Chairman Vitali said that both sides shouldn't be played. Atty. Mara said the zoning statutes and the wetland statutes are clearly different statutes.

Commissioner McKeen said she agreed with Atty. Small that everything up to the selling of wine is agriculture, but parties don't really fall under agriculture. Vice-Chair Parent said "narrowly construed" means to him that if it isn't in here, it isn't an agriculture use. He cited the beginning of the third sentence "farming shall include". He said in many cases it will state "include but not limited to" He noted that phraseology is not in here and one cannot make their own interpretations.

Vice-Chair Parent noted that nothing is said about fermentation or distilling which would be part of wine production. Vice-Chair Parent said he also didn't see anything that gets into the new normal, i.e., a party facility, music or people bringing things onto the property. He said unless someone comes in with case law and the courts have ruled, he would like to hear this.

Atty. Mara said the "production of any agricultural commodity". He said wine is being produced from grapes grown on-site and wine is an agricultural commodity. He said the Statute doesn't say "fermentation" but does say "producing of any agricultural commodity" and is as broad as one can get.

Commissioner Phillips said she was concerned that the parking lot could be part of the farming. She said she can see the vineyard as a farming activity. Commissioner Porto said he sees the wine as an agricultural commodity. He said even if the Commission deems the vineyard is exempt, the uncontrolled run-off will still be in play and has to still go before the PZC. Chairman Vitali said there was another application in Town that was trying to use the agricultural exemption rule, but it was determined the Applicant had to still get approval from the IWWC. Ms. O'Hare said that particular Applicant never applied. She said the Corporation Counsel's opinion was this issue needed an application, but the Applicant refused to apply. Chairman Vitali asked if an agricultural exemption is granted, does the activity still need to be reviewed.

Commissioner Simon said it seems the State is promoting this type of farming. He said this is part of farming, the entire process to get it through.

Chairman Vitali said he is not against the parking lot or the activity, but is having trouble using the agricultural route to go. He pointed out that if there was an application before him tonight, he would vote in favor of what is being proposed. Ms. O'Hare asked about the parking area which she said would total approximately 98 spaces. She noted there are not that many events and the parking area would only be used to its full extent a few times a year and wondered why the parking area couldn't be grass.

Atty. Mara said Paradise Hills have people who come to the winery they can't control. He said the Applicant is being pressured by Zoning to show an allocation of parking at the high end of

its use. Atty. Mara said parking is a necessary incident to direct sales to the consumer. He said the issue is not whether we can have a parking lot, but the size, which is directly incident to the number of sales over the counter. He said the parking lot will not always be full.

Chairman Vitali asked how the Applicant can get under 20,000 sq. ft. of impervious surface so they won't need a wetlands application. He asked if the stormwater runoff would be under the PZC. Ms. O'Hare said the PZC deals with the stormwater runoff. Chairman Vitali said he is having trouble using the farming exemption to do this and has the feeling no one is against this activity. He wondered if there would be a precedent set that won't be able to be handled in the future.

Commissioner McKeen suggested gravel for the parking lot.

Atty. Mara said millings will be used in the back where the handicap parking spaces are located and the rest will be a mix of gravel, dirt and millings (in the rear). He said the Town said it was okay to use millings for the driveway areas. Atty. Mara said the question he has is that there are areas that are totally incident to the production of wine; the drive area that allows the trucks to come in to get the wine, take the grapes away, deliver grapes and move the tractors. He said the concern of the Commission seems to be the parking area is too large and when it is that size, it gets it out of the flavor of being incident to sales. Atty. Mara said the increased parking area total surface area is not more than 20,000 sq. ft. Ms. O'Hare asked how the 98 spaces was arrived at. Atty. Mara said the outer limit is the practical limitation of the size of the available property, noting there won't be 98 spaces. He said there is concern about the size of the passageway around the spaces. Atty. Mara said a surveyor came up with a plan for the parking and there were areas were drawn as parking which the Town said was inadequate. He said 25 parking spaces will be lost. He said there will be between 80 and 85 spaces when done and all the spaces will not be in the back parking lot.

Ms. O'Hare said it is possible the new parking lot will be under 20,000 sq. ft. now that several spaces will be eliminated. Commissioner McKeen said that she wasn't sure that by adding driving spaces in between the actual surface area would be reduced with the number of parking spaces. Atty. Mara said the 80 to 85 parking spaces are not all in the back; approximately 40 of the parking spaces will be on grass in the front of the winery building. He said a lot of spaces will not be lost in the rear where there is a concern. Chairman Vitali asked if the impervious areas could be reduced. Atty. Mara said he believes the impervious area can be reduced. Chairman Vitali said the Applicant needs to meet with Ms. O'Hare regarding the impervious surface. He said if this couldn't be done, Paradise Hills would have to submit an application. Chairman Vitali noted that if the can be reduced to under 20,000 sq. ft., the Applicant can just go about his business and would not need an IWWC approval. Atty. Mara said this was a fine resolution.

Chairman Vitali entertained a motion that if the impervious surface has any negative impact to the wetlands, is under 20,000 sq. ft., it doesn't qualify needing a permit from the IWWC.

MR. PARENT: **MOTION THAT #D18-6.1/15 WINDSWEPT HILL ROAD –
PARADISE HILLS VINEYARD AND WINERY – REQUEST FOR
DETERMINATION OF EXEMPTION FOR AGRICULTURE UNDER
SECTION 4.1.a – (SEVERAL SITE IMPROVEMENTS) , IF THE
APPLICANT CAN PRODUCE A MAP SHOWING THERE IS LESS
THAN 20,000 SQ. FT. OF EITHER SEMI-IMPERVIOUS OR
IMPERVIOUS SURFACE THAT WOULD AFFECT INLAND
WETLANDS, THIS WOULD BE DEEMED NOT TO NEED EITHER
A PERMIT OR A DETERMINATION OF EXEMPTION**

MS. PHILLIPS: **SECOND**

VOTE: **MCKEEN – YES; PARENT – YES; PHILLIPS – YES; PORTO – YES;
SMITH – YES; VITALI – YES**

PUBLIC HEARING - STARTED AT 7:50 P.M.

- 1. SIGNIFICANT IMPACT - #A18-6.2/5 Research Parkway – 5 Research Parkway, Wallingford, LLC – (industrial development)**

CONSIDERATION OF PUBLIC HEARING ITEM

- 1. SIGNIFICANT IMPACT - #A18-6.2/5 Research Parkway, Wallingford, LLC – (industrial development)**

Appearing in front of the Commission was Atty. Dennis Ceneviva, Ceneviva Law Firm, representing the Owner/Applicant; Michelle Carlson, Director of Land Development and Project Engineer, BL Companies; Eric Davidson, of Davidson Environmental Services, Project Soil Scientist, Wildlife and Biology Scientist; Emilio Pierides, P.E., BL Companies.

Atty. Ceneviva said the Applicant would be presenting the application via Power Point. He noted the application proposes the redevelopment of 5 Research Parkway which now has several buildings and currently houses the Bristol-Myers Squibb Corporate Headquarters. He said the proposal is to raze the existing Corporate Headquarter and power plant buildings and develop the site with two new office warehouse buildings, at 641,725 sq. ft. and 459,800 sq. ft. Atty.

Ceneviva said this proposal also includes loading dock spaces and parking spaces which will be fewer than the current number at the BMS site. He said this project involves regulated activities as defined in Section 2.1 .z of the Town Regulations.

Atty. Ceneviva said the proposal includes activities pursuant to Section 2.1.cc of the Town Regulations if approved, would also meet the definition of Significant Impact. He said the site is approximately 180 acres and developed by Bristol-Myers Squibb in 1984 through 1986. He said as part of the presentation, current wetland conditions will be identified.

Mr. Davidson walked the Commission using Power Point, through the wetlands distribution on the site and their flow which he said go from north to south and there are four headwater systems that converge into the Muddy River; the western system which is fed by a wetland that is north of Carpenter Lane, drains through a culvert and down across the existing crossing which leads into the daycare building and eventually flows into a pond; the central system which has a culvert discharge into Carpenter Lane and second discharge which feeds into a wetland system north of Carpenter Lane; the easternmost system is the headwaters of the Muddy River which originate just off-site to the north in the Eversource utility Right-of-Way; a fourth headwater system that is isolated within the site and drains west and down into the Muddy River. Mr. Davidson pointed out two ornamental ponds one on the east and the large main pond on the west with the dam along with an historic farm pond.

Mr. Davidson noted the only other wetland on the site is a very small Wetland #2 which he said was entirely isolated and was an old farm dump. He showed a red maple swamp, which he pointed out was the typical wetland swamp on this site. Mr. Davidson showed the extent of the Muddy River as it flows through the site on the east side and the point at which the Muddy River leaves the site on the southern extreme on Barnes Road.

Ms. Carlson gave a quick overview of the project. She said the site is at 5 Research Parkway and noted to the right of the site are residential homes. She said the site has 25 ½ acres of wetlands and 5 acres of detention ponds, and 26.9 acres of upland review areas. She noted the site is located within the Wallingford Watershed Protection District and is outside of any FEMA flood zone. She said the site is in the Muddy River watershed which is approximately 575 acres. Ms. Carlson showed the area where the site to be developed is located. She noted that several different alternatives were looked at before the decision to build on this site was reached. She said the original alternative was to attempt to fit a large format building on the site with associated parking. She said this would have involved filling in a portion of the Muddy River. Ms. Carlson said it was determined by the Dept. of Fisheries and DEEP that this was not a viable alternative which she noted would also have filled approximately one half acre of wetlands and approximately 4 1/4 acres of upland disturbance.

Ms. Carlson said another alternative with two separate buildings, instead of one building, involves no filling of the Muddy River. She said this plan would disturb 2.05 acres of upland

disturbance. She showed the area of the wetlands fill which involves 4,275 sq. ft. of wetlands fill. Ms. Carlson said that between conversations with her team and Ms. O'Hare, this plan was also deemed not acceptable and presented the current plan where there is just one proposed wetlands fill of 2,465 sq. ft. She said about two acres of upland will be disturbed. Ms. Carlson said the first warehouse is 641,000 sq. ft. and the second warehouse is about 460,000 sq. ft. with access from Carpenter Lane and emergency access crossing over the Muddy River at the existing driveway. She said the location of the roadway will not be changed. She said the existing access on Carpenter Lane to the current BMS building will also be kept. Ms. Carlson showed the location of the employee parking off Carpenter Lane and parking for the second warehouse in the area where the existing parking for BMS is now.

Ms. Carlson showed the impacted upland review area (approximately two acres) with the proposed development. She noted a wetlands area will also be created. She said various activities near the fringes of the upland review area will take place. Ms. Carlson went through the specific impacts to the upland review areas. She went over the location of upland review area disturbance #1 which she noted was at the northeast corner of the site. Ms. Carlson said the disturbance is necessary in this area because of site grading of approximately 19,230 sq. ft. Ms. Carlson pointed out site disturbance #2 which is located near the CL&P easement area. She said site grading and limited demolition will take place, i.e., existing asphalt will be removed. She said 2,599 sq. ft. of work will be done in this upland review area. Ms. Carlson noted disturbance area #3 which is located behind the power plant. She said there will also be additional grading and demolition in this area with approximately 1,933 sq. ft. of disturbance.

Ms. Carlson spoke about disturbance area #4 which will facilitate a site paving, grading, a portion of the retaining wall, utilities and storm pipe network totaling a disturbance of 13,515 sq. ft. She noted that directly adjacent to area #4 is disturbance area #5 where wetland fringes will be filled. She said there will be grading, utility work and a section of the retaining wall in this area and where the 2,465 sq. ft. of filling of the wetland system will occur and represents 0.192% of the overall wetland system on the site, noting there are 25 acres of wetlands.

Ms. Carlson discussed disturbance area #6 located off Carpenter Lane and areas #7, #8, #9, #10, #11; and areas #12 and #13 which are located in the upland review area. Ms. Carlson said disturbance area #14 is located where new utilities will be installed for the existing day care that is not currently being used. She pointed out this area has been previously disturbed; disturbance area #14 is an area of upland which will be disturbed to create the wetlands. She said there are piles of silt, asphalt pieces, gravel and weeds on site. She noted the total upland disturbance area in this vicinity is 7.7% and the total upland area being disturbed is over two acres but of the two acres being disturbed, 1.3 acres has previously been disturbed. She said there will be 0.75 of new upland disturbance. She said there will be approximately 2.3% of new upland disturbance to facilitate this development.

Ms. Carlson went through the existing stormwater system on site. She said the two ponds created as part of the development weren't providing stormwater quality because it was designed pre-regulations. She said there is an existing underground detention system in the north parking lot that collects part of the parking lot which discharges into an outlet and eventually meanders into the wetlands. Ms. Carlson said some of the roadway drainage also comes into the wetlands. She said the water flows from one of the ponds over the dam and out underneath the two culverts on Barnes Road. Ms. Carlson said the existing storm water management plan was designed to conform to the Town's and the DEEP regulations. She said the water quality will be improved coming out of the outlet on Barnes Road.

Ms. Carlson said roof runoff will be collected from portions of the building into the pipe system. She said these pipes will be perforated and the water will flow into them and meter themselves into the groundwater in low storm events and seep towards the wetland system in low storm events. She noted that in high storm events, not all of the water will infiltrate into the ground, but infiltrate into a scour hole and a level spreader and flow into the wetland system. She said on another part of the roof, the water will be collected and discharged through an existing system and up to the headwaters of the Muddy River. She said existing conditions will be mimicked. Ms. Carlson said this plan accommodates a 100-year storm event. She showed photos of the controls.

Chairman Vitali asked if there would be a maintenance contract on the catch basins. Ms. Carlson said there is an O&M plan as part of the submission and the property owner will be required to have a maintenance plan. She said additional detention ponds are being proposed to mitigate the flows from the additional impervious surfaces because of the development. Chairman Vitali asked if percolation tests were performed on the soil. Ms. Carlson said preliminary geo-technical work was performed at the site and the preliminary information is that there can be an inch an hour of infiltration. Ms. Carlson said the proposed stormwater system is more advanced than what is currently on site.

Ms. Carlson discussed the sedimentation and erosion control plan which she said was robust to protect the resources downstream and on-site. She said there will be three phases to the S&E plan. She said there will be a proposed sandwich silt fence which consists of a silt fence, a row of haybales and another silt fence along the perimeter. She said there will also be sediment traps which are designed to collect stormwater runoff from an area no greater than five acres. Chairman Vitali said there will be trouble with the water on this site, noting the water retains the sediment of the red stone that is there and it doesn't settle out. He said the only thing he knows that works is flocking. Ms. Carlson said she has spoken with Ms. O'Hare and with Mr. Davidson regarding the use of flocculents and will work with him to select flocculents that is acceptable and to use when needed. Chairman Vitali asked how it will be known when to use the flocculents noting that all the stormwater coming off the site will need it. Ms. Carlson said all of this will be on site ready to go. She said there will also be turbidity testing. She said she

worked with this material at the FedEx facility in Middletown that also had red silty soil and was successfully dealt with.

Chairman Vitali asked when this fails, will the statement be made that you were well aware of this. Ms. Carlson said this will be inspected more frequently than required, and we'll have to test the water coming out of the site and if there is water coming out that is turbid, another pile of crushed stone and fabric will be applied. She said the site will be opened methodically as we go so we can react quickly after the basin is installed to ensure it is working properly. Chairman Vitali noted there are so many upland review areas that the Applicant is involved in, he didn't see how the sandwich of silt fence would be built and continue the grade of the upland review area. He told Ms. Carlson she would be in the wetlands with the silt fence. Ms. Carlson said the silt fence sandwich with the grading has to be installed first. She said this will be installed at the edge of the upland grading and will be on the fringe of the wetland, noting they can't go into the wetland and will have the area surveyed. Chairman Vitali stated that when he sees this much involvement in the upland review areas, at 180 acres, he didn't see why they would be this close to the wetlands at all. He said the bulldozer operator will have to be the greatest operator in the world to not slide into the upland review area, noting there are steep grades. He asked if Bristol-Myers Squibb created the grade or if it was existing. Ms. Carlson said both situations occurred. Chairman Vitali noted Bristol Myers had trouble with erosion. Ms. Carlson said the Applicant is bound by more checks and balances than Bristol Myers was. Chairman Vitali said a lot of wetlands will be ruined creating the upland review fill.

Ms. Carlson spoke about Phase 2 which is similar to what was described above. She said the proposed detention basin will be used as a sediment basin during construction which will then be cleaned out before it is put in use for the final condition.

Ms. Carlson went over Phase 3 which involves sediment and erosion control over miscellaneous on-site soil stockpiles. She noted that if the stockpiles are exposed for over 30 days, they must be seeded. Chairman Vitali asked about bringing utilities into the daycare and also asked about the smaller building and if this would be fed with a gas line. Ms. Carlson said there are existing utilities coming into the site. Chairman Vitali said regarding the utilities for the two warehouses, one is easy because it is off Carpenter Lane. He said he didn't believe the original BMS had gas brought over to the main building. Ms. Carlson said there is gas that has to be brought in to feed the other warehouse that will replace the existing BMS building. She said this gas will be brought down the existing roadway and nothing new will be brought off the main entrance on Research Pkwy. Chairman Vitali asked about the parking lot size in relation to the warehouse. Ms. Carlson said the size is per the Town regulations. Chairman Vitali said it seems to be a lot of blacktop for a facility of this size. Ms. Carlson said this is standard and it depends upon the type of warehouse.

Mr. Davidson went over the wetland findings. He said there is wildlife on-site and vernal pool species. Mr. Davidson said the forest will remain intact and there will be no additional

development in this 100 ft. zone around the pool and there will be no impact to the vernal pool. He noted there is no robust eastern box turtle presence on-site. He showed a photo of the vernal pool which showed the daycare building in the distance. He said there is a significant system of fencing on this site which traverses the wetlands which prevents wildlife from moving on the site. Mr. Davidson said the Applicant will implement a series of best management practices; installing the silt fencing and a series of sweeps to try to identify and relocate box turtles out of the construction zone. Mr. Davidson spoke about the wetland impacts noting there is a total of 2,465 sq. ft. of wetland impact. He said redevelopment of a site will have far less environmental impacts than a new development.

Mr. Davidson said in order to mitigate direct and indirect impacts to the upland review area, he is first proposing a wetland creation area: 2:1 ratio; a 5,400 sq. ft. of a wetland creation area proposed and is near the proposed stormwater basin. He showed photo of the area and stated this area has already been disturbed and has a slope that was already graded.

Ms. O'Hare asked Ms. Carlson to go over the bentonite wall. Ms. Carlson said they want to ensure the wetland area isn't drained and are proposing a bentonite slurry dam. She said there will be additional geo-technical testing. She showed a graphic of the retaining walls of various heights and will have a high point of 33 ft. down to zero ft. and goes around the property. Chairman Vitali asked if the wall will be up against water. Ms. Carlson said the wall will not be against the water and there will be grading.

Atty. Ceneviva said this project has gone through a number of iterations and alternatives before being presented to the Commission. He said all comments and concerns will be looked into and an application will be filed after everything is reviewed. Chairman Vitali said there is an issue with the runoff, during development and demolition, because there have been problems before. Atty. Ceneviva said what has been mentioned was having an erosion control manager. He noted BL is close to the site. He acknowledged this runoff is an issue. Atty. Ceneviva said there is an effort to ensure all of this is addressed and noted it is better for the owner to have supervision and protection. Chairman Vitali said he had a major concern, noting that only 2,400 sq. ft. would be filled, but there is a lot of upland review area which will be right down to the wetlands. He said it would be a major asset to the Commission to know who the Contractor would be.

Public Comment – 9:10 p.m.

John Young, Phillips Real Estate, 1 Technology Drive. He said his concern was the disruption of his business during construction. He said he was concerned about dust, vibration and rodents. Chairman Vitali said some of these questions may be a Planning & Zoning issue.

Tom Labutis, 1232 Barnes Road, was concerned about underground water noting there are all residential wells in this area. He wondered if there would be blasting on the site. Chairman Vitali said there was a lot of blasting at Bristol Myers in the mid-90's when the last addition was

constructed. Mr. Labutis said his well was compromised because of this. Chairman Vitali said there will be a wall to create an elevation and blasting into the mountain would not be necessary. He urged well owners to take samples before construction takes place. Ms. Carlson said additional geo-testing will take place and there could possibly be blasting. She said there would have to be a pre-blasting survey that would have to be done.

Ms. O'Hare referred to her 13-page Environmental Planner's Report. She said she wanted the Commission to keep in mind all feasible and prudent alternatives for every single regulated activity on this site. She encouraged the Commission to do a site walk. She spoke about the access coming out to Carpenter Lane and noted this is a tight area with the wetlands. Chairman Vitali said he concerned with losing the buffer area in the upland review area. Ms. O'Hare said she wondered why the alteration couldn't be moved 50 ft. to the east on the building along the west side of the first warehouse on Carpenter Lane. She said she wanted the building to be thinner. Atty. Ceneviva said the building is 475 ft. in depth and that is the narrowest. He said this type of building with loading docks on both sides would typically be 500 ft. minimum. He pointed out that to minimize the fill, the building has already been made the smallest width possible to make this still work. He said this was not a plan that was put together in a few months, it has been worked on for over 9 months and there is a sensitivity to the wetlands, and erosion control. He said the Applicant is prepared to respond to any legitimate concerns and the project is good for the Town and good for the wetlands and this is the goal. Atty. Ceneviva said the site is under guard but a site walk could be scheduled to accommodate two Commissioners at a time.

THE PUBLIC HEARING WAS TABELED AND LEFT OPEN BY CHAIRMAN VITALI AT 9:18 P.M.UNTIL THE SEPT. 5, 2018 IWWC MEETING.

NEW BUSINESS – NONE

RECEIPT OF NEW APPLICATIONS

1. **#A18-7.1/35 Toelles Road** – Ian Fenny, Environmental Engineer, Nucor Steel Connecticut, Inc. – Request for Administration Approval –stormwater-related improvements.

Ms. O'Hare said Nucor Steel is requesting Administrative Approval and she will visit the site for a determination.

2. **#A18-7.2/508 Main Street, Yalesville** – Frenchy's Auto Body – (addition – possible Administrative Approval)

Ms. O'Hare said this may qualify for an Administrative Approval. She said she will visit the site.

Chairman Vitali said the Commission has been agreeable to Ms. O'Hare's determination that Administrative Approval is proper in the past.

ELECTION OF OFFICERS – TABLED

VIOLATIONS

Chairman Vitali took the Violations in the following order:

2. NOTICE OF VIOLATION – 998 East Center Street – Benchmark Land Development, LLC & Providence and Worcester Railroad Company (unpermitted filling & drainage alteration)

Ms. O'Hare said a Notice of Violation went out in the packet dated June 27, 2018 and the Notice of Violation went to Benchmark Development who owns the property and the Tilcon Railroad property because Tilcon owns the strip of railroad that runs through Town as well as to the Providence & Worcester Railroad Co., because Atty. Ceneviva indicated these people are involved because they own the metal rail line. She said this development came in front of Planning & Zoning looking for a Special Permit, but it came to her attention because there are wetlands. She said there was an issue back in 2008 where the grade of the wetlands was changed. She said she did a site visit and after this, a soil scientist was hired to map the wetlands. Ms. O'Hare said the plans submitted to the PZC had the wetlands indicated. She said the owner filled a lot of the area. She handed out a colored plan to the Commission noting the surveyors gave her some new survey maps which showed existing conditions and how much filling had been done.

Ms. O'Hare said the area behind the small red building was filled in to create a turnaround for trucks to be loaded. She noted the area was filled in with processed stone right up to the rail to create a level area. Ms. O'Hare said a lot of wetlands were filled and upland review area and the drainage pipe was installed within the Town drainage easement connecting the Town's drainage pipe to a separate drainage pipe. She said the problem is that now the wetlands isn't draining. She said the wetland has to continue to drain and get under the railroad bed. Ms. O'Hare said the Providence & Worcester Railroad people told her they were willing to attend this meeting but Ms. O'Hare said she would represent them because they would have to travel a far distance. She said the Providence & Worcester Railroad people told her they didn't authorize any building on the site.

Appearing in front of the Commission was Atty. Dennis Ceneviva, Ceneviva Law Firm representing Benchmark Development. Atty. Ceneviva said an application for a Planning & Zoning application was filed for a Special Permit to do certain site work. He said it is a clean looking site having been a poorly managed property for many years. Atty. Ceneviva said his client has hired Engineers and Surveyors who prepared two survey maps. He said his client told him the work that was done in the wetlands area behind the existing building was done 24 months ago. Atty. Ceneviva said garbage and construction debris was removed to make the area attractive. He said when Ms. O'Hare went out to the site for the PZC, this was the first time his client found out about the violation. He said his client takes this seriously but

needs more time. He said he hasn't met with the engineers and once this is done, he will sit down with Ms. O'Hare and will have a response.

Atty. Ceneviva said he was told an existing break was repaired and believed it was made better. He said he will make a report and if there is a violation, it will be owned up to and find a way to resolve it to the Commission's satisfaction.

Chairman Vitali said there was never a turnaround and it shouldn't have been built. He said the wetlands and buffer area was lost and there is a problem with the drainage and the property should be brought back to the way it should be. He said he wasn't sure a permit should be granted. The Commission agreed. Ms. O'Hare encouraged the Commission to visit the site on their own.

Chairman Vitali tabled the matter.

1. Cease & Correct Order – **55 Kondracki Lane (Quinnipiac Valley Center)** – 55 Kondracki Lane Property, LLC – (emergency driveway crossing work)

Ms. O'Hare said she spoke to the engineer twice and there was a delay because the company that was supplying wanted ensure it would work. She said she has not as of yet received a plan. She noted nothing has been touched on the property. She said the Applicant is trying to get the perfect slip lining for the project. She asked the Commission to affirm the Cease & Correct Order.

MR. PARENT: **MOTION THAT THE CEASE & CORRECT ORDER FOR 55 KONDRAKI LANE WHICH IS THE EMERGENCY DRIVEWAY CROSSING WORK, REMAIN IN EFFECT**

MS. PHILLIPS: **SECOND**

VOTE: **UNANIMOUS**

ADJOURNMENT

Mr. Parent made a motion to adjourn the Meeting at 9:36 p.m. Ms. Phillips seconded the motion which passed unanimously.

Respectfully submitted,

Cynthia A. Kleist

Recording Secretary

