

**EAST LYME INLAND WETLANDS AGENCY  
SPECIAL MEETING  
Monday, FEBRUARY 22nd, 2016  
MINUTES**

The East Lyme Inland Wetlands Agency held a Special Meeting on February 22, 2016 at Town Hall, 108 Pennsylvania Ave., Niantic, CT. Chairman Lozanov opened the Special Meeting and called it to order at 7:02 PM.

**P PRESENT:** Cheryl Lozanov, Chairperson, Phyllis Berger, Harry Clarke, David Pazzaglia

**ALSO PRESENT:** Attorney Edward O'Connell, Town Counsel  
Gary Goeschel, Inland Wetlands Agent  
Karen Zmitruk, Recording Secretary

**ABSENT:** Norm Bender, Keith Hall, Chuck Reluga

FILED IN EAST LYME  
CONNECTICUT  
Feb 24 2016 AT 1:30 AM/PM  
*[Signature]*  
EAST LYME TOWN CLERK

**Call to Order**

Ms. Lozanov called this Special Meeting to order at 7:02 PM and introduced the members seated, Inland Wetlands Agent and Recording Secretary.

**Pledge of Allegiance**

The Pledge was observed.

**New Business**

- **28B Damon Heights Rd., Nathan & Mary Ann Lidestri, Scotland Hardwoods, LLC – Application to conduct an "As of Right" timber harvest which includes stream crossings, on approximately 8 of 20.73 acres on property located at 28B Damon Heights Rd., Assessor's Map #26.4, Lot #17, East Lyme, CT.**

Ms. Lozanov noted that they were to determine if this is an 'As of Right' activity.

Rod Burgess of Scotland Hardwoods explained that they plan to conduct a logging operation on approximately 8 of 17 total acres owned by Nathan and Mary Ann Lidestri at 28B Damon Heights Rd. A one to three man logging crew operating a log skidder will cut and skid the logs to one main yarding area located off the owners driveway. From this area a log truck will pick up the logs and exit the property via the driveway to Damon Heights Road. Working hours would be from 7 AM to 6 PM Monday through Saturday. The property boundaries have been marked and the main skid roads identified. Approximately 218 trees have been marked with orange paint. It is estimated that about forty one thousand board feet of saw timber will be harvested from the property. It is estimated that this will take about two to three weeks to complete. He provided a picture of the portable bridges (4' x 26') that would provide the crossing of the drainage area.

Ms. Lozanov asked if the majority of the wood would come through the crossing.

Mr. Burgess said that about one-third of it would.

Ms. Berger asked if a survey of the property had been done so that they know where the limits are.

Mr. Burgess said that the property area is flagged so that they know where the limits are.

Mr. Goeschel asked if the bridges would restrict any flow.

Mr. Burgess said no, they stay above it.

Ms. Lozanov asked if they deem it an 'As of Right' activity.

Mr. Goeschel said that Section 4.1a. of their regulations pertains to this – it is considered the harvesting of a crop, an as of right activity.

Ms. Lozanov asked about the impact once they were done.

Mr. Burgess said that the machine has a grapple that picks everything up. He noted that they have also worked on using a trail that was already there. There are a lot of laurels in that area but removal of any would be minimal.

Mr. Goeschel said that the bridges are certainly better than the alternative of driving through the area.

**\*\*MOTION (1)**

**Ms. Berger moved to find the Application of 28B Damon Heights Rd., Nathan & Mary Ann Lidestri, Scotland Hardwoods, LLC to conduct a timber harvest which includes stream crossings, on approximately 8 of 20.73 acres on property located at 28B Damon Heights an "As of Right" activity. Mr. Pazzaglia seconded the motion.**

**Vote: 4 – 0 – 0. Motion passed.**

- **172 Upper Pattagansett Rd., Paul Miller – Application to perform hydro-raking at property located at 172 Upper Pattagansett Road, Assessor's Map 35.0, Lot 12, East Lyme, CT**

Paul Miller, owner/applicant said that this is a silt infested cove that he is looking to open to be able to get his kayak out to the lake. He said that some of his neighbors would most likely also want this done.

Mr. Goeschel noted that in 2006 the Town issued this association a permit for hydro-raking for various areas on the north and south and that he has a request on that for the next agenda. Mr. Miller's property, #172 was not built out at that time. Additionally it appears that the State owns the lake bottom so the DEEP would have to be pursued for authorization if this Commission approves the activity.

Ms. Lozanov asked how far the State owns to.

Mr. Goeschel said that it goes to the edge.

Mr. Miller said that the company that would do the work has agreed to come here if necessary to go over the process.

Mr. Goeschel said that he spoke with the DEEP and they said that if the vegetation was invasive that it could be an 'As of Right' and if they review Section 5, it has met the requirements.

Ms. Lozanov said that they are missing the description for 'aquatic vegetation' in the definitions.

Mr. Clarke said that he does not know enough about hydro-raking or the impacts to make a determination.

Mr. Goeschel said from the information that they were given in their packets that this process would enhance the area. His opinion is that hydro-raking in and of itself is a good thing and the curtain will prohibit anything from migrating out into the lake. It involves approximately 5,725 sq. ft.

Mr. Clarke said that he finds the activity to be significant and that there is the potential to cause substantial turbidity and therefore it would require a public hearing.

**\*\*MOTION (2)**

**Mr. Clarke moved in the application of Paul Miller for 172 Upper Pattagansett Road to perform hydro-raking on his property that this item requires a public hearing.**

**Ms. Berger seconded the motion.**

**Vote: 4 – 0 – 0. Motion passed.**

- **0 and 286 Flanders Road, Gateway Development/East Lyme LLC, Costco Wholesale Corporation – Application of Theodore A. Harris for Gateway Development/East Lyme LLC, to construct a commercial space at the Gateway Commons District, 0 and 286 Flanders Road, East Lyme Assessor's Map 31.0, Lot 1 and Map 26.0, Lot 2.**

Theodore Harris, place of business 351 Main Street explained that this is part of the Master Development Plan for the Gateway District that was done in 2007-2008. This follows the master plan and there were a lot

of public hearings at the time prior to it being approved. Michelle Carlson, LPE with BL Companies and Scott Rabideau, Wetland Biologist and Soil Scientist will further explain this application.

Michelle Carlson, LPE with BL Companies explained the layout for the Costco citing that it would have 644 parking spaces for customers and that the customer and loading areas would be separate. There are two different Stormwater management basins designed in accordance with the 2004 Stormwater manual as provided by the DEEP. All stormwater will be collected and pre-treated prior to discharge and there will be no wetland impacts.

Scott Rabideau, wetland Biologist and Soil Scientist, Natural Resource Services, Inc. said that he was retained to work with this project and that he looked at it for the seven items of criteria. He explained the areas noting that they are proposing 3.3 acres of upland area and 3 of those acres are vegetated. The map showing the wetland edge shows about 4 acres is currently disturbed so it makes sense to work in an area that has already been disturbed and to concentrate on staying outside of the wetland itself. He further indicated the area for a permanent conservation easement on a plan noting that it would work with Laurelwood Trail as a green corridor. Further, they would be back before this Commission for the East Society Road extension.

Mr. Rabideau continued that in looking at the seven criteria that:

#1 – They are not working in the wetlands

#2 – They are not working in the Pattagansett area and are completely outside of it

#3 – Everything about the mitigation plan is designed to enhance the highest quality of habitat

#4 - The activity is designed in accordance with the State stormwater management plan

#5 - They are not impacting the wetland

#6 – Short term there is no pollution and long term the stormwater management plan would cover according to the State standards. It was further noted that this area was a gravel pit with untreated run-off previously

#7 – He has studied this area for 5 years now and this project will not have any impact

He said that they do not meet the threshold for any of these items.

Mr. Clarke asked how old the gravel pit is.

Mr. Harris said that it was in operation some 20 to 25 years ago.

Mr. Clarke asked the pollutant level on the gravel pit versus the activity proposed.

Mr. Rabideau said that gravel is considered an impervious surface and everything there ran towards the center indentation and percolated down.

Mr. Clarke said that there would no longer be that stormwater infiltration and asked the basin design.

Ms. Carlson said that the basin would have dead storage under a low level outlet and plantings. This area has been taken into account with the design.

Mr. Clarke asked about the vernal pools in the wetland and staying away from them.

Mr. Rabideau said that they look at the vernal pool core habitat - 250' to the south and west are not impacted. The migration is from the upland area to vernal pools.

Mr. Clarke said that he would like to see the master plan.

Ms. Lozanov asked about the building layout and the trucks coming in and if they are coming in the upland review area or close to it and how they would mitigate run-off there from the traffic.

Ms. Carlson explained where the customers come in and where the trucks drive to the loading area and how they would turn around and go back out the same way. She explained how the area would be protected.

Mr. Goeschel asked about the flood plain.

Ms. Carlson said that there is no work in the flood area.

Mr. Goeschel asked if there are flood plain soils within the elevation.

Mr. Rabideau said no.

Ms. Lozanov called for discussion on if they need a public hearing.

Mr. Goeschel pointed to the issue of significant impact and said that he feels that Mr. Rabideau did a great job going over the seven items and as he indicated the area is a depression and they have a stormwater

management plan which the Town Engineer is reviewing. They also provided an operation and maintenance plan and the detention basins are designed for 100 year storms.

Mr. Harris reminded them that unless it has a significant impact on a wetland itself that they are not allowed to have a public hearing. The finding here has been that they are enhancing the area.

Mr. Clarke asked if he could list one finding for a public hearing.

Mr. Goeschel said that he could but added that he did hear Mr. Rabideau say how they would mitigate any impacts.

Mr. Rabideau said that there would be an independent monitor on site and weekly reports.

Mr. Clarke asked if there were any reiterations considered for this master plan.

Mr. Harris and Ms. Carlson said that the large format store was always in that area. Further the property was already greatly disturbed from previous activity when the master plan was being considered.

Ms. Carlson noted that the plan that they are seeing shows the building further away from any areas and that this had been re-worked many times so that it would be this way.

Mr. Rabideau explained that they concentrated the development in areas that had already been impacted by an activity rather than to impact other areas that had not been impacted. This takes into consideration all aspects that have to be part of the project such as the stormwater management plan.

**\*\*MOTION (3)**

**Mr. Clarke moved that based on the finding that the impact is occurring on a least valuable vernal pool habitat that this falls under the condition for Item #7 and a public hearing would be required. Ms. Berger seconded the motion.**

Mr. Goeschel pointed out that occurring in a 'least valuable vernal pool' – they would have to be very careful not to regulate the habitat.

Ms. Lozanov said that she thinks that Item #3 speaks more to this and that with all of the shovels involved in building this that there is a potential for impact.

Mr. Clarke first said that he would modify his motion and then withdrew it.

Ms. Berger withdrew her second.

**\*\*MOTION (4)**

**Mr. Clarke moved in the Application of Theodore A. Harris for Gateway Development/East Lyme LLC, to construct a commercial space at the Gateway Commons District, 0 and 286 Flanders Road, East Lyme Assessor's Map 31.0, Lot 1 and Map 26.0, Lot 2 that this item requires a public hearing due to a finding of significant impact under criteria #3 involving the 'least valuable vernal pool habitat.' Ms. Berger seconded the motion.**

Ms. Lozanov said that she would like item #6 considered also as there is potential there due to all of the work going on in that area.

Mr. Clarke said that while he agrees that he had asked Mr. Goeschel about the reason and he only needs one reason and that is why he has tried to keep it from being confusing by citing one.

**Vote: 4 – 0 – 0. Motion passed.**

- **46 Scott Road, Lance Hall & Debra Palladino – Application of Lance Hall & Debra Palladino for construction of a detached garage and installation of a subsurface sewage disposal system including re-vegetating a previously cleared area within a wetland and installing a vegetative buffer along those same wetlands, East Lyme Assessor's Map 29.0, Lot 12-1 and 12-2.**

Robert Pfanner of J. Robert Pfanner Associates, Niantic, CT explained that the barn/garage is an accessory structure and that there is a separate lot that the owners purchased and then combined with their existing lot. The applicant has already cleared the area while not knowing what he needed to do so the proposal here is to restore the area that was disturbed. They will utilize the existing stone driveway from the house to the

garage. The only impervious area would be the 40' x 38' barn area. The lot that was added was previously approved for a single family home (small home). They will have a natural stone retaining wall.

Mr. Goeschel said that the only activity being done in the wetland is the restoration of the wetland itself.  
Mr. Pfanner said that what they would be doing would be in the upland area.

Ms. Berger said that she would like to go on a site walk of this property as it has been disturbed.  
Mr. Clarke said that he would agree and that they should schedule a site walk and table any action on this until they have seen the property.

## **ADJOURNMENT**

### **\*\*MOTION (5)**

**Ms. Berger moved to adjourn this Special Meeting at 9:30 PM.**

**Mr. Clarke seconded the motion.**

**Vote: 4 – 0 – 0. Motion passed.**

Respectfully submitted,

Karen Zmitruk,  
Recording Secretary

1. Any activity involving deposition or removal of material which will or may have a substantial effect on the wetland or watercourse or on wetlands or watercourses outside the area for which the activity is proposed.
2. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.
3. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to: support aquatic, plant or animal life and habitats; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation or open space; or perform other functions.
4. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse.
5. Any activity which causes substantial diminution of flow of a natural watercourse or groundwater levels of the wetland or watercourse.
6. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse.
7. Any activity which damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.

"Soil scientist" means an individual duly qualified in accordance with standards set by the federal Office of Personnel Management.

"Swamps" are watercourses that are distinguished by the dominance of wetland trees and shrubs.

"Submerged lands" means those lands which are inundated by water on a seasonal or more frequent basis.

"Town" means the Town of East Lyme.

"Waste" means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the wetlands and watercourses of the Town.

"Watercourses" means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the Town or any portion thereof not regulated pursuant to sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes. Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (a) evidence of scour or deposits of recent alluvium or detritus, (b) the presence of standing or flowing water for a duration longer than a particular storm incident, and (c) the presence of hydrophytic vegetation.

"Wetlands" means land, including submerged land as defined in this section, not regulated pursuant to sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and floodplain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Natural Resources Conservation Service of the U.S. Department of Agriculture (USDA). Such areas may include filled, graded, or excavated sites which possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.