

**TOWN OF BROOKLYN
PLANNING AND ZONING COMMISSION
Regular Meeting
Wednesday, January 8, 2020
Clifford B. Green Meeting Center
69 South Main Street
6:30 p.m.**

MINUTES

- I. Call to Order** – Michelle Sigfridson, Chair, called the meeting to order at 6:32 p.m.
- II. Roll Call** – Michelle Sigfridson, Carlene Kelleher, Jules D’Agostino, Earl Starks, Alan Fitzgerald, Austin Tanner, Charles Sczuroski.

Staff Present: Jana Roberson, Director of Community Development.

- III. Seating of Alternates** – None.

- IV. Adoption of Minutes:** Regular Meeting December 4, 2019

Motion was made by A. Tanner to approve the Minutes of the Regular Meeting of December 4, 2019. Second by C. Kelleher. No Discussion. Motion carried unanimously (5-0-1). M. Sigfridson abstained as she had not attended that meeting.

- V. Public Commentary** – None.

- VI. Unfinished Business:**

- a. Reading of Legal Notice: See Below under Item VI.a.1.**

- b. Continued Public Hearings:** None.

- c. New Public Hearings:**

1. **SPG 19-003** – Gravel Special Permit, Strategic Commercial Realty, Inc, d/b/a Rawson Materials, 30 acres on south side of Maynard Road (Map 29, Lot 5) in the RA Zone; Excavation of approximately 1.2 million cubic yards of sand and gravel.

J. Roberson provided the following additional information that had not been included in packets to the Commission Members (this information was also provided to Attorney Heller and David Held):

- A sheet entitled Record Documents pertaining to SPG-003 (dated 1-8-2020). This is a list of all of the record documents that had been received and documents that are relevant to this Application.
- Three sheets entitled Discussion Matrix for Maynard Road Gravel Proposal SPG 19-003 (a guide for discussion regarding the Environmental Impact Statement (EIS) for the Commission Members to follow).

Materials regarding this Application may be viewed on the Brooklyn Planning & Zoning website.

At this time Ms. Sigfridson requested that the Legal Notice be read, on the record, for both public hearings (SPG 19-003 and SPG 19-004). J. Roberson read the Legal Notice (published in the *The Villager* on December 6 and 13, 2019) for both SPG19-003 and SPG19-004 noting that the date had changed because the December meeting had been cancelled due to weather and, therefore, the public hearings were moved to January 8, 2020. She stated that a notice had been published on the Town’s website and had been posted with the Town Clerk. Ms. Roberson added that the Applicant had updated the signs that had been posted and sent a second, updated notice to all of the abutters via certified mail.

Attorney Harry Heller, 736 Route 32, Uncasville, CT, represented the Applicant. Also present on behalf of the Applicant: David Held, Design Professional Engineer, Provost and Rovero; Kenneth Faroni, Certified Planner, (assisted with the preparation of the EIS which was required by vote of the PZC at its November 2019 meeting - Zoning Regulations, Section 5.8); and Madeline Smith, Corporate Counsel, Rawson Materials.

Attorney Heller explained that this Application is for a special permit under the Zoning Regulations (Section 13) that were in effect at the time that the Application was filed. A special permit is a use permitted in the zoning district under certain conditions. He explained that to grant the special permit, the to PZC would need to determine the following:

- That the use (excavation of earth product) is a use allowed by special permit in the zoning district. In this case, the Application parcel is in the RA district and the use is a special permit use in that district.
- That the standards in the Regulations (Section 13) are satisfied.
- The protection of public health, safety, convenience, and property values (general evaluation criteria contained in Section 5.7 of the Zoning Regulations).

As required by vote of the PZC (in accordance with Section 5.8 of the Zoning Regulations), an Environmental Impact Statement (EIS) was provided which addresses the issues that are relevant to an excavation operation.

Attorney Heller explained that the special permit would be for a temporary use of the land. They anticipate the duration, governed in part by market conditions, to be a five-to-eight year period, once it is commenced. Upon completion of the operation, there is a grading plan that grades the property in a condition that could be used for open space, agricultural purposes, or for single-family development.

Attorney Heller addressed the following:

SECTION 13:

- Section 13.5 – Evaluation Criteria
 - 13.5.1 - Not proposing to create a pond on this Application. Borings demonstrate that this criteria is met (on the Site Plan).
Monitoring wells were drilled on the site that demonstrate compliance (on the Site Plan).
 - 13.5.2 - Incorporated setback requirements to comply with the requirements of Section 13.5.2.1 (on the Site Plan).
 - 13.5.3 - The Plan has been designed to comply with these technical requirements. Slopes have been graded at the 30 percent limit (between 4 to 1 and 3 to 1). Closure plan requires the slopes to be loamed and stabilized with a non-maintenance planting scheme that will eventually go back to forest, unless it is developed for residential use, then it would be stabilized in accordance with a typical landscaping plan for a single-family home.
 - 13.5.4 - Not proposing any processing of any earth product material on this site. All of the material excavated from this site is proposed to be taken by way of Maynard Road in Brooklyn and then Wauregan Road in Canterbury to the Laframboise sand and stone processing site on Wauregan Road in Canterbury. The Laframboise site has been judicially determined as a site for the processing of excavated material from off-site. Attorney Heller explained that the Canterbury Agreement was submitted as an attachment to the EIS (comprehensively addresses a number of issues including the amount truck traffic authorized on Wauregan Road and Maynard Road).
 - 13.5.4.2 - Not proposing any material excavated off-site and transported to the site. This is strictly an excavation and removal operation.

- 13.5.5 - Not applicable. Not proposing any screening, washing or processing equipment.
- 13.5.6 - Attorney Heller explained that the methodology for the excavation of the site has been developed in conjunction with consultation with neighbors who adjoin the property to address concerns regarding potential impacts. He explained that a phasing scheme (in the Site Plan) was specifically developed to address those concerns. The access haul road from Maynard Road will be constructed with an anti-tracking pad at the interface with the Town road into the site. Phase One is an excavation from the middle of the site back up toward the road. The excavation will proceed, sequentially, in that manner so the excavation is confined to a location which is significantly below the elevation of Maynard Road. By working in a bowl, there will be no run-off (it will all be contained interior to the site). It will be less subjected to wind and dust. Noise will be contained, to a large extent, to within the limits of the bowl. Phase Five (a small phase) is to be the last phase of the Project as it is in closest proximity to the neighboring residences (this will minimize disturbance to the neighborhood).
- 13.5.6.1 – Largely inapplicable as they are not proposing any processing or blasting. Attorney Heller noted that decibel limits in the Zoning Regulations differ from the DEEP.
- 13.5.6.2 – Applicant is required to comply. Periodic application of calcium chloride or water. The access road will be a compacted, processed surface.
- 13.5.7 - Applicant is required to comply with hours of operation.
- 13.5.8 - Attorney Heller referred to the phasing methodology developed in consultation with neighborhood concerns, minimizing impacts. He stated that, at all times, equipment would be operating from the excavation floor and not on exterior areas of the site.
- 13.5.10 - Applicant is required to comply.
- 13.5.11 - Not proposing to remove any topsoil. Topsoil to remain on the site for stabilization as phases are sequentially completed within the excavation.

SECTION 5.7:

- Section 5.7 –General Evaluation Criteria Applicable to All Special Permit Uses. How does this use fit into the neighborhood and is it compatible? Attorney Heller explained that there is significant overlap between the EIS and Section 5.7.
 - 5.7.1 - Not proposing any buildings or structures.
A Matched Pair Analysis, prepared by Robert Silverstein, Professional Real Estate Appraiser, had been submitted. This document was compiled based in the specific characteristics of this neighborhood evidencing the fact that this neighborhood is already impacted by the proliferation of excavation operations both in Brooklyn and in Canterbury, along Maynard Road and Wauregan Road. It is Mr. Silverstein’s professional opinion that the introduction of this use on this property: 1) Is compatible with the neighborhood and will not have any impacts on the neighborhood that do not already exist; and 2) Will not have any adverse impact on the market value of residential properties in the neighborhood.
 - 5.7.2 - No architectural plans.
This is a mixed-use neighborhood.
This is a self-contained excavation which reduces visibility from Maynard Road and adjoining residential homes. Closest distance to a residential dwelling is 200 feet. Vertical separation of about 70 feet. No adverse impact as a result of a limited-duration operation on this property.

Proposing to excavate approximately 20 acres of the 30-acre site, The Quinebaug River is located in close proximity to the property, there is a kettle-hole wetland along the southerly boundary of the property. Incorporating buffers around the property to buffer from street view and adjoining properties.

5.7.4 - Traffic report not applicable to this Application.

Section 5.8

Attorney Heller spoke of the importance of the excavation of earth products (a valuable natural resource). Brooklyn is in an area where there is still an abundance of earth product material. He said that these materials should be mined because they are essential to the local and regional economy as detailed in the EIS (Section 5.8 demonstrating compliance with the Municipal Plan of Conservation and Development).

Attorney Heller spoke of the known history of several State endangered species, State threatened species, and State species of special concern in the area of this property. He stated that after the November meeting of the PZC, they conducted a significant amount of research and Attorney Heller submitted an opinion of that analysis, for the record, (dated December 13, 2019). He explained that it is their opinion that, while these are important matters, they are not matters within the permitting jurisdiction of the PZC. He referenced Section 8-2 of the Connecticut General Statutes. Attorney Heller explained that they conducted an analysis of Section 5.8.2 of the Brooklyn Zoning Regulations to determine the consistency of its requirements with the provisions of the enabling legislation and that analysis concluded that the matters that the PZC had enumerated for analysis (which the Applicant has addressed in their EIS) addressed the issues that the PZC was concerned about in its legislative authority in enacting Section 5.8.2 and also that Section 5.8.2, in its enumerated provisions, is consistent with the enabling legislation contained in Section 8-2. Also at the PZC's November meeting, there was discussion regarding the use of the language "at least" in Section 5.8.2 with the thought that that language authorized the PZC to consider impact to State endangered species, State threatened species, and State species of special concern. Attorney Heller explained how they used the Jewston Generics principle, which brought them to the conclusion that the use of the words "at least" in the Zoning Regulations are to be construed in accordance with the types of matters that are enumerated in the specific subsections of 5.8.2 which have nothing to do with the protection of State endangered species, State threatened species, and State species of special concern. Attorney Heller stated that the EIS addresses the specific requirements of Section 5.8.2 and provides a complete analysis of each of the permitting criteria to be addressed and finds consistency between this Application and the evaluation criteria to be considered by the PZC in determining whether or not the permitting evaluation criteria for a special permit application have been complied with.

David Held, Professional Engineer and Land Surveyor with Provost and Rovero, gave a PowerPoint presentation explaining/orientating each sheet of the Site Plan (he offered to display paper plans, as well, but there were no requests for that):

- Sheet 1 – Cover Sheet
- Sheet 2 – A-2 Property Survey of the 30-acre site. He indicated the neighboring properties, boundary lines, and high-voltage electric transmission lines.
- Sheet 3 – Overall look at grading and phasing for the entire site. He indicated proposed areas of proposed activity including the kettle-hole wetland, the flood-

plain wetlands off-site on the Tilcon property associated with the Quinebaug River which is currently before the IWWC for approval.

Mr. Held explained the separation distances. For the area where they are proposing excavation up to the property line, they submitted (with their Application) a signed agreement authorizing Rawson Materials to do so and, in exchange, allowing Tilcon, should they continue excavation of that site, to go up to the property boundary. They are formally requesting a waiver of that requirement which they interpret to be allowable under Section 13.5.2.1 of the Zoning Regulations because Tilcon has historically been excavated.

Mr. Held indicated the proposed access driveway for which the location had been changed (previously on the far westerly side of the property) as suggested by the Town Planner to be closer to the high point in the road to improve sight lines coming out. Ms. Roberson noted that she had asked them to do a sight line analysis. Mr. Held explained that there was an oversight regarding grading that they need to correct.

Mr. Held explained and indicated the phasing:

Phase One – To establish the driveway access and create the floor elevation of the proposed elevation. Mr. Held explained that, for the initial phase, they need an area on site to stockpile the topsoil and subsoil that will remain on-site for the duration for eventual restoration. He indicated a cleared corridor area along the westerly side and abutting the powerline easement where topsoil and subsoil from Phase One could be stockpiled for use in restoring the site. This accomplishes two things: It allows them to create some sort of a berm to provide more a visual buffer during the initial phases of Phase One while establishing the downcut and the bowl; It is essentially a flat area which would not be subject to stormwater problems with erosion of topsoil and stockpiles and things of that nature. This area can be vegetated and when the time comes to restore the slopes, it would be a matter of grading it down into the slopes.

Phase Two – Southwest corner of the site.

Phase Three – Continuation along the alignment of the access driveway.

Phase Four – Rear or easterly side of the site.

Phase Five – Final phase which is the area closest to the residences along Maynard Road.

Mr. Held explained that they came up with the proposed phasing as result of the Applicant speaking with several of the property owners in the neighborhood who suggested progressing from west to east and to make Phase Five the final phase to provide better buffering to the residences.

Next Four Sheets – Close-up views, at 40 scale, of what the phasing and grading looks like.

Mr. Held explained and indicated where they are proposing a stabilized construction entrance/anti-tracking pad, as well as a paved-and-contained fueling pad for the initial phase of the operation. After they establish the first phase elevation floor, Mr. Held indicated where another fueling pad will be located, inside the hole, that will be used until the completion of the project.

Regarding separation distances, Mr. Held explained that they had intended to install monitoring wells in each of five boring locations which he indicated, however, they only hit water in one location in the northeast corner of the property and installed a well there. They hit refusal in the other four locations. They assume that the bottom of those borings is either ledge or groundwater, so they are staying either six feet or five feet, whatever the case may be, above that.

Regarding the kettle wetland, they are assuming that that is the ground elevation or in the vicinity of it. It is generally consistent with the water elevation in the river to the east and the water levels observed in the well in the northeast corner.

Mr. Held displayed and explained Cross Section AA. He stated that the entire site would be self-contained from the start of excavation to the completion of excavation.

Mr. Held displayed and explained Cross Section BB showing the relationship to the kettle wetland area.

Mr. Held displayed a detail sheet showing paving/curbing details for the fueling pad, erosion and sedimentation control narratives, specific notes to the excavation and restoration of the site, phasing, hours of operation. Mr. Held pointed out that they are not proposing processing or importing material for processing, but they are proposing to import material back onto the site for restoration to provide a layer of silt (24-inches deep) beneath the topsoil to enable a better planting medium to stabilize.

There were two sheets of boring logs.

Mr. Held displayed and explained the Phased Reclamation Plan which shows how it will progress in relation to the excavation. The access road needs to be kept open for the duration of the Project, so it will not be re-vegetated or re-graded and is probably going to be a permanent feature of the site. He indicated and explained the phasing: Phase Two of the proposed excavation would be the first to be reclaimed (Phase One of Reclamation); Phase Three of the excavation would be the second to be reclaimed (Phase Two of Reclamation); Phase Four of the excavation would be the third to be reclaimed (Phase Three of the Reclamation); the largest reclamation area (after excavation is complete), Phase Five of the excavation and any working slopes left from Phase Three would be the Final Reclamation Phase.

Mr. Held displayed and explained the two Sight Line Demonstration Plans showing the safety of the proposed site entry to the east and the west and showing adequate sight line distances for both passenger vehicles and for truck traffic (which requires a longer sight line distance), both being accommodated with the location of the driveway.

Attorney Heller stated that the PZC has the right to investigate whether or not there are any cultural resources on the property and how those are being addressed. The Applicant has retained the services of the Public Archeological Laboratory associated with UCONN, Storrs. They have completed a site investigation and their report is anticipated around January 20, 2020. A copy will be submitted to the PZC to be made part of the record. A preliminary representation indicates that they have not located any matters of historical significance on the property.

COMMENTS FROM THE COMMISSION:

A. Fitzgerald asked about the boring locations. Mr. Held indicated the five locations.

A. Fitzgerald if any areas of more than five acres would be open at one time. Mr. Held explained that the exception is the access road and that it might be six acres at most.

Ms. Roberson asked about the reclamation phasing. Mr. Held indicated and explained.

M. Sigfridson asked if excavation and grading restoration would be completed prior to moving on to the next phase. Mr. Held explained that it would be excavated and graded before moving on to the next phase, but planting would be done in the first available planting season (spring or fall of the applicable year).

Ms. Roberson read from Section 13.5.10 regarding the five open acres. She asked that the acreage of the restoration phases be put on the plans in the form of a table. Mr. Held will provide. She also asked for a more clear description of the order. She asked about the easternmost phase to be restored being past a previously restored area. Mr. Held stated that there should be an access road through there. Ms. Roberson asked why they are not working from east to west to not trafficking over an area that is intended to be restored. Mr. Held stated that you would be talking about a 20-to-24 foot wide road through a 4 or 5 acre restored area. Ms. Roberson asked if there is a way to change the order to make that unnecessary (Restoration Phases Two and Three). Mr. Held noted that the neighbors didn't like the other order. Discussion continued and Ms. Roberson explained that, in general, historically, gravel sites in Brooklyn have not been properly reclaimed/restored, so this is a realistic concern of the PZC.

M. Sigfridson asked if Mr. Held has had a chance to address comments in the letter (dated December 9, 2019) from Syl Pauley, the Town's Consulting Engineer. Mr. Held stated that he has read the letter and Mr. Pauley did not have much in the way of substantial concerns. They are anticipating making a revision to the plans for a number of reasons, but they prefer to wait for all of the information to make all of the changes at once addressing all of the comments:

- Grading of greater than 10 percent within 200 feet of the road (as he mentioned earlier).
- The IWWC has hired some outside consultants to address some of their concerns, so they are anticipating that they will comments that will require changes to the plans.
- One of Mr. Pauley's concerns was regarding traffic signage and Mr. Held has spoken with the Highway Foreman. Ms. Roberson stated that the Town may wish to put up additional signage off-site.

A. Fitzgerald asked about the timeline as stated on page two of the EIS: Eight years for the excavation; and work is anticipated to start in the year 2025. Attorney Heller stated that this information is correct. It is possible that the project could start in 2025 and operate until 2033.

A. Fitzgerald why they applied for a permit five years in advance. Mr. Held stated that Rawson Materials has an option to purchase this property and, for financial reasons, they cannot purchase a property without having a viable permit on it.

A. Tanner asked if Mr. Pauley's questions about the borings will be addressed. Mr. Held stated that they would.

A. Tanner asked if the silt would be stockpiled or if it will be hauled in when ready to be reclaimed. He also asked if 2-feet is a common depth Mr. Held explained that the silt would be hauled in when ready to reclaim, but if it is stockpiled, rather than a big pile, it would be dump truck loads spread out in the area where they are ultimately going to grade it. Mr. Held stated that common depth is zero and that Rawson has access to the material that makes a better restoration product. Attorney Heller explained that it is a highly permeable soil designed to slow down water absorption through the soil so it can keep enough moisture in the topsoil to be able to grow vegetation.

M. Sigfridson asked about traffic. Ms. Roberson asked if the EIS will be covered as part of the Applicant's presentation. Attorney Heller stated that it has been

submitted in written form and asked if the Commission would like him to address it. M. Sigfridson stated that it is large and noted that the members of the public probably have not read it. She asked Attorney Heller to cover the highlights.

Attorney Heller explained that the EIS addresses the requirements of Section 5.8 of the Zoning Regulations:

SECTION 5.8

- 5.8.1 – Executive Summary
- 5.8.2 – Neighborhood Impacts

Attorney Heller displayed the Cover Sheet of the excavation and indicated the areas as he explained.

All truck traffic exiting the site would travel 1,000 feet on Maynard Road in Brooklyn before crossing the townline to Wauregan Road in Canterbury and will proceed to the Laframboise processing property in Canterbury. The Canterbury Agreement, an appendix to the EIS, has been negotiated between the earth product excavation haulers and processors, operating in the vicinity of Maynard Road and Wauregan Road, and the Town of Canterbury. The Agreement specifically limits truck traffic that can enter and exit the Laframboise processing property and how that truck traffic is distributed both easterly and westerly from the Laframboise site. Attorney Heller explained that Laframboise processing center is judicially authorized to process off-site material, so the amount of material being brought to that site for processing and ultimately leaving the site for market is going to be determined by market demand, but limited by the terms of the Canterbury Agreement. The Canterbury Agreement limits the distribution of existing traffic from the Laframboise processing center both easterly into the Town Brooklyn and westerly toward Route 169.

Ms. Roberson asked how many trips per day will be generated by this proposal. Attorney Heller explained that it is limited by the terms of the Agreement. He said that the question is unanswerable because, on a day-to-day basis, material may be brought in from different sites. He stated that the Canterbury Agreement limits it to 75 easterly and 75 westerly. He said that if this were the only site that material was being hauled from, it would be limited to 75.

C. Sczuroski asked if logs are provided. Attorney Heller stated that they are and that it is spelled out in the Canterbury Agreement.

Mr. Sczuroski asked about an additional 25 trips allowed per day if a 48-hour notice is given. Attorney Heller explained that there are some exceptions, such as for the Quinebaug Solar Project (if approved). Ms. Sigfridson stated that it can only take place up to ten times per year.

Mr. Sczuroski stated that an environmental report done from 2006 for the same traffic lanes, says that anything exceeding 50 trips is unsafe for local traffic and pedestrians. He said that the Canterbury Agreement exceeds that recommendation by 50 percent and has the capability of almost doubling the trips. He asked what has structurally changed on that road since 2006. Ms. Roberson stated that Mr. Sczuroski was referring to the State of Connecticut DOT Planner Review which is part of the Brooklyn Sand and Gravel, LLC, Eastern Connecticut Environmental Review Team Report No. 610, completed in February 2007, and entered it into the record. Attorney Heller read aloud, into the record, from the document. Attorney Heller stated that the statement in the Report is perhaps true, but that it had not been prepared by a traffic engineer, but for purposes of discussion, say that it is accurate. Attorney Heller explained that the proposed excavation operator, at the time of that ERT, was not a participant in the Canterbury Agreement, so 100 percent of those truck trips would have been in addition to what was authorized at that time. He stated that the Amended and Restated Canterbury

Agreement had just been negotiated and, if there was an agreement in place prior to that, he does not know what the terms were. He stated that there are now specific limitations that apply to all of the parties to the Canterbury Agreement, of which, the Applicant is one. Mr. Held noted that, when the Report was written in 2007, Laframboise and, he believes Rawson also, were operating several sites, so that Report was talking about truck trips in addition to what was generated by those. Mr. Held explained that, with this proposal, there is not going to be an increase in traffic. Attorney Madeline Smith, Corporate Counsel, Rawson Materials, explained that it will not be anything beyond what already exists on that Road. She explained that it is 75 trips per day and that is what they are using. She said that they will have to divert some of the trips that they are using to bring material in from other sites to bring material out of that site. It will be status quo on the road itself. It will just be a change in where the material is coming from to get to Laframboise. Mr. Roberson clarified that 75 round trips is actually 150 trips per day either from or to Laframboise. Attorney Smith stated that that is already happening. Ms. Roberson asked Mr. Held if he is a traffic engineer. Mr. Held stated that he does not specialize in traffic, but that he is capable of analyzing certain traffic things. Ms. Roberson stated that there may be a problem with traffic now and she asked if any traffic studies or if any counts of trucks had been conducted on Maynard Road. Mr. Held answered that they had not done any as part of this Application. Ms. Roberson read aloud from page 3 of the Environmental Impact Statement, "Based on visual observation of Maynard Road it is currently operating at an LOS of "A" which is characterized by the lowest level of traffic congestion." Ms. Roberson asked who did the visual observation on Maynard Road. Mr. Held answered that he did, on multiple occasions, but he did not know the dates or on which days of the week. When asked for how long, he answered, "for several hours." Mr. Held did not have any counts because he said that it was based on visual observation. Ms. Roberson continued to read aloud from the same paragraph of the EIS and then asked how many trips per day were used to determine that. Attorney Heller explained that this is totally missing the point because this Project will not generate one truck trip of traffic on that road that doesn't exist today. If the material doesn't come from this site, it is going to come from some other site. Ms. Roberson stated that asking for the number of trips per day is standard for any kind of development proposal. Mr. Held stated that the number of trucks is dictated by the Canterbury Agreement which is a maximum of 75 trips. Discussion continued regarding determining level of service which Mr. Held explained is based on congestion and delays in traffic and he suggested that the Consulting Town Engineer be asked to verify whether he would agree with the LOS of "A." Ms. Roberson stated that perhaps the residents present who live on that road, who have experienced the level of traffic, would like to comment. Ms. Roberson stated that the Applicant's representatives were not able to answer how many truck trips per day or how they came to these conclusions, specifically, with any kind of documented evidence. Attorney Heller disagreed, stating that the record will indicate that they very clearly delineated how many trips per day will be generated by this proposal, if approved (75 in and 75 out, on Maynard Road). He stated that truck traffic was the whole methodology and concern that lead to the Canterbury Agreement.

J. D'Agostino stated that he found inconsistencies in the EIS between what it says the POCD says and what the survey of the people of the Town said:

- Page 4 of the EIS – He read aloud regarding the POCD being largely silent regarding excavation of earth products. Mr. D’Agostino disagrees and stated that the Town is not silent on this subject.
- Page 7 of the EIS – Regarding minimum traffic impacts. Mr. D’Agostino stated that, according to the survey, 80 percent of the Town said that it is very important to limit the impacts of traffic.

Attorney Heller referred to, and explained, the introductory paragraph of Section 3 of the EIS (page 4).

Ms. Roberson stated that she does not disagree with Attorney Heller’s explanation of the introductory paragraph of Section 3 of the EIS. She noted that the entire POCD was included as an appendix to the EIS and that five separate items were commented on regarding consistency: Regional Cooperation; Economic Development; Finance; Open Space & Natural Resources Conservation; and Transportation. Ms. Roberson asked why there is no reference to the Land Use Policy Map which is what the PZC would look at when considering the appropriateness of the location. Attorney Heller stated that it is in the RA Zone and the Zoning Regulations specifically authorize excavation operations by special permit. Ms. Roberson stated that the location and the appropriateness of the site and all of its various characteristics is part of that determination and she displayed the Brookly Land Use Policy Map indicating the Maynard Road location. She indicated and explained the Town’s two Land Use Policy Categories for that site: The Conservation Corridor (which approximately half of the site is in) and the Moderate Critical Resource Value (which the entirety of the site is in). She read aloud regarding the two categories and also about co-occurring critical resources. Ms. Roberson feels that it is a failure to not include this in the Report.

Attorney Heller referred to Section 5.8.2.2 and he explained that they have highlighted areas in which they determined their Application to be consistent with those objectives in the POCD. He explained that the POCD itself is inherently inconsistent in some respects. Attorney Heller also explained that they have addressed economic conditions because it is mentioned in the POCD.

SECTION 4 – Environmental features, impacts, and mitigation.

- Mr. Held had discussed the methodology by which this excavation would be conducted, how erosion control will be dealt with (self-contained site, so there will be no erosion on the slopes). To be stabilized in accordance with the Regulations. Slopes not to exceed 30 percent. Decreasing some of the longitudinal length of storm water runs on the property mitigating against erosion on the site.
- Protection of wetlands: Incorporating buffers; Before the IWWC in the public hearing process.
- Proposal does not require any Town services, so to impact on Town services or water, sewer, or any other infrastructure requirements.

SECTION 6 – Vehicular traffic.

Mr. Sczuroski asked about hours of operation to which Attorney Heller stated that they are per the Regulations.

Mr. Sczuroski stated that it would be a truck every four-or-five minutes of a nine-hour day. Attorney Heller explained Level of Service (an engineering calculation)

and that at truck every four-or-five minutes would have no consequence on turning movements within the highway system.

Mr. Sczuroski asked if the Commission would be able to get copies of logs to be sure that the numbers are consistent with the Agreement. Attorney Heller stated that it could be a condition of permit.

- Vehicular traffic is governed by the Canterbury Agreement which limits the amount of truck traffic that can occur on Wauregan Road or Maynard Road, and whether it comes from this site or from other sites, that level is established by that Agreement and no additional truck traffic will occur as a result of excavation on this site.

SECTION 8

- No adverse impacts are anticipated as a result of the Project as designed.
- It is a temporary operation.
- Whether on this site or other sites in the region, the economy demands the production of this material. The Laframboise site is the regional processing area.
- They are not proposing any alternatives to the action because it is their position that there are no adverse impacts that result solely as a result of the permitting of the excavation of the site.

PUBLIC COMMENTS

Victoria Robinson, Wauregan Road, spoke about the history starting in the late 1990's with Laframboise, when there were only 26 loads per day. The situation got a lot worse in 2011 when other companies got involved (300-500 trucks per day). She Town Regulations were disregarded. She questions other entities mentioned by Attorney Heller because she said it is all Rawson. She said that the amended stipulated agreement has not been approved by a court. She said that they were supposed to purchase two properties in order to use the system of roads that they have installed, but they have not. She said that she used to count trucks and she would see 56 trucks in an hour. She said there is a lot of dust and noise and houses rattle. In 2013, the State of CT Truck Squad stopped 12 trucks and she explained violations. She said it is irresponsible to allow another permit. She submitted, for the record, the original Canterbury Injunction.

Linda Trahan, 26 Maynard Road, said the history goes back to 1989 and that it was 30 years ago that the gravel operations were limited. She is concerned with gravel operations that go on and on with no end in sight. She expressed concern that there was no traffic study as part of this Application. She feels there are more than 150 trucks already, but does not have a way to prove it. For thirty years, she has put up with noise, dust, straight pipes on trucks, 18-wheel trucks (not just triaxle) with no regard for the people who live in the area. She feels that although the Agreement is great on paper, it is not practical. Should the PZC approve the Application, Ms. Trahan asked for a comprehensive truck study and that permanent truck counters be placed at the beginning of Maynard Road and at the end of Wauregan Road. She stated the Agreement does not include Canterbury Sand and Gravel (Jolly) possibly in the future. She feels that it is a misstatement to say this truck traffic will not increase.

Marion Kervin, 48 Maynard Road, agrees with Ms. Robinson and Ms. Trahan. She is concerned with how narrow the road is, two trucks can pass by each other (one has to pull aside and wait while the other passes by). She is concerned with the speed limit which is 25 mph (sign covered by branches), but nobody adheres to it. She is concerned with noise by J-brakes, with children in the area, wells, and quality of life of the residents. She has been there 35 years and she feels enough is enough.

Corey Merow, a Biology Professor at UCONN, asked if the trucks were into and out of Maynard Road or into and out of a driveway. Ms. Trahan stated that they are allowed 150 in and out of the driveway out of Maynard/Wauregan Road (75 one way and 75 the other way). She said it depends on who is coming in to purchase material and take it back out.

Gail Donnell, 60 Maynard Road, explained that the driveway is in her front yard and she said that every truck will be going by her front yard. Her driveway is at the high point of the road and she is frightened when leaving her driveway. She said that it is a very dangerous place to be putting a new driveway. She is concerned with the upgrades to the road as it now has curbs, so you can't pull over to get out of the way of the trucks..

Ms. Roberson displayed an aerial photo and indicated properties and the boundary with Canterbury and the entrance to Laframboise. She indicated that trucks can travel in or out in either direction and there was discussion regarding the number of trucks. Ms. Sigfridson clarified that it is 150 total truck trips per day going in and 75 going out to the east and 75 going out to the west. (300 trips total). It does not specify where they may come from, but it does specify where they may leave to. Discussion continued.

Tim Foster, 77 Maynard Road, is opposed to the Application. He provided copies of, and read aloud, a statement that he had prepared which lists ten of his concerns: Home Value; Well; Narrow Road; Access to Maynard Road near top of a blind hill; School buses; Premature destruction of the road; Dust and Noise Pollution; State Endangered Species; Quinebaug Fish Hatchery, Quinebaug River Wildlife Management Area, 90 feet from the Quinebaug River; Huge decline in quality of life for residents of Maynard Road.

APPLICANT'S RESPONSE TO COMMENTS FROM THE PUBLIC

Attorney Heller briefly addressed the following and stated that he will have a more comprehensive response prepared for the next meeting that this Application is continued to:

- Property Values – He referred to an evaluation prepared by Robert Silverstein which is an Appendix to the EIS. He stated that this is the only competent professional evidence of impact on property values on the record before the PZC.
- Wells – He explained that this is a surficial excavation operation. The Applicant is not proposing to change the groundwater drainage patterns as a result of this excavation. They are not proposing to blast into bedrock, so there should be no impact to area wells, although Attorney Heller stated that he is not a hydrogeologist. He stated, however, if there were an impact, the Applicant is liable.
- Access at the top of a blind hill – Part of the Site Plan that has been presented has a Sight Line Demonstration Plan prepared by a Professional Engineer that demonstrates the sight lines both to the east and west, both for passenger vehicles and for trucks. The two sight line demonstrations indicate that there is adequate site stopping distance to meet the design standards for the speeds on that road.
- They are not adding 150 trips per day to the road system. The number of truck trips on that road is governed by the Canterbury Agreement. If this site is approved, truck trips coming from this site, will not increase the number of trucks which are allowed, under the Canterbury Agreement, on the road and, in fact, may significantly decrease the longitudinal level of travel along the road as a result of this proximity to the Laframboise processing facility.
- Noise Pollution – If there is a noise issue, there are regulatory requirements in the Regulations. If found that the Applicant were not in compliance with the Regulations, this would be an enforcement issue.
- Threatened/Endangered Species – They have provided an opinion that, while there may be other regulations that protect threatened or endangered species, that is not a zoning function of the enabling legislation.

Ms. Sigfridson asked where the Commission stands regarding a hydrogeologist. Ms. Roberson stated that the IWWC has hired GZA (which the Applicant approved) to look at impacts to groundwater as it relates to the IWWC's regulated area (wetlands and watercourses). The PZC does not have a hydrogeologist for this Application. Ms. Roberson explained that it is within the realm of possibility for the PZC to hire a hydrogeologist to examine the issues that the PZC has jurisdiction over: human water supply. Does the proposed excavation have the potential to impact the neighbors' wells? There was agreement among Commission Members that a hydrogeologist is needed for this Application. There was discussion as to whether GZA which was

retained by the IWWC (for this property) could expand their services to include the PZC's request for service. Attorney Heller asked that there be a request for proposals as GZA's cost is about five times higher than others. Ms. Roberson suggested taking another step through the scope of work so that whomever is hired will know that it will be expected that they attend at least one meeting and that a written report will be expected. Attorney Heller said that this should be a desktop analysis/water budget analysis because they will not be blasing or drilling into bedrock. Ms. Sigfridson stated that they will put out an RFP. Ms. Roberson will consult with Attorney Heller once the proposals are in and she will share proposals with Commission Members via e-mail. Ms. Sigfridson and Attorney Heller agreed with this.

Ms. Roberson noted that the following had been received (as part of the record):

- Marion Kervin, who spoke earlier (see above under **PUBLIC COMMENTS**), had submitted a letter to Jana Roberson, via e-mail, dated January 7, 2020 (included in packets to Commission Members).
- Brooklyn Conservation Commission letter, dated January 8, 2020, which includes a list of their recommendations. J. Roberson read aloud from the Preliminary Assessment for the NDDb (dated November 12, 2019) which was attached to their letter. Also attached is a follow-up letter from Dawn McKay, Environmental Analyst at the DEEP (dated January 8, 2020) who recommends that a field study be done to determine whether the suspected species are present on the property or not. Ms. Sigfridson asked that the Town Attorney be consulted for his opinion as to whether this is within the PZC's authority. Ms. Roberson stated that she has an e-mail from the Town Attorney (not included in packets to Commission Members) which concurs with Attorney Heller's letter regarding the PZC's jurisdiction and the lack of any mention of wildlife species or habitat in Section 8-2 of the Connecticut General Statutes. She added that the Town's POCD has identified those areas as worthy of protection for wildlife resources. The Commission Members asked about their jurisdiction.

Attorney Heller explained that the PZC's jurisdiction is very simple: The PZC is administering an application under the Municipal Zoning Regulations, period. The POCD is an advisory document to guide the PZC in what regulations the PZC may want to adopt over the ten-year period of the Plan. He stated that the PZC is required to administer this Application under the Zoning Regulations that were in effect on October 10, 2019.

Attorney Heller added that, under the enabling Statute, the consideration of those factors is beyond the Zoning function and the PZC has no authority to consider it.

Ms. Sigfridson stated that the PZC needs to be careful to do things the right way as the Members are aware that their decisions can be overturned. Ms. Roberson stated that she is not suggesting otherwise, but she wants the Commission to be aware that they deserve to have full understanding of the site and the resources it contains, both cultural and natural.

There was discussion regarding a site walk. Attorney Heller stated that the Applicant would like to accompany the Commission on the site walk and he suggested that a site walk for the Rukstela site be scheduled back-to-back with this one. It was decided on Saturday, January 11, 2020, at 1:00 p.m., meeting at the entrance on Maynard Road (near the power lines) and to walk both sites.

PUBLIC COMMENTS

Corey Merow, Biology Professor at UCONN, asked about the forum to speak about endangered species if not with the IWWC or the PZC. Ms. Sigfridson explained that the PZC only has the authority to do what the State Statutes say it can do.

Victoria Robinson, submitted, for the record, a copy of the original temporary injunction containing information regarding history of the road, the residents, property values. Ms. Robinson feels that it is pertinent information.

Ms. Sigfridson stated that a comment that Victoria Robinson had been made regarding the Agreement that has been made a part of the EIS not being approved or not being the Operating

Agreement will be addressed at a future meeting. Attorney Heller stated that he is not representing the hauling parties in that Agreement, but he will get an answer. Attorney Heller explained that the Agreement is fully executed. He does not know whether or not it has been entered as a judgment of the court, but it is a contractual Agreement between the Town of Canterbury and the hauling parties, so it is enforceable.

Corey Merow, Biology Professor at UCONN, commented that blue-spotted salamander is about a mile away and he explained that it will be difficult to find the spadefoot toad because it is an explosive breeder.

Troy Sposato, 192 Wauregan Road in Canterbury, directly across from Laframboise, stated that there was a previous agreement with Rawson to purchase his house. Mr. Sposato explained that he is an intervener involved with the Agreement and he stated that he had not been contacted about any changes, so does not believe that the document has been executed. He has an attorney looking into the situation. Attorney Heller stated that, as it stands now, it is executed by all of the parties to the document which makes it an enforceable contract. Attorney Heller explained that he is not privy to what the litigation is and, if or what, is required to be entered as a stipulated judgment or modified, stipulated judgment in court. He is not involved in it, but he said that he would get an answer. Madeline Smith, Corporate Counsel, Rawson Materials, clarified that it is a fully-executed document, but they are waiting for an exhibit to be attached so they can enter into the court.

Victoria Robinson said that she had asked the ZEO/Land Use Officer of Canterbury about this and she said that it had not been submitted in the court and it is still a draft at this time.

C. Kelleher stated that there was a lot of discussion regarding traffic and she asked whether a traffic study should be done. She is interested to see what the count is now. Mr. D'Agostino voiced agreement. There was a consensus of the Commission to have a traffic study. It was decided that a vote will be taken when it comes up on the Agenda.

Motion was made by C. Kelleher to continue to public hearing for **SPG 19-003** – Gravel Special Permit, Strategic Commercial Realty, Inc, d/b/a Rawson Materials, 30 acres on south side of Maynard Road (Map 29, Lot 5) in the RA Zone; Excavation of approximately 1.2 million cubic yards of sand and gravel, to Tuesday, January 21, 2020, 6:30 p.m., at the Clifford B. Green Meeting Center, 69 South Main Street, Brooklyn, CT. Second by J. D'Agostino. Motion carried unanimously (6-0-0).

2. **SPG 19-004** – Gravel Special Permit, Strategic Commercial Realty, Inc, d/b/a Rawson Materials, 200 acres + on the south side of Rukstela Road (Map 21, Lot 7; Map 30, Lot 16) in the RA Zone; Excavation of approximately 1.9 million cubic yards of sand and gravel.

J. Roberson provided the following additional information that had not been included in packets to the Commission Members (this information was also provided to Attorney Heller and David Held):

- Walk-thru based on the EIS
- A sheet entitled Record Documents pertaining to SPG-004 (dated 1-8-2020). This is a list of all of the record documents that had been received and documents that are relevant to this Application.
- Three sheets entitled Discussion Matrix for Maynard Road Gravel Proposal SPG 19-004 (a guide for discussion regarding the Environmental Impact Statement (EIS) for the Commission Members to follow).

Attorney Harry Heller, 736 Route 32, Uncasville, CT, represented the Applicant. Also present on behalf of the Applicant: David Held, Design Professional Engineer, Provost and Rovero; Kenneth Faroni, Certified Planner, (assisted with the preparation of the EIS which was required by vote of the PZC at its November 2019 meeting - Zoning Regulations, Section 5.8); and Madeline Smith, Corporate Counsel, Rawson Materials.

Attorney Harry Heller gave an overview:

- Excavation of approximately 1.9 million cubic yards of material from a roughly, 30-acre portion of two parcels comprised of approximately 200 acres.
- Property is located on the northerly side of Wauregan Road in the Town of Canterbury, but the property on which excavation is proposed is located entirely within the geographical limits of the Town of Brooklyn.
- Excavation of earth products is an enumerated special permit use in the RA Zone, governed by the provisions of Section 13 of the Zoning Regulations with respect to the specific evaluation criteria and Section 5.7 with respect to the general evaluation criteria.
- The special permit would be for a temporary use of the land. They anticipate the excavation of this parcel to its completion will take approximately ten years.
- In conjunction with this Application, they have two identified, non-contiguous excavation areas designated as the easterly excavation area and the westerly excavation area on the Site Development Plan.
- They are proposing to create ponds in both excavation areas.

Attorney Heller addressed the following:

SECTION 13:

- Section 13.5 – Evaluation Criteria
 - 13.5.1 - The Commission has to approve excavation below the groundwater table, otherwise the Applicant is required to maintain the five-foot separating distance above water and six feet above ledge.

Attorney Heller explained that this site was previously granted a special permit for earth product excavation and approximately 500,000 – 600,000 cubic yards of material has been excavated and removed from the easterly excavation area under that permit. Activity has been conducted in a portion of the westerly excavation area. He stated that the law in Connecticut is that if a special permit was issued by the Commission, that you are required to, again, issue a new special permit unless there has been a significant change in circumstances from the circumstances that existed at the time that the original permit was issued (this could be a regulatory change or a change in some physical characteristic of the property). The Applicant submits that there has been no such change, but Attorney Heller stated that, ultimately, this is a factual determination that the Commission will need to make. Sczuroska asked if the ponds were part of the previous special permit. David Held stated that they were and they were proposed in, essentially, the same fashion. Ms. Roberson asked what year that special permit had been granted. Attorney Heller stated that they would get the answer and he continued:

In acting on a special permit, the Commission is acting in an administrative capacity and there are three determinations that they must make in evaluating the special permit application:

- That the use (excavation of earth product) is a use allowed by special permit in the zoning district. Excavation operations, including processing, are special permit enumerated uses in the RA district.
- That the standards in the Regulations (Section 13) are satisfied.
- The protection of public health, safety, convenience, and property values (general evaluation criteria contained in Section 5.7 of the Zoning Regulations). An EIS has been submitted, as required by the PZC, under Section 5.8.

Attorney Heller stated that a memo from J. Roberson had been received, at approximately 5 p.m. today, questioning whether or not the Application failed to list a parcel of land on which the activity is proposed. The overall map was displayed and Attorney Heller indicated the two parcels that are proposed for excavation in conjunction with this Application. He indicated the Pinedale haul road which extends from the easterly excavation area out to Wauregan Road and then into the Laframboise processing center. He indicated the Canterbury/Brooklyn town line. Attorney Heller stated that the Application, as submitted, is complete. He said that they are proposing no excavation on the parcel questioned by Ms. Roberson, they are proposing no improvements to the existing Pinedale haul road which provides access to that site. There is no activity proposed on that parcel other than the utilization of the Pinedale haul road for access to the site. He said that there is nothing in the Regulations that would require that parcel to be included as a component of the Application for the use of an existing road. He said that if it were argued that there were a Zoning function to evaluate the intersection of the haul road with Wauregan Road, it is located in Canterbury, so it is not in the jurisdiction of the Brooklyn PZC. Ms. Roberson noted that there is a 150-foot section of road on the wedge-shaped parcel in Brooklyn being used as an access. Attorney Heller agreed and explained that it is an existing, private road and that they are not proposing any improvements to it.

Attorney Heller spoke of the importance of earth products as they are the foundation of the national economy. Marketable earth products are becoming a scarce resource in the State of Connecticut. He referred to the EIS (submitted per Section 5.8) which identifies that there is an abundance of these resources located on this property, in the vicinity of the Quinebaug River. These valuable mineral resources, needed to sustain the everyday economy of this Country and this State, should not be wasted. The POCD identifies considerations of the regional economy. Aggregate, because of the weight, is very costly to transport, therefore, it is important to identify sources that are both in close proximity to the locations where they can be processed and to the markets where they will be sold.

Attorney Heller explained that in evaluating this Application, the Commission is required, first, to consider the specific evaluation criteria in Section 13.5 of the Zoning Regulations to determine whether the Application satisfies those requirements.

- Attorney Heller indicated the two parcels, on the map, which are located roughly ½ mile northerly of Wauregan Road, approximately 1800 feet southerly of Rukstela Road, there are no residences within 1500 feet of either excavation area, and the closest structure is the Town Garage which has an excavation operation associated with it.
- The Applicant has requested that the Commission approve a pond. The borings that have been conducted indicate that there is valuable aggregate located to a depth of approximately 30 feet below the groundwater elevation. They are requesting permission to excavate into the groundwater table in order to remove that material. By creating two ponds, as indicated by the EIS, the Applicant will be diversifying the habitat of this area and creating both an open water environment and a successional growth environment which will differ from the monoculture that exists there now. Currently, the property is utilized for the cultivation of corn and with any farming activity, there are erosion control problems that will not exist in conjunction with this Project once the closure plan has been implemented.
- Both easterly and westerly excavations have been designed as self-contained excavations so that the operation will be conducted completely

interior to the exterior slopes of the Project, so any erosion that occurs while the Projects are ongoing will be contained within the site itself.

- Test pits to determine the groundwater elevation of the site were done by Provost and Rovero.
- Setbacks – This property is in a remote location buffered by an expanse of vegetated area from any neighbors or any buildings or anyone that it could possibly have an adverse impact on. Complies with setback requirements in Sections 13.5.2 and 13.5.2.1.
- 13.5.3 – Slopes. The possible future use for this area is conservation, so they are proposing to fully stabilize the site, other than the open water area, upon completion of the excavation. To be stabilized in phases as the excavation occurs.

Attorney Heller indicated the areas on the map and explained the phasing in order to maintain the integrity of the haul road through the site (Mr. Held will explain in more detail.)

They have no interface of the proposed excavation with any public road in the Town, so the ten-percent requirement is not applicable. The final stabilized slopes on the site have been graded, by the Engineer, to a maximum of 30 percent to comply with the requirements.

- 13.5.4 - Not applicable. Not proposing any processing. All material from this site will be hauled through the Pinedale haul road into Canterbury where it will interface with Wauregan Road directly across the street from the southerly portion of the Pinedale haul road which leads into the Laframboise sand and stone processing center. There will be a perpendicular crossing of Wauregan Road with truck traffic out of this site in the Town of Canterbury, but there will be no longitudinal use of Wauregan Road or Maynard Road in conjunction with the hauling of earth product to the Laframboise site. Will not be using the existing entrance. Ms. Roberson indicated the route on the map and where the trucks will cross over the road in Canterbury.
- 13.5.4.2 - Not proposing any material excavated off-site and transported to the site.
- 13.5.4.3 - Not applicable. Not proposing any processing. Traffic patterns, traffic routing plan, traffic analysis. They are not proposing any vehicle trips on any Town of Brooklyn road in conjunction with this Application other than the four employees who will customarily be operating the site. All truck traffic entering and exiting the site will be in the Town of Canterbury and will be governed by the Canterbury Agreement (attached as an exhibit to the EIS).
- 13.5.5 - Not applicable. Not proposing any fixed or portable machinery on the site.
- 13.5.6 - Attorney Heller referred to the Area Plan (an exhibit to the Canterbury Agreement) which was displayed and he explained that the site is remote from Wauregan Road, remote from residences in the area (near residence 800 feet on Allen Hill Road) so there is no possibility of impacts from noise or dust. Both easterly and westerly excavation areas are proposed to be conducted entirely internal to the excavation with the pull-down methodology of pulling down the slopes into the excavation floor so that the excavation will be conducted in a bowl which will mitigate against any migration of noise or dust.
- 13.5.6.1 – Attorney Heller stated that the Applicant is required to comply with this Regulation.
- 13.5.6.2 – This will be accomplished either by periodic applications of calcium chloride or by watering during dry periods.
- 13.5.7 - Applicant is required to comply with hours of operation.

- 13.5.8 - Attorney Heller stated that, because of the remoteness of both the easterly and westerly excavation sites, they are far remote from any receptor that could be bothered by operations on this site.
- 13.5.9 – Incorporated into the Erosion and Sedimentation Control Plan on the Site Development Plan.
- 13.5.10 - Applicant is required to comply with this Regulation.
- 13.5.11 - Not proposing to remove any topsoil from the site. Topsoil to remain on the site for use in final stabilization of the site. They are proposing to bring silt in for final stabilization on the embankment areas on the site to retard the rapid infiltration of surfacial water which would compromise the ability to get good growth on the banks.

SECTION 5.7 - General Evaluation Criteria

- 5.7.1 - Both easterly and westerly excavation areas are located interior to larger parcels of property. The property surrounding the proposed excavation area is an agricultural, undeveloped use. The temporary operation proposed for the two excavation areas and the diversification of the habitat that will result from the closure of the Plan is not going to be out of harmony with the neighborhood or impair the orderly development of the Town.
- Attorney Heller noted that the area surrounding this property and including portions of these properties is currently the subject of an Application that is before the CT Siting Council for the Quinebaug Valley Solar Project and, if approved, the use surrounding this property would be a solar array which is an inert use.
- 5.7.2 - If the Solar Project is approved and is developed, this Applicant will have an open-space use as part of their closure plan which will be surrounded by the solar array, both being inert uses which would be in harmony with each other.
- If the solar array is not approved and built, there is currently agricultural land which surrounds the two proposed excavation areas, so the closure plan for this property, which have a diversity of habitat with open water and scrub-shrub successional growth, will provide a diversity of habitat that currently does not exist in this area where you have the cultivation of corn, so it complies with that standard.
- 5.7.3 - This is a remote site, removed approximately ½ mile from Wauregan Road and about 800 feet from Rukstela Road and because of its remoteness, it is of sufficient size to accommodate the use. When the Commission evaluated the prior special permit Application for this property, they found that it was consistent with the requirements of the Regulations. Nothing has occurred in the neighborhood or in the Regulations that would prevent the Commission from making the same findings at this time.
- 5.7.4 - Not applicable. Not providing any of the threshold characteristics that would require a traffic study on this Application.

SECTION 5.8 - Attorney Heller stated that in conjunction with the vote of the Commission at its November 2019 meeting, they have prepared and submitted, as part of the record, an Environmental Impact Statement for this Project.

In conjunction with the request from the Wetlands Enforcement Officer, David Held had provided information concerning a pond as a closure plan for an excavation operation with photos of what it might look like. Attorney Heller introduced into the record (in addition to what had been submitted with the EIS) four photos of a pond in Killingworth (approximately 40 acres in size) to show the diversity of habitat that can

result from a pond being a component of a closure plan and because compatibility and harmony with the neighborhood is a requirement of the Regulations. Attorney Heller commented that, in his 45 years of representing aggregate producers, he has seen that there are aggregate producers who know how to do it right.

ENVIRONMENTAL IMPACT STATEMENT:

Section 1.1 – Project Summary

- Two excavation areas: Westerly, 11.1 acres, proposed excavation 725,000 c.y. of structural material; Easterly 18.7 acres, proposed excavation 1.22 million c.y. of earth product material.
- Permanent ponds proposed in both excavation areas.
- Prior special permit granted for excavation in these areas.

Section 2 – Traffic

- No proposed traffic other than possible traffic generated by four employees entering and exiting on a daily basis.
All truck traffic exiting site by way of the Pinedale haul road to the processing center on the southerly side of Wauregan Road.
Evaluation of Level of Service – Conclusion by Mr. Held was no impact on LOS. Currently LOS “A” on Wauregan Road.
- Harmony with surrounding development – The site is remote from any surrounding development and is currently surrounded by agricultural or wooded uses on all sides, it is remote from any residences (the nearest structure is the Town Garage). There is a possibility of a solar array being constructed. This proposed use would be in harmony with it whether it remains an agriculture or vegetated use or with the solar array. Both are inert uses.

Attorney Heller corrected a mistake that he had made earlier. The closest residential development is at 777 Allen Hill Road which is 1500 feet southeasterly from the easterly excavation area (double what he had said earlier).

- The topography methodology of the excavation of these sites is self-contained, so there are no erosion or sediment control problems. There is visual screening based upon the vertical divide between the existing topography and the area where the excavations will be conducted which will mitigate against any noise or dust issues.
- Effect on Property Values – Attorney Heller referred to the Matched Pair Analysis (an appendix to the EIS) prepared by Robert Silverstein, Member of the Institute of Appraisers, who concluded that there would be no adverse impact on property values as a result of this operation.
This Project, because of its remoteness, will not impact overall neighborhood stability.

Section 3 – Consistency with the objectives of the POCD

The POCD is an advisory document to guide development in the Municipality. There are areas of the POCD which can be read in a conflicting manner with each other. In the EIS, they indicated ways in which they, in their collective professional opinion, believe that this proposal is consistent with principles that are enunciated within the POCD.

Section 3.4

- Open Space and Natural Conservation

By creating the ponds, they are creating an open-water environment that does not currently exist that would be surrounded by a successional growth environment. This will diversify the habitat which currently exists on the property and will result in the introduction of a suite of flora and fauna that currently does not exist on the property.

Vehicular Traffic.

No introduction of any truck traffic onto Minicipal highways within the jurisdictional limits of the Town of Brooklyn.

Pedestrian Traffic

Trucks will be crossing perpendicular on Wauregan Road into the processing center and will not access, in any manner, public roads in the Town of Brooklyn.

The proposal will not have any affect on Town services such a police, fire, schools, recreation. It is a use that does not generate the need for any Town services.

They do not believe that there are any adverse impacts as a result of this operation on this site. They feel that it is an ideal location for a excavation operation because it has high-quality aggregare material and it is so remote from any receptor and can be conducted without impacting any neighbor.

They have not considered any alternatives to the proposed action because it is their collective professional opinion that the Application does not involve adverse impacts that need to be mitigated.

David Held, Professional Engineer and Land Surveyor with Provost and Rovero, gave a PowerPoint presentation explaining/orientating each sheet of the Site Plan:

- Sheet 1 – Cover Sheet
- Sheet 2 – Existing Conditions Plan showing topography. Mr. Held indicated areas.
- Sheet 3 – Overall Site Plan showing phasing. Mr. Held indicated areas.

Mr. Held explained that their intention, because of the way the the Pinedale haul road goes through the easterly area, is to finish the work on the westerly side before work is started on the easterly so that they can maintain a continuous haul road to get the material out.

Mr. Held indicated and explained the areas of phasing in the westerly excavation area:

Phase One – To the south.

Phase Two – Further to the west.

Phase Three – To the north.

Phase Four – Construction of the pond after the side slopes are established and the hole is there.

Mr. Held explained that they came up with the proposed phasing because they did not want to disturb the area to the north which is currently agricultural land that has not been stripped or excavated, so that waits until last. Their intention is to finish up the areas that have been previously disturbed

Mr. Held indicated and explained the areas of phasing in the easterly excavation area:

Starting in the north and working their way to the south, out of the site, to maintain a continuous haul path to the get the material out.

Mr. Held indicated Cross Sections A and B on the westerly area and Cross Sections C and D on the easterly area.

Close-up views, at 40 scale, of excavation and grading.

Mr. Held explained and indicated areas including: Canterbury/Brooklyn townline; Pinedale haul road as it goes into the easterly excavation area; fueling pad locations for both easterly and westerly sides; Cross Section AA; anticipated water surface elevation; existing and proposed grades; proposed pond depth of 25 feet (based on boring data); Mr. Held noted reverse-slope benches just above where the water elevation would be for both the easterly and westerly areas. He indicated erosion control notes and details, excavation notes and details; hours of operation; specific narrative regarding how to sequence the phasing; and how to restore this site.

Restoration Plan:

Pond in westerly area 6.4 acres in footprint.

Pond in easterly area 8.1 acres in footprint.

Mr. Held explained that by the time the ponds are under construction, the side slopes draining down to them will be substantially stabilized and growing vegetation. Their intention is to establish the floor of the excavation four-to-five feet above the groundwater elevation. When each phase is completed, the permanent side slopes that aren't going to be impacted by the pond excavation will be final graded and restored with vegetation and they would then move to the next phase. Mr. Held explained that the Town, from the enforcement standpoint, is going to have an extended period of time to view the phasing/reclamation and if there are issues, there will be ample opportunity to address them. By the time the ponds are finished (which will take several years), it is going to be a finish Project, as a whole. Mr. Held explained that a pond would probably be started in year three or four.

There are no Sight Line Demonstration Plans for this Application as there is no truck traffic proposed on public roads.

Mr. Held stated that operation would probably begin during the next year following getting the permit.

Ms. Roberson stated that she has the same concerns that she has for SPG 19-003: EIS; Traffic Analysis that was done (she suggested that if hiring a Traffic Engineer, to include the scope for both Projects); they did not include any reference to the Land Use Policy Map in the Section on the POCD; the west pit is located in an area described as having a high critical resource value and those areas should be targeted for conservation or environmentally-friendly development; the east pit is located in a area with moderal critical resource value on the Land Use Policy Map of the POCD and that was no reference to that.

Ms. Roberson asked if any archeological surveys had been conducted of this property. Attorney Heller stated that an extensive archeological investigation in this area has been done by Heritage Consultants in conjunction with the Quinebaug Valley Solar Project and that information had been submitted. The information indicates that there is one area of concern which is just at the fringe of the westerly excavation area. As a result of that concern it was recommended that a Phase 2 investigation be done. A Phase 2 was done by Heritage and there was a determination that there were no significant cultural resources. Ms. Roberson stated that the solar panels are not being located in the same areas that are being

graveled. Attorney Heller explained that they had originally contemplated backfilling the westerly excavation area and that was going to be part of the solar project. They made a strategic determination to abandon that when the Application was filed. Ms. Roberson asked if the cultural resource survey conducted any tests in the areas that are proposed to be gravelled. Mr. Held stated that significant testing had been done in the westerly side, but in the areas that were previously excavated and disturbed no tests were done because there is no chance for cultural resources to be there. Mr. Held explained that they tested in the areas identified with a likelihood to find resources and he indicated some of the areas that had been investigated and they concluded that there was nothing significant that would render the area (Phase 3 in the westerly excavation area) eligible for inclusion on the National Register of Historic Places. He indicated the area of concern where the Phase 1B and Phase 2 investigations were conducted where they found three different areas with fire pits of a Native American origin (dating back 1,000+ years). They excavated that area and cataloged the resources that they found and concluded that the resources that they found were not significant enough to warrant inclusion on the National Register of Historic Places. Ms. Roberson stated that she had seen on the CT Siting Council website that three eastern spadefoot toads were captured on this property.

Ms. Roberson noted the following documents that are also part of the record:

- Letter from the Brooklyn Conservation Commission (dated January 8, 2020), in which they recommend looking at archeology, wildlife biology, hydrogeologist.
- Follow-up letter from Dawn McKay, DEEP, with recommendations as per the NDDB.
- Letter from David Held with Management Summary and Full Reconnaissance Survey.
- Letter from Syl Pauley
- Response Letter from David Held to Syl Pauley addressing Mr. Pauley's comments.

Mr. Held stated that Mr. Pauley's biggest concern was regarding stagnation of the water in the ponds which Mr. Held thinks may be why Ms. Washburn had asked him for information on other ponds that had been successfully created as part of gravel operations. He said that Rawson Materials has created ponds very similar in nature and scope to this on other gravel excavation sites and there has not been any concerns or problems with stagnation or anything of that nature. Ms. Roberson stated that she didn't see any in the EIS that were similar to this one. She asked Mr. Held to provide a project that is similar. Mr. Held explained that the westerly side is not as extreme as it may seem regarding side slopes and he explained that when you look at subsurface conditions, it's pretty similar. Ms. Roberson stated that some of the concern is safety and erosion and siltation on the slopes. Mr. Held explained that it is a minor concern because the only place it can go is back into a previously excavated area. The worst condition that could possibly happen is if vegetation failed on the slopes after looking at it for ten years before figuring out that it isn't working, which would only happen if there is absolutely no effort to restore those slopes. Attorney Heller stated that he assumes that, as part of this Application, the Commission is going to require an erosion and sediment control bond. He said that the Commission will have a significant period of time to monitor vegetation of the slope while the bond is still in place.

Ms. Roberson stated that she does not believe that the Applicant has addressed alternatives or mitigation.

PUBLIC COMMENTS

Victoria Robinson, Wauregan Road, stated that where the haul road comes in to Canterbury, it goes between to houses, one where three little girls live and the trucks come within fifteen feet of the house and the other house belongs to Troy Sposato (who spoke earlier under SPG 19-003). She explained that when their previous permit ended in a cease & desist, they decided to go through Canterbury and that is when she ended up with 500 trucks per day. She commented that the towns should work together on this to look out for the residents.

Ms. Roberson stated that the Statutory requirements were fulfilled and that she had spoken to Melissa today.

Corey Merow, Biology Professor at UCONN, stated that the eastern spadefoot toad lives underground. Mr. Merow what sort of management is proposed with the restoration. He suggested a regionally natural habitat, not just self-contained.

David Held stated that they suggest a mix of warm-season grasses for gravel slopes, which is more successful in that environment.

Comments from Attorney Heller:

- He stated that they are not utilizing Brooklyn Roads. The intersection of the Pinedale haul road with Wauregan Road is not within the jurisdiction of the Brooklyn PZC,
- The PZC has an opinion from the Town Attorney on what the PZC can consider regarding threatened and endangered species and species of special concern under the Zoning power as enabled by the Connecticut legislature, but we continue to talk about it. He stated that the PZC is going down a very dangerous path.
- He disagrees that the issues of consistency with the POCD have not been addressed. The proposal for this property with the creation of the open-water habitat and successional growth areas which are going to invite a different suite of fauna and flora is going to be more environmentally compatible than the mono-culture cultivation of corn on this property. He also noted, the elimination of the erosion concerns that occur with farming without a winter cover crop. So, it is consistent, in that manner, with the POCD. He said that this is an evaluation of an administrative permit application under the Zoning Regulations and it needs to be considered under those parameters that the PZC has established.

J. D'Agostino stated that he will give ample argument as to why the proposal, as presented by Applicant's representatives, is inconsistent with the POCD. Attorney Heller explained that the vote of the Commission to require that the Applicant submit an EIS requires that information be provided on the manner in which they deem the Application to be consistent with the POCD. There are inconsistencies within the POCD itself. They have identified is where they have consistencies.

Motion was made by C. Kelleher to continue to public hearing for **SPG 19-004** – Gravel Special Permit, Strategic Commercial Realty, Inc, d/b/a Rawson Materials, 200 acres + on the south side of Rukstela Road (Map 21, Lot 7; Map 30, Lot 16) in the RA Zone; Excavation of approximately 1.9 million cubic yards of sand and gravel, to Tuesday, January 21, 2020, 6:30 p.m., at the Clifford B. Green Meeting Center, 69 South Main Street, Brooklyn, CT. Second by A. Tanner. Motion carried unanimously (6-0-0).

d. Other Unfinished Business:

1. **SPG 19-003** – Gravel Special Permit, Strategic Commercial Realty, Inc, d/b/a Rawson Materials, 30 acres on south side of Maynard Road (Map 29, Lot 5) in the RA Zone; Excavation of approximately 1.2 million cubic yards of sand and gravel.

The Application was continued (see Item VI.c.1).

Motion was made by J. D'Agostino to authorize preparing a scope of services and sending out an RFP for the purpose of hiring a hydrogeologist for **SPG 19-003** – Gravel Special Permit, Strategic Commercial Realty, Inc, d/b/a Rawson Materials, 30 acres on south side of Maynard Road (Map 29, Lot 5) in the RA Zone; Excavation of approximately 1.2 million cubic yards of sand and gravel. Second by C. Kelleher.

There was discussion regarding which Application this if referring to and whether ask for scope of work to be expanded for the RFP's. There was discussion regarding a traffic engineer also.

Motion carried unanimously (6-0-0).

Motion was made by J. D'Agostino to hold a site walk for **SPG 19-003** – Gravel Special Permit, Strategic Commercial Realty, Inc, d/b/a Rawson Materials, 30 acres on south side of Maynard Road (Map 29, Lot 5) in the RA Zone; Excavation of approximately 1.2 million cubic yards of sand and gravel, on Saturday, January 11, 2020, at 1:00 p.m. Second by A. Tanner. There was discussion as the Commission Members want to visit the SPG 19-004 site also.

Motion was made by A. Tanner to amend the Motion hold a site walk for **SPG 19-003** – Gravel Special Permit, Strategic Commercial Realty, Inc, d/b/a Rawson Materials, 30 acres on south side of Maynard Road (Map 29, Lot 5) in the RA Zone; Excavation of approximately 1.2 million cubic yards of sand and gravel, on Saturday, January 11, 2020, at 1:00 p.m., to also include holding a site walk for **SPG 19-004** – Gravel Special Permit, Strategic Commercial Realty, Inc, d/b/a Rawson Materials, 200 acres + on the south side of Rukstela Road (Map 21, Lot 7; Map 30, Lot 16) in the RA Zone; Excavation of approximately 1.9 million cubic yards of sand and gravel. C. Kelleher seconded the amendment to the motion. No discussion. Amendment to the Motion carried unanimously (6-0-0).

Main Motion, as amended, carried unanimously (6-0-0). It was stated that everyone would meet at Maynard Road at 1:00 p.m.

Motion was made by J. D'Agostino to hire a traffic engineer, agreeable to the Applicant, for **SPG 19-003** – Gravel Special Permit, Strategic Commercial Realty, Inc, d/b/a Rawson Materials, 30 acres on south side of Maynard Road (Map 29, Lot 5) in the RA Zone; Excavation of approximately 1.2 million cubic yards of sand and gravel. Second by E. Starks. Motion carried 5-1-0. M. Sigfridson was opposed as she believes that there should be no increase to the current traffic scenario, therefore, she does not feel that it is necessary.

There was discussion. C. Kelleher stated that she wants to know the current traffic situation.

2. **SPG 19-004** – Gravel Special Permit, Strategic Commercial Realty, Inc, d/b/a Rawson Materials, 200 acres + on the south side of Rukstela Road (Map 21, Lot 7; Map 30, Lot 16) in the RA Zone; Excavation of approximately 1.9 million cubic yards of sand and gravel.

The Application was continued (see Item VI.c.2).

M. Sigfridson suggested waiting to see the amended proposals for the hydrogeologist (which would include the expanded scope of services) unless using language to select a firm that would be mutually acceptable to the Applicant and the Commission (acting through its Executive Committee). Discussion ensued regarding why a hydrogeologist would be needed.

M. Sigfridson referred to the letter from the Conservation Commission which recommends hiring a hydrogeologist. Discussion continued.

Motion was made by A. Tanner to re-submit the request for proposals for a hydrogeologist to include the revised scope of services for both **SPG 19-003** – Gravel Special Permit, Strategic Commercial Realty, Inc, d/b/a Rawson Materials, 30 acres on south side of Maynard Road (Map 29, Lot 5) in the RA Zone; Excavation of

approximately 1.2 million cubic yards of sand and gravel, and **SPG 19-004** – Gravel Special Permit, Strategic Commercial Realty, Inc, d/b/a Rawson Materials, 200 acres + on the south side of Rukstela Road (Map 21, Lot 7; Map 30, Lot 16) in the RA Zone; Excavation of approximately 1.9 million cubic yards of sand and gravel. Second by A. Fitzgerald.

There was discussion regarding whether separate motions should be made if the same Applicant. There was also discussion regarding that C. Sczuroski had not seated as a Voting Member for this meeting.

Motion carried unanimously (6-0-0).

3. **GBR 19-001**- Gravel Bank Renewal, Sansoucy Quarries (Paul Sansoucy), 45 acres on east side of Pomfret Road (Map 26, Lot 19A), renewal of 2014 Gravel Special Permit

Paul Sansoucy was present.

J. Roberson recommended that the Commission approve the renewal Application for Sansoucy Quarries and she explained that after this Mr. Sansoucy won't be due for two years. No concerns were found.

Motion was made by A. Fitzgerald to approve the gravel bank application of Sansoucy Quarries for the property located on the east side of Route 169 south of Barrett Hill Road (Assessor's Map 26, Lot 19A) identified in the files of the Brooklyn Land Use Office as GBR 19-001, in accordance with all final plans, documents and testimony submitted with the renewal application. Second by E. Starks. Motion carried unanimously (6-0-0).

4. Potential Zoning Map/Text Corrections

In the interest of time, M. Sigfridson suggested putting this Item on hold. There were no objections.

5. Discussion of Plan of Conservation and Development Update

In the interest of time, M. Sigfridson suggested putting this Item on hold. There were no objections.

VII. New Business:

- a. Applications: None.
- b. Other New Business: Preliminary discussion with Sharon Palin re: 620 Wauregan Rd.

J. Roberson explained that the Applicant has changed her mind and is looking at other properties.

Motion was made by C. Kelleher to add Election of Officers as Item VIII.a. to the Agenda. Second by A. Fitzgerald.

There was discussion regarding re-appointments of Commission Members and also about appointing C. Sczuroski as a Regular Member.

Motion carried unanimously (6-0-0).

VIII. Reports of Officers and Committees:

- a. Election of Officers.

Motion was made by A. Tanner to elect the same slate of Officers.

Second by A. Fitzgerald.

There was discussion and M. Sigfridson asked if anyone else would like to be the Chair. Nobody was interested.

Motion carried unanimously (6-0-0).

Motion was made by A. Fitzgerald to add discussion regarding appointing Charles Sczuroski as a full Member of the PZC to the Agenda as Item VIII.b. Second by C. Kelleher. No discussion. Motion carried unanimously (6-0-0).

- b. Discussion regarding appointing Charles Sczuroski as a full Member of the Planning & Zoning Commission.

Motion was made by A. Tanner to add Charles Sczuroski as a full Member of the PZC. Second by A. Fitzgerald. No discussion. Motion carried unanimously (6-0-0).

- c. Staff Reports – No discussion.
- d. Budget Update – No discussion.
- e. Correspondence.
J. Roberson stated that the Evidenciary Session and the Public Comments Session regarding Quinebaug Solar Part Two will be held on January 14th at 6:30 p.m. at the Brooklyn Community Center on Tiffany Street.
- f. Chairman's Report
M. Sigfridson thanked the PZC Members for their attendance.

IX. Public Commentary – None.

X. Adjourn

The meeting was adjourned at 11:45 p.m.

Respectfully submitted,

J.S. Perreault
Recording Secretary