

**Brooklyn Inland Wetlands Commission
Special Meeting Minutes
Tuesday, October 22, 2019**

Call to Order: The meeting was called to order at 6:03 p.m.

Members Present: Demian Sorrentino, George Sipila, Richard Oliverson, James Paquin.

Absent: Jeffrey Arends with notice.

Staff Present: Margaret Washburn, Wetlands Agent, Audrey Cross-Lussier, Recording Secretary.

Also Present: David Held, Madilyn Smith, Attorney Harry Heller, Manuel and Rosie Aviles, Fred and Lin Green.

Roll Call: All members present stated their name for the record.

Seating of Alternates: None.

Public Hearings: None.

Public Commentary: None.

Additions to the Agenda: None.

Approval of Minutes:

1. Special Meeting Minutes September 24, 2019.

Page 5 of the minutes to reflect the following on the motion for Mason Road, Map 15, Lot 10, Town Drainage Project, Don Francis Complaint – recommend change by Demian Sorrentino “the motion passed.”

Old Business: None.

New Business:

1. 102219A Strategic Commercial Realty, Inc., d/b/a/ Rawson Materials, Southerly of Rukstela Road, Map 21, Lot 7, RA Zone; Excavation of sand and gravel. All excavated

material will be transported off site to a processing facility in Canterbury. No activities are proposed within a regulated area.

Attorney Harry Heller represents the applicant along with David Held from Provost and Rovero. Attorney Heller reviews sheet 2-existing topography showing the current limits of clearing and wetlands on the site which are not designated by flag numbers. The inland wetlands on the site were identified and flagged by Nex Terra who is proposing a large-scale solar project in this area. During a staff meeting this morning, a couple of concerns were addressed. One, the quality of the delineation, the ability to locate the delineated areas and an area of concern that may be jurisdictional that is not noted on the plan. Joe Theroux, soil scientist, will go out and re-delineate the wetlands to ensure proper delineation of the wetlands is in order. Mr. Held stated the last delineation was done in 2016. On sheet 3 there are two excavation areas, east and west, delineated by phases 1-4. Both excavations are intended to access and excavate below the ground water to an elevation of 124ft in both ponds. As proposed the excavation is exterior to the limits of any upland review area adjacent to wetlands that has been delineated on the site. In the event Joseph Theroux confirms the location and extent of the wetlands as well as the fact that there are no additional wetlands that have not been depicted, a jurisdictional ruling will be requested because they are outside of the upland review area. In the east phase they are proposing to excavate 700,000 cubic yards of structural earth product material and in the west phase about ½ million cubic yards. Side slopes are at 30%, the limit allowed under the zoning regulations. These will be contained excavation areas. They will be excavating interior to the limits of excavation as described in the letter dated 10/9/19 prepared by David Held and detailed on the plan. They will move into the site, create an operating face and pull all material inward rather than working on the outside which eliminates propensity for a sediment or erosion event during the excavation. Any erosion will occur into the basin/pit. As a result of the staff review, it was agreed to provide greater detail on how the phases will be staged as well as stabilization of phases as the excavation progresses in the east and west areas. The revised narrative will be provided once the plans are updated. The next several plan sheets are 40-scale of the various phases of the excavation. The first contour for ground water is anticipated at level 146 ft. Sheets 10 and 11 are section views through the excavation showing the anticipated water elevation, the depth of cut existing grade (sections aa and bb). Sheet 11 shows other excavation area existing grade, water elevation about 146 ft and excavation down to 122 ft.

Erosion and sedimentation controls and operational narratives are on sheet 14 of 16, including complete E and S plan as well as a detail that shows down cutting excavation detailing how the excavation will be self-contained within each excavation area to prevent the propensity for migration of erosion and sediment outside of the excavation areas. Sheets 15 and 16 are the final stabilization plans for the site. On the west excavation area, alternatives are being proposed. In the west area where they may have solar installations. One of the closure plans discussed is excavating down to elevation 124ft. with the pond as the permanent closure methodology. On the east side the pond is the definite closure methodology because this is not within the Nex Terra proposed installation area. The second alternative, if Nex Terra proposes to install solar facilities, the closure plan if excavated, would be backfilled with silty material obtained from the wash plant back to final contours sufficient to accommodate a solar installation in that area.

Mr. Oliverson asked where the wash plant is located. Attorney Heller commented it is located in Canterbury, CT at Laframboise Sand and Stone. Mr. Oliverson asked how much is coming back into the west hole and what is the route taken. Attorney Heller commented approximately 360,000 cubic yards. The proposal does not result in truck traffic in Brooklyn. Laframboise is directly across the street on Wauregan Road. There will be trucks crossing from the site back and forth, but no longitudinal movement on the road. There is an agreement with the Town of Canterbury that limits the number of truck trips on Wauregan Road in Canterbury.

Mr. Sorrentino asked Ms. Washburn if there is anything in zoning that prevents excavation below the water table. Ms. Washburn commented the regulations are consistent with most towns. They are widely approved to limit excavation 5-6 feet above ground water. Ms. Washburn was told at today's meeting that the plans show 22 feet but if material is found they will actually go 30 feet below ground water. The IWWC will have to send a report to the PZC. It is up to the IWWC whether they waive the ground water separation distance. The future uses of the property are unknown. There is potential for ground water contamination both from hydraulic equipment operating in the water in the ponds and from the silt brought in from Laframboise wash ponds which is derived from unknown sites, hence the effect of this on the aquifer is unknown. The IWWC should seek legal counsel if the ponds are dug and at which stage will they become jurisdictional. Attorney Heller commented that he found nothing in the zoning regulations which prohibits or requires a waiver for excavation below the ground water. Mr. Sorrentino asked if the Conservation Commission will review this application and provide a recommendation to the IWWC. Ms. Washburn is unaware of this. Mr. Sorrentino's thought is the impact to the aquifer would be more of a Conservation Commission issue than trying to stretch the IWWC jurisdiction. Attorney Heller commented once they confirm the wetland delineation and show on the plan, they believe IWWC can make a jurisdictional determination.

Ms. Washburn reviews a NDDB mapping of the east and west pits. The Town will reach out to NDDB to find out what the mapping represents. There is also a map showing wetlands depicted by Edward Pawlak, registered soil scientist, showing a continuous wetlands.

Ms. Washburn discusses a standing cease and desist order dated June 26, 2014. Attorney Heller comments that this does not relate to the subject property, it is an adjoining piece of property and has nothing to do with this application. David Held clarifies the issues with the cease and desist order. Discussion ensued.

Madilyn Smith, from Corporate Counsel for Strategic Commercial Realty, Inc. SCR also known as Rawson Materials said that SCR and Rawson Materials sold to O & G Industries which operates out of Torrington, CT. SCR and Rawson Materials are full subsidiaries of O & G. Previously Rawson Materials was 100% owned by Allan Rawson. Allan Rawson sold all of his interest to O & G. O & G then appointed Jeff Rawson a couple of years later as President. Jeff Rawson holds no interest in the company, the company is a whole subsidiary of O & G. Allan Rawson went on to start River Junction Estates and other companies that use the name Rawson. There is confusion about which entity owns what, but for the record they are a whole subsidiary of O & G. There are contracts with Allan Rawson and River Junction Estates in writing, it is not a handshake deal, it is not a family deal, they are not affiliated but for the fact that they share the last name.

Mr. Oliverson asked who owns the land that the violation is on? Attorney Heller states River Junction Estates. Attorney Heller is not arguing that there was a violation and that it should be remediated. The application before the Commission this evening has nothing to do with the violation. There is a remedy. If not taken care of consensually, an enforcement action can be brought forward. Mr. Held commented that the applicant for this application has no ability to remediate that. Mr. Sorrentino commented the issue is with River Junction Estates, LLC, who is party, by way of consent or mineral rights agreements to the application. Attorney Heller commented they are the underlying fee, but there is a mineral rights agreement with Strategic Commercial Realty which is an interest in real property giving them standing to apply on their own. Mr. Oliverson asked if they have mineral rights to the pit that is open. Mr. Held stated only to the two areas on the property. Mr. Held demonstrates the two specific areas on the site map. Discussion was held.

Ms. Washburn is looking for input from the Commission with regards to the cease and desist order. They would like a letter from the Town stating what has to be done and by whom. Ms. Washburn is looking for input as to what the letter should say and who it should go to. Discussion was held.

Ms. Smith commented that the landowner is River Junction Estates, LLC. Allan Rawson is a managing member of that LLC. The letter should be addressed to River Junction Estates, LLC, Paul Kaplan managing agent and Allan Rawson managing member; street address is Munyan Road, Putnam, CT.

Ms. Washburn is looking for input with regards to sending a report from the IWWC to the PZC with regards to this application. Commission Members agree that when the permit is issued a report can be sent at that time.

A motion was made by Richard Oliverson to receive application 102219A and continue to the November 12, 2019 meeting. George Sipila seconds this motion. No discussion held. All in favor. The motion passes unanimously.

102219B Strategic Commercial Realty, Inc., d/b/a/ Rawson Materials, Maynard Road, Map 29, Lot 5, RA Zone; Excavation of approximately 1.2 million cubic yards of sand and gravel.

Attorney Harry Heller represents the applicant along with David Held from Provost and Rovero. The property abuts on the Canterbury and Brooklyn town line. It is entirely in the Town of Brooklyn on the south easterly side of Maynard Road. Attorney Heller reviews sheet 2 which is an A2 boundary survey showing the southeasterly side of Maynard Road. The easterly reaches of the property are in close proximity to but do not abut the Quinebaug River. There is an intervening parcel that is owned by Tilcon Inc., which separates this property from the Quinebaug River. Sheet 3 is a site grading plan showing the proposed excavation in five phases. There is one jurisdictional wetland which is a kettle hole wetland located along the southerly boundary of the property in the SE corner of the property. There is also alluvial flood plain along the Quinebaug River located just easterly of the property. There are 40-scale plans of each of the

phases delineating the method of excavation. Access will be from Maynard Road with an access road that will lead into the site. The methodology for the excavation is the same as proposed with the first application heard this evening. Back several years ago there was an application proposed with respect to the property. An Environmental Review Team investigation was performed, and a report submitted to the Town of Brooklyn. They have adopted the methodology in the ERT for excavation. They are always pulling material back into the operating face to keep any activity from occurring on the exterior slope of the excavation which could result in erosion and sedimentation control event. As the applicant is sequentially going through the phases excavating the sites, clearing would also occur in phases which would allow the existing vegetation to stay on the slope exterior to the excavation area in order to provide stability until that area is proposed for excavation. There are 40 scale plans of each of the phases of the excavation area. There are also section views sheet 7 of 13. They are proposing to excavate in the upland review area adjacent to the kettle wetland. They are also proposing to excavate in the upland review area adjacent to the alluvial flood plain, adjacent to the westerly side of the Quinebaug River. On sheet 3 section aa is looking through the site from the Nipula property out to the Quinebaug River. Section bb is a northeasterly and southwesterly section view through the site transecting the kettle hole wetland. Sheet 8 of 13 there is the cross-section view where they are proposing to excavate to a grade of about 138 ft and the grade at the river is 126 ft. They are keeping the excavation roughly about 10 feet above the elevation of the river. On sheet 9 of 13 there is a section view bb showing the existing grade dropping down to the wetland. The wetland is at elevation 132 ft. They are proposing to excavate to elevation 138 ft. They will keep the level of the excavation above the level of the wetland. On sheet 10 there is an erosion and sediment control narrative as well as the detail delineating the down cutting excavation method in order to ensure there are not erosion and sedimentation events. Also, the narrative contains the final closure and stabilization plan. The boring logs are located on sheets 11 and 12. Sheet 13 is the final grading plan for the project. They have purposely kept the elevation of the excavation above the elevation of both the kettle hole wetland as well as the Quinebaug River to ensure they are not robbing the hydrology that supports those systems.

Mr. Held refers to the ERT Report done in 2007. Part of the concern was hydrogeologic impacts. They were concerned with excavating sand and gravel near this wetland it would have potential impacts to its hydrologic regime. Mr. Held went out to the location (shown on site plan) and excavated a hole 18 inches deep by shovel within the flagged wetlands boundary. Mr. Held was trying to figure out what exactly is supporting the hydrology of this wetland; a perched water table, is it fed by the regional groundwater table, is it fed with the regional ground water table associated with the river? Mr. Held excavated about 15 inches of organic muck. At 15 inches there is a permeable sand layer. At the sand layer the water comes up in the hole. It has a static water elevation about an inch or two up into the organic layer. The hole was about 5 feet from standing water in the wetland. The surface elevation was ½ inch to 1 inch higher from the actual standing water in the wetland. This tells Mr. Held that this wetland has a perched water table. The permeable sand layer underneath tells him there is a regional ground water table not very far below this perched water table in the wetland. Mr. Held feels it is fair to say that the hydrologic regime of this wetland is probably influenced by both a perched water table as well as the regional ground water table. The fact that it is somewhat supported by the regional groundwater table means nothing we do on this site would have any impact on the kettle hole wetland. The perched water table would be a result of surface water draining into that system as well as

groundwater breakout on hard pan layer below the sand and gravel. There were five borings on the site. Mr. Held demonstrates on the site plan. There is a good idea of where the impermeable hard pan layer is, they are not excavating into it, they are staying above it because they assume it is going to be a ground water table, so they are staying 6 feet above that. Mr. Held feels confident saying as far as surface hydrology, there will not be any impact on this wetlands. Mr. Held demonstrates on the site plan.

Mr. Sorrentino asked what is the minimum proposed setback? Mr. Held stated 70 feet. Mr. Sorrentino asked from the flood plain associated with the river? Mr. Held stated the flood plain wetlands are approximate because they are off site. They took the 100-year flood elevation and assumed it was the edge of the flood plain wetlands. After discussion with staff this morning, they reached out to Tilcon and they gave permission to access their property if we wish to delineate those wetlands. They will have a soil scientist go out and flag those wetlands. Mr. Sorrentino asked what's the setback from the alluvial soil line associated with the Quinebaug River, would it be 175 feet? Ms. Washburn stated that is what they are showing. Attorney Heller stated yes. Mr. Held stated there had been some discussion with the fact the kettle wetland has standing water in it, if you want them to show 175 feet around this area that is fine with them. Mr. Sorrentino asked with the 175-foot upland review areas and over 2 million cubic yards of material, why be so aggressive, why not respect the upland review area? Attorney Heller stated the inquiry should be whether or not it can be done without any injury to the wetland and watercourses. If it can be you have high quality aggregate material that has market value that the property owner should be able to excavate. If it is going to have an adverse impact, that impact weighs into the equation. It is up to the applicant to demonstrate to the Commission that this can be done without impact to the resources that IWWC regulates. Ms. Washburn commented that they talked about that this morning with Jana Roberson. They are going to ask the PZC to waive excavation up to the property line. Ms. Roberson was concerned about a blow out with this scenario. In the report that IWWC sends PZC it can recommend whether or not they should waive the excavation up to the property line. Ms. Washburn commented the PZC regulations do not permit the applicant to gravel up to the property line. The river is there, the trout hatchery is across the river, there is NDDB habitat. Attorney Heller commented his response this morning was "yes I have seen blowouts." He has been doing this for 45 years and has represented a lot of aggregate producers. He has never seen a blowout utilizing the down cutting methodology that is being proposed for utilization here by Provost and Rovero. Attorney Heller further discusses this with Commission members. Ms. Washburn suggests this application be deemed a significant impact.

Mr. Held discusses the DEEP general permit with Commission members. Ms. Washburn commented that wildlife habitat is a consideration of the IWWC. Discussion ensued.

Ms. Washburn comments on Mr. Held's cover letter of October 9, 2019, page 2 second and third paragraphs (see attached). Ms. Washburn feels it was far from being typical wet season conditions when Mr. Held was out there, in fact it was about as low as the water table can get on October 7th. Ms. Washburn reviews line 10 of the letter; "The standing water observed in the wetland at the time of this testing and under typical wet season conditions is the result of a perched water table on top of a nearly impermeable muck layer." Ms. Washburn and Ms. Roberson visited the site. Ms. Washburn took samples of the muck and reviewed with

Commission Members. The sample of the material is not impermeable. Impermeable surfaces means things like roof and asphalt. Ms. Washburn disagrees with Mr. Held's interpretation. Ms. Washburn recommends that the Commission hire a hydrogeologist to review the project at the applicant's expense including this summary of what the applicant thinks the effect of proposed mining on the hydrology of the site would be. Ms. Washburn reviews the IWWC Agent's Report from October 22nd, pages 2-7 102219B Strategic Commercial Realty, Inc., d/b/a/Rawson Materials, Maynard Road with Commission members (see attached).

Mr. Oliverson asked where is the excavated material going? Mr. Held commented westward on Maynard Road to Laframboise Sand and Stone.

Attorney Heller requests a copy of the Inland Wetlands Agent's Report dated October 22, 2019. Mr. Sorrentino has no objection; a copy will be provided.

Attorney Heller commented that they have no objection to hiring a hydrogeologist, but if they are going to pay for it, they would like some say as to who is hired. Attorney Heller suggests GZA Environmental if this is acceptable to the Commission. They are a recognized expert in the area used on other projects. Ms. Washburn stated she has no objection to using GZA Environmental as long as there is no conflict of interest. In the interest of fairness Ms. Washburn recommends asking for three bids. Discussion was held.

Mr. Sorrentino comments if bids are going to be solicited, Ms. Washburn would be responsible for coming up with the scope of work. Mr. Sorrentino asks Ms. Washburn if she is comfortable doing this? Ms. Washburn has asked for scope of services in the past, however, would like input from the Commission. Attorney Heller offers to provide three names for the Town to choose from. Ms. Washburn commented whomever the scope of services are sent to, they must document that there are not any conflicts of interests. Ms. Washburn feels the scope of services should be prepared by the Town. Attorney Heller commented that there is a statutory time period with this application, and it must be moved along. Mr. Oliverson is fine with the applicant hiring the hydrogeologist. Mr. Paquin and Mr. Sipila prefer they work thru the town. The review would need to be done before the public hearing date. Attorney Heller suggests go to GZA and see if they have a conflict and if they can deliver within the time period. If not, then give the applicant three names to review.

Mr. Sorrentino asks if any more information be requested from Joe Theroux, soil scientist, with regards to the functions and values of the wetland project analysis. Discussion ensued. Mr. Sorrentino asks Attorney Heller to have their consultant provide the information per section 7.4 d and e of the regulations. All members agree, Attorney Heller agrees.

Commission Members unanimously agree there is a significant impact and a public hearing is required.

A motion was made by George Sipila to receive application 102219B, the determination that it significantly impacts wetlands and therefore schedule a public hearing December 10, 2019 at 6:00 p.m. Jim Paquin seconds this motion. No discussion held. All in favor. The motion passes unanimously.

3. Hearing for violation at 160 Creamery Brook Road, Owner Manuel Aviles. Cease and Desist order on 10/15/19 for site work consisting of digging soil and removing vegetation in the upland review area and/or wetlands.

Mr. Aviles received a violation notice from Ms. Washburn with regards to vegetation removal and soil disturbance in the wetlands and upland review area near a stream. Mr. Aviles was trying to clean up his property and make it look better. He wants to open up the driveway. He was unaware that he was working in a wetland and that a permit was required. Mr. Aviles reviewed photographs with Commission members and discussed the work he had done. Ms. Washburn stated everything is stabilized and he has cooperated with everything he was asked to do. Ms. Washburn commented that if Mr. Aviles wished to do more work in the upland review area, this is his opportunity to apply/submit an application. Discussion ensued.

Mr. Sorrentino commented that it looks like what has been done has been stabilized. Ms. Washburn stated yes. Mr. Sorrentino commented that if the work done has been stabilized and Ms. Washburn has approved this, he is agreeable for release of the violation. If he wishes to do the widening of the driveway that would be within the upland review area, a soil scientist would need to be hired, delineate the wetland and come with a plan and application to discuss what would be done. Mr. Sorrentino discussed with Mr. Aviles maintenance of a residential property as a use permitted as of right. It would depend on what he wished to do.

Mr. Aviles does not wish to do any more work this year. Mr. Aviles was advised that any work done within 125 feet of a wetland or 175 feet of a stream/culvert requires a wetlands permit.

Ms. Washburn will issue a release of the violation.

4. DR19-008 FCR Realty LLC/Owner, Ben Landry/Forest Products Harvester, Day Street, Map 19, Lots 6 and 7; Timber Harvest.

Lin Green/FCR Realty, LLC/Owner speaks with regards to the timber harvest application. Mrs. Green does not know why they are before the IWWC for this activity.

Mr. Sorrentino commented that the IWWC is the entity that prescribes to make a determination of whether or not the notification constitutes a use as of right. It is not a formal application; it is a notification and the correct procedure.

Ms. Washburn commented that they are clear-cutting a lot of land. Ben Landry, Forest Products Harvester came in to meet with Ms. Washburn, she informed him that he needs to include all of the pieces of property including the access to Day Street which is not owned by FCR Realty (Haveles). Mr. Landry did not list the Haveles property where access to Day Street is located. Ms. Washburn gave Mr. Landry a copy of the map of the Haveles property; because there is a lawsuit between FCR and the Town, Ms. Roberson and Ms. Washburn reached out to Town Counsel, Peter Alter, regarding FCR's use of the driveway that belongs to the Haveles. Mr. Sorrentino reads the e-mail from Attorney Peter Alter dated October 22, 2019, into the record (see attached).

Ms. Washburn commented they are clear cutting about 50 acres. Mrs. Green commented the alternative route they were proposing is going through the power lines and coming out on Day Street. Mrs. Green commented that Eversource has approved the alternative route. Approval must also be granted from Jeffrey Weaver, property owner.

Ms. Washburn stated they need a revised application showing the tree cutting and permission granted from all property owners. More information is needed as to whether the project qualifies for agricultural exemptions. The work cannot be approved without landowner sign off on the access and we need to know if there will be impacts on that land. The land where the access road is located needs to be included in the application.

Discussion held with regards to whether a wetlands permit is required. Mr. Sorrentino asked Mrs. Green if they could get Ben Landry, the representative from the forest industry to be here next month on December 12, 2019, to further discuss the notification of timber harvest.

Mrs. Green asked Ms. Washburn if a list can be given to her as to what she must do. Ms. Washburn stated that Ben Landry must come to the next meeting with a revised drawing, and written permission from property owners Eversource and Jeff Weaver.

Communications:

1. CACIWC Annual Meeting November 23, 2019. Commission members reviewed.

2. Budget Update: Reviewed.

3. Wetlands Agent Monthly Report:

4 Pomfret Landing Road Fill Wanted Sign: The sign has been taken down. There are signs that have been put up that say no trespassing, no dumping.

37 Pomfret Landing Road, Paul Szydlo: After consulting with Chairman Jeff Arends, a jurisdictional ruling permit was given for a deck to be built. The notification was run in the Villager as required.

Public Commentary: None.

Discussion regarding letter to Rawson Materials/River Junction Estates LLC and Paul Kaplan. Send a cordial letter asking for a remediation plan with a deadline of 30 days given.

Adjourn: A motion was made by Jim Paquin to adjourn the meeting at 8:43 p.m. Richard Oliverson seconds the motion. No discussion held. All in favor. The motion passes unanimously.


Audrey Cross-Lussier, Recording Secretary

Provost & Rovero, Inc.

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October 9, 2019

Margaret Washburn, ZEO/WEO
Town of Brooklyn
P.O. Box 356
69 South Main Street
Brooklyn, CT 06234

RE: Rawson Materials – Potvin Property – Maynard Road – Brooklyn, CT
P&R Job No. 173081

Dear Ms. Washburn:

Attached, please find an inland wetlands permit application and supporting information for a proposed sand and gravel excavation on a 29.99 acre parcel owned by The Potvin Family Trust. The subject property is shown as lot 5 on assessor map 29. Strategic Commercial Realty, Inc., d/b/a Rawson Materials (Rawson) currently has an option to purchase this property. Application materials submitted herewith are as follows:

1. Wetlands application form.
2. \$360.00 application fee.
3. 5 copies of site plans dated October 2, 2019.
4. Mutual agreement between Rawson Materials and Tilcon, Inc. for excavation to the common boundary.
5. DEEP Activity Reporting Form
6. Wetland delineation report by Joseph Theroux dated November 7, 2017

As you know, the subject property was previously proposed for sand and gravel excavation by Brooklyn Sand & Gravel, LLC in 2007 which never came to fruition. As part of that previous permitting effort, the town of Brooklyn requested and received a report from the Eastern Connecticut Environmental Review Team (ERT), a copy of which has been provided for our review. The ERT report raised a number of concerns with the property, some of which are under the jurisdiction of the Inland Wetlands Commission and some of which are under the jurisdiction of the Planning and Zoning Commission. The primary issues which would be of interest to the Inland Wetlands Commission as they relate to the current application appear to be erosion and sediment control during excavation, topsoil for final restoration of the site and the potential for impacts to the kettle wetland at the southeasterly corner of the property.

The ERT report raises concerns about erosion and sediment control during excavation. Without actually reviewing the previous plans on which the ERT report was based, we cannot comment on why there were concerns about erosion and sediment control during excavation. With that said, the grading and phasing for the current project ensure that all disturbed excavation areas drain internally; in other words the work area is always self contained. The initial phase of excavation established the access road to be use during all subsequent excavation. It also established the floor of the proposed excavation. This will allow all excavation to proceed by extending a working face at the excavation floor. This basic process can be

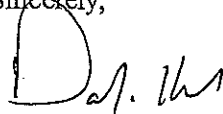
repeated as necessary with a down cutting excavation technique if vertical subphases are desired to complete the excavation. Because of the self contained nature of this project, the only perimeter E&S controls required will be around a temporary topsoil/subsoil stockpile during the phase 1 excavation.

The ERT report raises concerns about the potential lack of topsoil to support the restoration of the site following excavation. A series of approximately 15 test holes were excavated by hand by the undersigned with a shovel across the proposed excavation area to determine actual soil conditions. Test locations included both relatively flat areas as well as steep slopes along the edges of several upland kettles. This testing indicates that the proposed excavation area is typical of Hinckley and Merrimac soils. The general soil profile observed was 5"-8" of topsoil (A horizon) underlain by 8"+/- of subsoil (B horizon). In several locations the B horizon was at least 12" in thickness at the point where the test hole was ended. The topsoil depth in the bottom of one of the upland kettles was found to be in excess of 16". Based on completion of this testing, there is clearly enough A and B horizon soil within the excavation area to complete the satisfactory restoration of the site. The restoration recommendations on the proposed plans also include the placement of a silt layer below the topsoil and subsoil which will significantly increase the water holding capacity of the soil and enhance the establishment of permanent vegetation.

The ERT report raises concerns about potential hydrologic impacts to the kettle wetland at the southeasterly corner of the site. Currently excavation is proposed within the 125' regulated area associated with this wetland with a proposed undisturbed buffer of approximately 70'. As noted above, the excavation grading and phasing will prevent any erosion and sedimentation impacts to this wetland both during excavation and during the establishment of permanent vegetation as part of the site restoration. To assess the potential for hydrologic impacts, the wetland was inspected on October 7, 2019 and a test hole was excavated by the undersigned with a shovel approximately 5 feet horizontally from the edge of the standing water. The ground surface at the test hole location was approximately 1" above the standing water in the wetland. The test hole revealed approximately 15" of organic muck and topsoil underlain by a permeable sand layer. The static water elevation in the test hole was approximately 13" from the surface or just above the permeable sand layer and approximately 12" below the standing water in the wetland. Given the observed groundwater elevation in the monitor well at the northeast corner of the site, the water elevation in the nearby Quinebaug River and the permeable soils underlying the kettle wetland and in the surrounding area, it is apparent that the kettle wetland can function in both a groundwater recharge and groundwater discharge fashion and that it's hydrologic regime is at least partially supported by the regional groundwater table during dry periods. The standing water observed in the wetland at the time of this testing and under typical wet season conditions is the result of a perched water table on top of the nearly impermeable organic muck layer overlying the permeable sand below. Based on the borings across the excavation area, the sand and gravel deposit is underlain by either a dense till layer or bedrock which generally slopes from west to east. This impermeable stratum will also allow for lateral movement of groundwater and eventual breakout to support the surface hydrology of the kettle wetland. In general, a sand and gravel excavation will not impact this impermeable stratum because the material excavated from such a stratum would be of no commercial value. The lateral movement of groundwater which supports this wetland is a function of the physical characteristics of the permeable soils which surround it and the slope of the impermeable layer and with the undisturbed buffer provided around the wetland, no impacts are anticipated.

If you have any questions or need additional information, please do not hesitate to contact us at your convenience.

Sincerely,



David J. Held, P.E., L.S.
Provost & Rovero, Inc.

I recommend rejecting the plans as incomplete, or requesting that they be voluntarily withdrawn without, until wetland flags are shown on the plan and we have documentation that the wetland scientist is a Soil Scientist qualified to delineate wetlands in CT.

A portion of the subject property is subject to the mapping of the Natural Diversity data Base (NDDB). Town staff will contact NDDB for more information regarding the mapping. A copy of the NDDB map is in the IWWC packets.

Ponds extending 22 to 30 feet below groundwater are shown at both pits. **The IWWC must submit a report to the Planning and Zoning Commission with its findings.** I recommend that the IWWC report state that the IWWC should recommend that the Planning Board should not waive their required separation to groundwater due to the potential for groundwater contamination. This could result from hydraulic equipment operating in groundwater and the silt to be up to 30 feet deep below the groundwater table. The silt would be brought in from La Framboise as waste material from washing gravel from an undetermined number of unknown sites.

A Cease and Desist Order issued in 2014 to Rawson materials/River Junction Estates, the present owner of the proposed project, has not been lifted. While the Order may not hold new permits being issued, I encourage the IWWC to speak to the Rawsons about remediating that area. The Cease and Desist Order and a photo of the area altered without a permit is in the IWWC packets. I am seeking direction from the IWWC as to how the remediation for unauthorized gravel removal should be handled.

X **102219B Strategic Commercial Realty, Inc, d/b/a Rawson Materials, Maynard Road.** I conducted a site inspection with Jana Roberson on 10/21. Please refer to the attached photographs. I took soils samples which are available for your review.

On 10/22/19, Attorney Harry Heller and David Held, L.S., met with Jana Roberson and me to review the plans. (The application was submitted on 10/9/19, meaning that the previous version of Zoning Regulations (prior to the 10/15/19 adoption of the new Zoning Regulations) will apply.)

A. I recommend deeming that the proposed project represents a Significant Impact as per Section 7.7 in the IWWC regulations, and as per CT State Statute (An additional Significant Activity Fee (public hearing) of \$250.00 plus other fees would be required.):

"Significant impact" means any activity, including, but not limited to, the following activities which may have a major effect: (My comments appear in parenthesis following each section.)

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. (According to the ERT, page 23, the gravel removal will very likely have an impact on the water regime of the kettle wetland.)
2. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system. (According to the ERT, page 15, the gravel removal may affect timing of the recharges to the kettle.)
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. (According to the ERT, page 15, the gravel removal may affect timing of the recharges to the kettle.)
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.

7.4 At the discretion of the Commission or its agent, or when the proposed activity involves a significant impact, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following , is required:

- a. Site plans for the proposed activity and the land which will be affected thereby which show existing and proposed conditions, wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses, and other pertinent features of the land and the proposed activity, prepared by a professional engineer, land surveyor, architect or landscape architect licensed by the state, or by such other qualified person;
- b. Engineering reports and analyses and additional drawings to fully describe the proposed activity including any filling, excavation, drainage or hydraulic modifications to watercourses and the proposed erosion and sedimentation control plan;

- c. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Natural Resources Conservation Service; the wetlands shall be delineated in the field by a soil scientist and the soil scientist's field delineation shall be depicted on the site plans;
- d. A description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed activity on these communities and wetland functions; (This would be helpful to assess whether impacts have occurred at a future date.)
- e. A description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application and each alternative which would cause less or no environmental impact to wetlands or watercourses, and a description of why each alternative considered was deemed neither feasible nor prudent; (This would be helpful to assess whether impacts have occurred at a future date. Please note that the application included no alternatives analysis.)
- f. Analysis of chemical or physical characteristics of any fill material; and
- g. Management practices and other measures designed to mitigate the impact of the proposed activity.

B. A portion of the subject property is subject to the mapping of the Natural Diversity data Base (NDDDB). Town staff will contact NDDDB for more information regarding the mapping. The NDDDB mapping is shown at the eastern side of the property, near the Quinebaug River.

C. Please refer to the Environmental Review Team Report (ERT), dated February 2007, which was prepared for the Potvin site when Brooklyn Sand and Gravel (BS&G) proposed a gravel mine at the subject property.

According to page 15 in the ERT, the groundwater level (which regulates the water table in the kettle wetland) was estimated to be at approximately the 135-foot contour. The BS&G plan proposed excavation down to the 149-foot contour at its deepest point. The ERT states “This should be above groundwater levels which regulate the kettle at roughly the 135-foot contour. However, keeping the excavation above 149 feet may not guarantee that the kettle will not be impacted hydrologically. Excavation may affect the timing of recharges to the kettle.”

Page 21 in the ERT states “Thus, the removal of thirty-five to fifty vertical feet of sand neighboring the kettle very likely will have an impact on the water regime of the wetland. Further hydrogeologic investigation can confirm, deny and/or show the likely impacts of this project.”

The previous plan showed a fourteen-foot difference in elevation from the lowest point of excavation to the elevation of the water in the kettle wetland.

The Rawson plan shows the lowest point of excavation at 138 feet, while the elevation of the water in the kettle wetland as 132 feet, a difference of 6 feet. Effectively, the excavation is now proposed to be 8 feet deeper than the plan reviewed by the ERT.

I recommend that the proposed project should be reviewed by a qualified hydrogeologist, as recommended in the ERT. A hydrogeologist could recommend the extent of gravel excavation that would result in no adverse impacts to the kettle wetland and/or the Quinebaug River.

D. I recommend requiring more specific information regarding the proposed seeding specifications regarding species and rates of application per lb/acre.

E. The ERT states (pp. 16-18) that very little topsoil exists for restoration work and that loam may need to be brought in from off the site. On 10/21/19, as a Registered Professional Soil Scientist, I dug holes at 2 locations and found 2 inches of topsoil at both locations. Please see the soil samples I brought back.


F. Monitoring reports should be required at least once per month stating that the person responsible for maintaining sediment controls has visited the site. Each report should include a description of precipitation events for that month.

G. The phasing plan does limit the amount of land that will be disturbed at a given time. I suggest that each phase be split into two phases: for example, Phase 1A and Phase 1B. Phases 1A, 1B, 2A and 2B could be opened simultaneously. Phase 3A could not begin until Phase 1A was at least temporarily stabilized. Phase 3B could not be opened until Phase 1B has been at least temporarily stabilized, etcetera.

H. I recommend requiring the applicant to submit emergency contact information for the responsible parties.

I. Dust control needs to be specifically addressed. Fugitive dust will amount to fill in the wetlands and river.

J. I recommend requiring that the limit of work (clearing limits) be marked in the field, and requiring the applicant to notify IWWC after this has been done, prior to starting work.

 **K. The IWWC must submit a report to the Planning and Zoning Commission with its findings. Ideally, a report should be reported by 11/6, the date of the next P&Z meeting. I am seeking input from the IWWC regarding the content of this report.**

160 Creamery Brook Road – Manuel Aviles. On 9/25, Chairman Arends called me to alert to a machine digging in or near wetlands. Please refer to the inspection report and site photographs.

On 9/26, Mr. Aviles called me as required in the cease and desist order I left on the truck near the backhoe and the front door of the house. He agreed to stop work and

From: Peter Alter <palter@alterpearson.com>

Sent: Tuesday, October 22, 2019 10:14 AM

To: Jana Roberson <J.Roberson@Brooklynct.org>

Cc: Margaret Washburn <M.Washburn@Brooklynct.org>; Rick Ives <r.ives@Brooklynct.org>

Subject: RE: License Agreement with the Greens

Jana and Margaret: There are several issues that must be considered:

1. Is any "regulated activity" planned for the access road? The access road is certainly in the URA. In the past, there have been concerns about erosion, siltation and repairs to the portion of the road that also serves as a dam. The IWWA would need to be advised of such planned activities as a permit could be required if the activities are likely to impact or affect wetlands or continuous watercourses. If there is no regulated activity contemplated associated with the access road, then 7.5.b of the Regulations would seem to exclude the requirement that the owner of the access road be required to sign the application.
2. The issue of whether or not the language of the so-called "access license" includes the activity of using the road to haul timber instead of activities solely related to the gravel bank operation is not a matter that the IWWA should be involved in determining. This is a matter of the owner of the access road to dispute by other means such as seeking a restraining order or a declaratory judgment. It is not within the authority of the agency to make such a determination, even if the access road owner raises the issue, that roadway owner needs to understand that the agency cannot exercise its jurisdiction in that regard.
3. It is my recollection that there was a concern about the condition of the roadway and the condition of the impoundment at the time of the gravel bank permit application for which we await a court decision. The applicant had already secured a permit from the IWWA when the gravel permit was considered by the TP&Z. That does not preclude the agency from examining the condition of the roadway and impoundment for purposes of the present application if there are continuing issues of erosion and sedimentation control, or needed repairs. Any such activity in the URA, or in the edge of a wetland or watercourse would require a permit. If the timber activity by virtue of its truck traffic increase raises wetland activity issues, then the agency has jurisdiction limited to wetland and watercourse matters such as erosion and sedimentation control, or the possible ultimate failure of the dam.
4. Any other proposed regulated activity on the property that is to be timbered is subject to the review and action of the IWWA, irrespective of the issue of the roadway.

I trust that the above comments are helpful in providing some direction. You as staff and the commission as the agency must keep its focus on matters within its jurisdiction. If the roadway presents real wetland and watercourse concerns (as have been previously raised) then the roadway is within the agency's jurisdiction and should be considered. If there are no such concerns, then the status of the roadway license and what rights exist for the Greens is not within the IWWA jurisdiction. You have an agreement that on its face grants ingress and egress for "vehicles, machinery and equipment to and from Day Street" to particularly identified parcels. The interpretation of the meaning and intent of the language or its scope is beyond the purview of the agency.

Please call with any questions. Best regards. Peter