

EAST LYME INLAND WETLANDS AGENCY
SPECIAL MEETING OF MONDAY 24 JULY 2017

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CONNECTICUT
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[Signature]
EAST LYME TOWN CLERK

PRESENT

Members: Cheryl Lozanov, Vice Chairwomen, Harold Clarke, Jessie Baldwin
Kim Kalajainen, David Pazzaglia, and Jack Chomicz

Absent: Keith Hall, Chairman and Phyllis Berger, Secretary

Staff: Gary Goeschel II, Director of Planning/Inland Wetlands Agent and
Ex-officio – Paul Dagle

CALL TO ORDER: C. Lozanov called the East Lyme Inland Wetlands Agency Special Meeting of July 24, 2017, to order at 6:10 p.m.

PLEDGE OF ALLEGIANCE - The Pledge of Allegiance was observed.

C. Lozanov introduced the members of the Commission, Recording Secretary, and Staff.

C. Lozanov asked that comments be limited to 10 minutes per person and if you haven't spoken and have new information to please state your name and address, spelling it out if necessary, for the record.

C. Lozanov mentioned that one of the Commission members would need to leave by 7:00 pm.

I. PUBLIC HEARING

A. Twin Valley 25-Lot CDD Re-subdivision at Green Valley Roads & Spring Rock Road; Frank & Rajko Maric Owners, Real Estate Service of CT, Inc. c/o Bob Fusari Jr. Applicant. Application to conduct regulated activities within the 100-foot upland review area from wetlands and watercourses associated with the construction of a proposed subdivision road.

G. Goeschel listed the new exhibits as follows:

LLL - Site Plan entitled "Twin Valley 25-Lot CDD Re-Subdivision, Prepared for Real Estate Services of Connecticut, Inc., Green Valley Lakes Road - Map 14.0 Lot 45, East Lyme, Connecticut" by Michael J. Bennett, L.S, of Bennett & Smilas Associates of Higganum, Connecticut and Joe Wren, P.E. of Indigo Land Design, LLC of Old Saybrook, Connecticut; dated 3/31/17 Revised through 7/20/17.

MMM - E-mail Correspondence from Seamus Moran, PE of Indigo Land Design to J. Lindo-Dashnaw dated 7/21/17, outlining the plan changes.

NNN - Memo from V. Benni to G. Goeschel dated July 24 2017 with comments; and

OOO - Memo from G. Goeschel to Inland Wetlands Agency dated July 24, 2017 with comments

J. Wren summarized a few key points and revisions made. The first meeting of the Planning Commission was held two weeks ago.

- Town Engineering suggested adding plant plugs in a retention basin.
- Outlet hoods were added to every catch basin as requested.

- Rip Rap stowaway in the case of more than 100-year storm.
- Lot 10 - retention on its own space
- Did field measurements of permeability as asked.
- Have letters from all town associations (i.e., Ledge Light, DEP, Town Engineer) showing they support this application.
- Southeastern CT of Council has no adversement.
- Third party review was done. Reviewed plan and septic and did a nitrogen analysis on Lot 3.
- Dave Potts from GST Systems explained that this system is far superior to most.
- Believes he has one waiver for driveway and access road.
- 100% of wetlands are protected.
- Steep slopes are all protected.
- Provided four option alternatives at last meeting and the one chosen have no adverse effects.
- Reviewed the existing upper neighborhood that was covered from the last meeting.
- DEP Water Quality Manual – all techniques they suggested we are using.
- Open space changed from 69.3 to 68.4 acres – because the town asked that the emergency access road and stormwater basins be separated from the open space as it will belong to the Home Owners Association (“HOA”).

Bob Sonnichsen, a professional engineer, who has over 40 years of experience, provided a third party review of the plan spoke of his numerous projects with Joe Wren.

- B. Sonnichsen said that his primary work is on-site waste water disposal systems.
- Recent projects include: Max’s and the shopping center in Old Saybrook.
- Peer Review (22) – Nitrogen dilution analysis was submitted. He spoke about how nitrogen acts when it goes into the ground.
- Looked at Lot 3 and calculated drainage area to the wetlands.
- The design has been crafted to meet design goals.

J. Baldwin asked the level was below what? B. Sonnichsen said it was below 10ppm.

J. Baldwin asked if the state approved the calculations. B. Sonnichsen said he calculates the square feet needed to be below the threshold by using the geometry of the lot and number of gallons of water 1/100 cubic feet per square foot by day throughout the state that is used as a standard. This determines how much rain water will go into the ground. 45% of the infiltration is reasonable. J. Baldwin asked what he included. B. Sonnichsen replied that he used 2,400 square feet of roof runoff to leeching system. Lot 3 is on the backside and is a much lower slope than Lots 21 and 22.

Commission member H. Clarke joined the meeting at 6:38 pm.

T. Harris provided a summary:

- Back to basics. We are proposing activity in the upland review area.
- The Commission must have significant evidence of a likely adverse impact on wetlands to be used that this application is denied.
- Design standards and testing were done.
- Peer review activity and plans found acceptable.
- Credible testimonies have been shown to the Commission.
- Permitting road construction and drained designs is all we are proposing. House sizes on lots are not on the table.
- Clearing limits need approval by Commission in the future.
- Impermissible segmentation is what Intervenor is using to get this application denied. Not appropriate for this application.
- Found a court case that involved wetlands – was approved and appealed. No certainty on where wells will be – no judgment on where they might be. It would be a future decision – no speculation can be decided.
- Respectfully submit an application to be approved. We are entitled to our permit. T. Harris handed out an applicant's reply memorandum of law (Exhibit PPP).

K. Kalajainen asked about page 20 of 41: The Inland Wetlands Data Table Version – the wording has changed, columns have changed on wetlands on upland review. Lots 3, 4, and 5 are 3/100's of an acre. She added up the building numbers and it adds up to 2/3 of an acre having a disturbance. Why couldn't you have organized building on the land to avoid the impact?

J. Wren responded that they wanted to make the table easier to read so everyone could understand it. No changes have happened. Lots 3, 4, and 5 have a 25-foot conservation easement on the properties. Upland review table is the most confusing to all. Representative sample what could potentially be what occurs in the future. The impact is very minimal.

K. Kalajainen said that in the plan submitted on 6/23/17, it had a column for 100-foot upland review area that doesn't show that information.

J. Wren says it is shown in different part of the drawing.

H. Clarke asked why a CDD is required versus a convention method. J. Wren asked G. Goeschel to bring up Section 23 – Why CDD is required? J. Wren read the paragraph explaining why a CDD is required.

C. Lozanov opened the floor to Intervenors to speak.

J. Wescott handed out a 20-page case that he spoke to (Exhibit QQQ).

- The case has similar issues to this permit - it has 39 sites with four separate wetlands. The question asked was information provided adequately for Commission to make a decision on the permit. Loss of specific habitat information.
- The major problem with application – moving target. Report by soil scientist was done in April. Why was it provided two days before hearing? Everything should have been submitted with the application. It isn't fair to people that are concerned

and want to learn more to not have information available.

- Wasn't aware that lots were not a part of this permit, as per T. Harris said this evening.
- We are an equal party and should have the same time to speak.

S. Trinkaus questioned some of the information he reviewed by the applicant as follows:

- Clarification on the nitrogen analysis on the steep sloped lot. The numbers will change from a low sloped lot.
- Two permeable readings – clearly one is wrong and other tests need to be done.
- Runoff volume reductions shown for Town of East Lyme are not met.
- The catch basins with deep sumps and hooded outlets are not efficient. Incomplete data they provided does not enable Commission to make a decision.
- Lots with regulated activity need an impact study statement done.
- Look at entire project – not just roads to make a decision.

J. Baldwin asked: Based on professional opinion, soil tests, what would you suggest for storm water system? S. Trinkaus replied that two types of catch basins are needed, need to excavate basins down (22 inches), and put in long shallow design rain gardens. The current design will need to be modified.

J. Baldwin asked if the system you suggested will it fit into what is being proposed?

S. Trinkaus replied that

- A - maybe okay with no change and
- B - may lose a lot or two to make it work.

J. Wren asked G. Goeschel to go to overall survey map to show what J. Baldwin is asking about. J. Wren said he spoke to town engineer about this back in February 2017. Drainage area is very small. Ridge line is contoured and the high point goes through the existing house.

J. Chomicz asked what the difference was from one system to the other. J. Wren explained that he brought the 2004 DEP Water Quality Manual to go through if there were any questions and talk about the benefits of the basin they were proposing.

C. Lozanov asked S. Trinkaus if the Town Engineer had the correct information about the catch basins. Has the Town Engineer reviewed Intervenor calculations? G. Goeschel said the Town Engineer stands on the information submitted to date. J. Wren said no calculations were provided by the Intervenor. Planning Commission has reviewed everything submitted to date. Looked at how calculations were done and reviewed based on that.

C. Lozanov opened the discussion up to the public at this time.

Kristen Chantrell, 13 Green Valley Lake Road, East Lyme, CT wanted to talk about the current 100 houses in the old development. She talked about and showed pictures (Exhibit RRR). She is the only resident that has come to all of the meeting and the only one who tested the water quality in her backyard on her property in the middle of the summer. Water down stream – studies done in the past showing the water is polluted. Not many houses on the lake.

Marie, 41 Spring Rock Road, East Lyme, CT tested for chloroform years ago. When it was tested there was a lot of animal fecal matter. She had an issue with the builder that built her home. Had to go to court several times because of how bad the contractor was. New development won't allow for aquatic life to cross roads. Homes will have dogs and cats and it will ruin any chance of aquatic life crossing the road. She said there was an original permit for 15 lots now it is 25 lots. Why did it change?

Deborah Diehl, 26 Green Valley Lake Road, East Lyme, CT asked why are we still talking about this. There have been thirteen hours of testimony. It has to do with money. Joggers and walkers will have a major with a 24 foot versus a 30-foot road.

Andrew Camann, 16 Spring Rock Road, East Lyme, CT is an Engineer. Analysis of rain water - why not use worst case scenarios instead of average rainfall per day? Not comfortable that end result could affect someone in the future that builds a home.

J. Westcott representing Brian Lepowski. Asked where the flood zone lines are? That was never answered by the applicant. GIS Map – 150 foot between AE zone and Brian Lepowski property. The primary purpose of wetlands mitigation is to retain water. The stormwater will flow onto Green Valley Lakes Rd. and into Four Mile River.

J. Wren said on sheet 4 – never proposed work in flood zone below Lot 25. EF 51 – EF 52 are the base flood elevations. Lot 25 had a sliver of AE and it was removed.

J. Westcott said the permit should include:

- Information on plants in wetlands along with soils. There is variation in soils, not clear about the characterization of soils.
- POCD –parcel perceived as open space. Not sure about the plan to be developed – assumed it wouldn't be developed.
- Small portion of the Old Lyme landfill – not easy to see. A major area of contamination. Designation Ground GC – downstream of Four Mile River – 500 feet from water quality wells. He has the map and can submit it for the record.

C. Lozanov said she attended the Planning Committee meeting and found out that per the Subdivision Regulations a subdivision does not require a fire road if there are less than 20 lots. She would like to see a feasible alternative that includes reconfiguration of lots and no fire road – downsize to 20 lots.

T. Harris said the fire road is only for emergencies. The road does not adversely impact the wetlands and they are not prohibited from asking to conduct such regulated activities.

B. Russo wanted to reiterate that work in the upland review does not mean impact on wetlands. He doesn't feel the change will lessen any adverse impact.

J. Baldwin asked about infiltration barrier basin. B. Russo answered that the test pits transition to layers of soils, not their main purpose. In the proposal, sediment base could be 4 to 6 – smaller draining areas.

B. Russo said the information S. Trinkaus gave you has no basis.

- S. Trinkaus said the soil tests were taken from the top soil and they weren't.
- S. Trinkaus said that one of the permeabilities was wrong. S. Trinkaus is incorrect.
- It was said that dogs and cats will affect the vernal pools. B. Russo said that aquatic life travels at night.

- S. Danzer is only a soil scientist. I have over 30 years' experience and am just as qualified.
- You need to look at the thorough list of functions and values of wetlands that were provided by me at a previous meeting.
- It was said that there are variations of soil – exact soil conditions are recorded as part of the report.

S. Trinkaus said that it's the applicant's responsibility to provide calculations not a third party person.

S. Trinkaus said in a letter dated 6/25/17 it discusses the Section 6.8 and runoff calculations. The wet basin will not infiltrate – does not comply with Section 6.8 of the Subdivision Regulations. CT DEP 2004 Stormwater Quality Manual Chapter 11 – P.1.8 – discusses the cross section – micro-pool extended detention basin. The basin is constructed by compacting dirt. Sediment will go into the basin. Using deeper four bay basins will keep sediment on the bottom and only take the top water which is clean.

J. Wren finished his outline on water quality.

- We recently completed this same system in 2016 at Orthopedic Partners and there no known issues. He shows three photos taken three weeks ago. He said in this picture it is two seasons of grown shown. Runoff of rainfall event shown and a variety of wetland plants shown. He said that this is what is proposed in the permit application.
- Stormwater Management results – read from recorded results and it covers the design variations and safety concerns.
- The plan shows the maximum for the house, lawn, and septic.
- Lot tables are reflective in plans.
- Nitrogen analysis was approved for four bedrooms as suitable.
- Public health code by Ledge Light says it is more than required.

J. Baldwin asked is two feet enough for water quality volume. J. Wren answered that it should be. Don't have the calculations with me but, will try to figure it out by hand.

H. Clarke asked about an alternative? Reducing the lot sizes should be a feasible alternative. J. Wren answered that for the 8 to 9 lots we would have to reduce it would remove 600 feet total from the frontage of these lots.

J. Wren said we discussed the lots up front when the application came to this public hearing. H. Clarke asked is a narrow lot marketable? J. Wren answered yes it is possible.

T. Harris said that the applicant does not need to do a feasible alternative unless there is a significant wetland impact.

G. Goeschel said three feasible alternatives were submitted. Even though alternative three and four are not feasible it is an alternative. He read from Section 9.1 about impacts on wetlands. H. Clarke, read from Section 22.a.41 – Item 6b and Section 10.3.

G. Goeschel said to the Commission that we need to finish the public hearing before

making any decisions whether the proposed activities may have a significant impact or not.

J. Westcott said the burden is on the applicant to prove there is no impact and disagrees with Mr. Goeschel regarding completing the hearing before determining whether the proposed activities will have a significant impact.

J. Wren read from Section 7 5s – State Guidelines. Feasible improvement alternatives. Did not choose the one most profitable. We could have done 28 or 29 lots, but we chose to do 25. In order to have a house with plenty of land this was the best and most marketable alternative.

J. Wren came back to the question asked earlier by J. Baldwin. The calculation for the two water quality basins is 14,157 cubic feet (roughly figured) which is more than 10%. The break out for each catch basin is:

- A – 860 cubic feet
- B – 900 cubic feet

The maintenance plan for the basins is consistent with the water quality manual and they will be owned by the HOA who has to maintain them.

J. Baldwin asked G. Goeschel who checks maintenance is being done. G. Goeschel responded that if the HOA fails to do I, the Town will reserve the right to maintain them and then lien the HOA.

G. Goeschel asked about Mr. Trinkaus's report and his claim the watershed boundaries used for calculations were incorrect. J. Wren answered that it was a minor detail and it was reviewed by the Town Engineer. Drainage delineation – on the ridge there are two design points –on both sides. Town Engineer said he looked at it and approved as outlined. All drainage goes to the West.

J. Wren showed pictures of Four Mile River flowing under the bridge. Water quality basin flows through wetlands to Four Mile River which is 1,000-feet away and shows the surrounding is open space.

J. Wren said that existing stormwater systems in the surrounding neighborhood does not have rain gardens, detention basins, or 4-ft sumps in their catch basins. C. Lozanov asked who makes sure the rain gardens are maintained. J. Wren answered that the property owner is responsible for the rain gardens.

T. Harris said there will be a covenant on the land records. If homeowners fail to do it the town will take care of it and will charge it back to the owner at any cost.

J. Wren's rebuttal to Intervenor.

- J. Wren said there are other vernal pools that are shallow that dry up and disappear. There was one that was pretty deep and last quite a while but has since dried up and disappeared.
- G. Goeschel said that the vernal pool is already located in an existing wetland.
- This application is for the activities associated with the construction of the road only.
- Pre-construction versus post construction – two separate things.
- Four Mile River is on applicant's property.

C. Lozanov asked about the direction of the stormwater and if it's ran near any homes? J. Wren explained that there are no increase in runoff. It's an isolated piece of land.

G. Goeschel asked J. Wren to talk about the drainage report and the watershed map that S. Trinkaus keeps referring to.

J. Wren explained that it is referring to upland draining to wetlands. The drainage report is in the plans. Nothing changes the drainage analysis.

Matt Anderson, 29 Green Valley Lakes Rd. - Said the word of the day is hypothetical. Every answer may be they might. What happens when someone buys theses lots and something does happen? What they are saying sounds good, that all he is doing is putting a road in. How do we know what will happen? There are too many stipulations for a person to want to build on these lots.

B. Fusari thanked everyone on the Commission and the public. He says he will do what he has said he will do and stand by his word.

C. Lozanov asked what projects has B. Fusari done recently. He answered he did the Spinnaker and Sea Spray development and there are no known issues and they are big developments. It was said that it was award winning.

G. Goeschel added the following exhibits into the record:

- PPP - Applicants reply Memorandum of Law
- QQQ - Unistar Properties LLC v Conservation Commission of Putnam
- RRR - Chantrel Pictures
- SSS - Connecticut Stormwater Manual Chapter 11
- TTT - Inland Wetland Regulations of Town of East Lyme through April 11 2011
- UUU - Lower CT River Valley Referral Letter of July 10 2017
- VVV - SCCOG Referral Letter of July 3 2017
- WWW - Subdivision Regulations of the Town of East Lyme through March 2016
- XXX - Zoning Regulations of the Town of East Lyme through March 2017
- YYY - Intentionally Left Blank
- ZZZ - Detention Basin Photographs by Joe Wren July 10 2017

J. Baldwin asked about the Dave Potts – GST System. J. Wren answered that the sand and stone system has better ground water quality and is more efficient and takes up a smaller surface area than most.

J. Wren said that the rain gardens overall drainage schemes are not necessary and if it's a big problem they don't have to be part of the plan.

MOTION (1): J. Baldwin made a motion to close the public hearing for Twin Valley 25-Lot CDD Re-subdivision at Green Valley Roads & Spring Rock Road; Frank & Rajko Maric Owners, Real Estate Service of CT, Inc. c/o Bob Fusari Jr. Applicant. Application to conduct regulated activities

within the 100-foot upland review area from wetlands and watercourses associated with the construction of a proposed subdivision road, D. Pazzaglia seconded. Motion passed (6-0-0) unanimous.

C. Lozanov wanted to remind everyone that we have 35 days to a render a decision.

II. PENDING APPLICATIONS.

- A. **Twin Valley 25-Lot CDD Re-subdivision at Green Valley Roads & Spring Rock Road; Frank & Rajko Maric Owners, Real Estate Service of CT, Inc. c/o Bob Fusari Jr. Applicant.** Application to conduct regulated activities within the 100-foot upland review area from wetlands and watercourses associated with the construction of a proposed subdivision road. (*Date of Receipt: 4/17/17; Public Hearing Opened 5/1/17*)

Public hearing was closed this evening. G. Goeschel advised the Agency to review all the information that has been submitted and to hold a special meeting to deliberate on the matter as they will need to submit a report to the Planning Commission and furnish a motion within 35-days, which is August 28, 2017. There was no further discussion.

III. NEW BUSINESS.

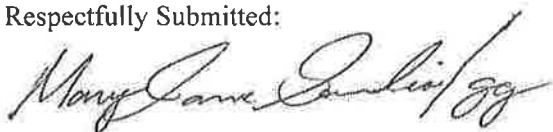
- A. **Chairman's Resignation** – will be addressed at meeting on 8/14/17
- B. **Election of Chairman** – will be addressed at meeting on 8/14/17

G. Goeschel said that they can carryover the New Business items to the next scheduled meeting on August 14, 2017.

ADJOURNMENT

MOTION (2): D. Pazzaglia moved to adjourn the meeting at 10:14 pm. Seconded by J. Chomicz. Motion passed (6-0-0) unanimous.

Respectfully Submitted:



Mary Jane Gaudio
Recording Secretary