

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
PUBLIC HEARING
Tuesday, July 7, 2020 at 7:30 p.m.
Via Video Teleconference**

I. CALL TO ORDER

Chairman Kurtz called the public hearing to order at 7:33pm.

II. PLEDGE OF ALLEGIANCE

The pledge of allegiance was recited.

III. ROLL CALL

Ms. Dunne called the roll.

Members present were Chairman Earl Kurtz, Dr. Charles Dimmick, Kerrie Dunne, and Will McPhee.

Members not present were Dave Brzozowski and Thom Norback.

Staff member present was Suzanne Simone.

IV. DETERMINATION OF QUORUM

There were enough members present for a quorum.

V. BUSINESS

Ms. Dunne read the legal call to open the public hearing on the following:

1.	Permit Application	APP	2020-014
	Richards Chevrolet	DOR	6/16/20
	Highland Avenue	PH	7/07/20
	Site Plan	MAD	8/11/20

Chairman Kurtz reviewed the process in which the public hearing would follow, including that there would be an opportunity for Commissioners and members of the public's questions and comments.

Mr. McPhee said he wanted to recuse himself from the general meeting on this (item) but would stay in the public hearing just to keep the quorum and that he would not be participating.

There was no objection to Mr. McPhee's statement.

Stephen Giudice from Harry Cole and Son (Plantsville, CT) was present on behalf of the applicant, and Jason Vianese from Richard Chevrolet and Eric Davidson of Davidson Environmental and Attorney Jay Hershman were present.

Ms. Simone posted project exhibits for review (at the direction of Mr. Giudice).

Mr. Giudice explained the parcel is located on Highland Avenue – Route 10 and is in a I-2 industrial zone – its 18.5 acres and currently the property is undeveloped; it has frontage on Highland Avenue to the west and is abutted by undeveloped industrial property to the north and undeveloped industrial property to the east and Realty Drive industrial developed property to the south.

Mr. Giudice explained the site is wooded; the topography generally flows to the wetland along the northern property line on Highland Avenue and then steeply towards the wetland area – the general grads to the south and east are moderately sloped.

Mr. Giudice said Eric Davidson would ask him to talk about the wetlands and the alternates they considered for this proposal.

Mr. Giudice said the proposal tonight is the construction of a used car store, service and body shop and associated parking areas; the building is 25,100 SF and we are proposing 174 parking spaces; access to the site is located off of Highland Avenue – access requires filling within the wetland regulated areas – with 4926 SF – they believe it is necessary from a safety prospective to align their driveway with the existing driveway across the street.

Mr. Giudice said as part of this application they are proposing to install a rip rap plunge pool for drainage that comes off of Highland Avenue – and are proposing storm water collection basins to collect storm water from our site but also from a flared end discharges from the Realty Drive property to the south; all of the storm drainage from the south and from our property will flow into catch basins that are designed with low impact design criteria to reduce the removal of total suspended solids.

Mr. Giudice explained the site would be served by public water and sewer – and they are proposing public sewers by the way of pump chamber located near their building and water from a high-pressure water main.

Mr. Giudice said the grading onsite is minimal – they have very flat grades – they don't have a lot of under water drainage facilities – they are proposing sheet runoff and swales to manage most of the water and that provide clean water to the wetlands and receiving

wetland areas; the property has around the corner of the site has low impact design features such as pretreatment filter strips at the edges of all the parking areas – they have grass swales – they have very shallow detention basins of 1' to 2' deep of a very large area that provide filtration and storage throughout the property; test pits were done on the site that resulted in very sandy soils.

Mr. Giudice said the mitigation for the site – they are proposing habitat in high enhancement areas as shown on the plans - approximately 10,000 SF is proposed as opposed to wetland creation which will be explained more by Eric Davidson.

Mr. Giudice stated they did receive comments from the engineering department yesterday – they did try to incorporate some of those changes into the plan they see before them – one of those items was to install the covered vehicle drop off area on the southeast corner of the building – it would have walls on three sides and a drain system that would be connected to our oil water separator just in case there were any leaking fluids from the vehicles – they thought this would help address the concerns of the town engineer; a few other comments from the town engineer were to raise the berms around the detention basins which they will be making those changes as well; comments were made about the roof leader drains which would be discharged to the detention basins and have been incorporated into the plans as well; and he (the town engineer) recommended additional redundant sedimentation barriers as far as silt fence and straw waddles was another recommendation.

Mr. Giudice said one last thing they made a change on based on the town engineer's recommendation was the infiltration trenches that run through detention basins to permit the water to infiltration into the sandier soils below.

Mr. Giudice said he'd now have Eric talk about his findings of the wetlands on site and our reasons for suggesting the habitat enhancement areas; then they'll talk about the alternatives they considered.

Eric Davidson, a professional wetland scientist and registered soil scientist addressed the Commission.

Mr. Davidson explained they delineated the wetlands on the property – shown on the plans – there are three wetland areas – one large wetland area all the way to the east of the site on the east side of the access drive – parallel to the end of Realty Drive – its far removed from the project area and in a different watershed so they didn't address it in their report or assessment but they did delineate it – its basically a wetland bordering Honey Pot Brook; but the wetlands shown on the plans is the wetland in the project area and there's another little section of this wetlands as the boundary turns to the north and continues through the property to the north east – the

primary area runs from Highland Avenue – there's a discharge pipe at Highland Avenue that takes road runoff and discharges it into this wetlands system then the water flows into this long broad wetland along the property boundary – the water settles into the center of the wetland and infiltrates.

Mr. Davison said in his report you'd see this is kind of a unique situation – most of what you see that was delineated is technically not a wetland – its basically a combination of a wetland and an intermittent waterbody – the state regulations incorporate language for what they call an intermittent watercourse and that's basically a flowing channel with a defined bank and several other features it might carry flow – it may not have wetland soils and they have basically incorporated that feature into the regulations to preserve natural drainage features that not may qualify as wetland soils be defined poorly drained or very poorly drained soils.

Mr. Davison explained in this case only a small portion of this whole row of wetland area actually has wetland soils- high ground water – seasonal high ground water that's the area sort of in the north west corner – there are topographic lines that show the lowest portions wetland – those are areas that really do have wetland soils and are pocket scattered throughout – a large portion of this area is what they call an intermittent water body; he said the regulations allow you to identify a feature that meets the same similar criteria as an intermittent watercourse but water just doesn't flow through its channel but it has a defined bank and if it has evidence of flow that's longer duration of a storm event and if it has hydroponic vegetation – if it has all those criteria you can map it as an intermittent water body and that's what they did in this case – it's a conservative mapping to account for the fact this area received a lot of runoff because it's the low point on the landscape in addition to the runoff from Highland Avenue – it receives a lot of storm water runoff – it essentially acts like a large rain garden or large infiltration basin – where a lot of it isn't wet but there are days after a large storm event it captures and stores water and infiltrates it back into the ground.

Mr. Davison said in terms of wetland mitigation they have an impact towards the access to the site – of just under 5000 SF – most of that area impacted qualifies as an intermittent water body – its sort of the upper swale that feeds this wetland – the impact area also includes a current culvert outlet which that area doesn't have an overall high value – its highly disturbed splash pad – it's in poor condition – its scoured – the stone is gone – there is lot of debris and sediment so that disturbance area is going to be reconfigures and its already been highly disturbed and where the driveway actually crosses the wetland that is sort of a low swale that feeds the overall wetland.

Mr. Davison said the overall goal with the mitigation is to do wetland creation basically excavate down and create wetlands that would basically compensate 2:1 for the wetlands that were lost; so we went

out and did test pits a few weeks ago – and the test pits reinforced what they had seen in the wetland that it's a water body without wetland soil criteria – the test pits showed the ground water is deep as soon as you step away from the wetland 5' or 10' – that ground water is very deep and the lowest they saw was the highest was 30" and in some areas down 60" – he explained how to excavate down when water is that deep – citing that the amount of slopes, excavation and earth work in that topography did not make it feasible and created more disturbance than they thought had value for mitigation.

Mr. Davison explained they turned their thinking for mitigation to two areas of wetland creation – the two areas of transition that are very dense and have mostly invasive – they are mostly dense beds of poison ivy, Asiatic bittersweet and some other basic shrubs – so they don't have a lot of habitat value; he said there has been a lot of data in the past about the importance of pollinator habitat gardens so that's really their goal in the report he submitted – they have a detailed planting plan, construction schedule, maintenance plan to create two pollinator gardens and they will be a mix of wildflowers, herbaceous plants that attract pollinators – like Monarch butterflies – they are basically going to be insect gardens; so that is the goal of mitigation.

Mr. Davison said he thought Steve covered the stormwater impacts – he said the wetland is functioning much like an infiltration basin – the goal with the storm water plan was to create that same surface water-ground water interaction which is easy to do with these soils – they have a very sandy coarse texture – are very good for infiltration.

Mr. Davison stated he did submit a report – it was yesterday – it has a full description of the wetlands functions and values, description of the wetland vegetations, maps documenting the site conditions – he said he thought that kind of covered the basics of what he said – he would answer any questions (the Commission) had.

Dr. Dimmick said he had not yet seen that particular report – he asked for a summary of that portion of the water course that will be filled and explain what the functions and values area.

Mr. Davison explained most of that area is transitional and are not wetland soils – so it's a transition zone – to him it didn't meet the water bodies – you can see the rack line - high water line during extreme storms where water would pool in there – there is a little bit of ground water breakout – you don't get a lot of ground water discharge in glacial outwash soils like you have here – during extreme high ground water conditions you will have a little bit of high ground water breakout – its basically a storage area when that culvert discharges when you get heavy rains – water can back up into those first few contours as you get up to that edge of the wetland area – the vegetation is pretty standard – you get a lot of

silky dogwood and there's seg growth and brush growth and wetland vegetation are typical – there are no pooling areas in this wetland that serve as vernal pools the hydro-period is just not long enough; the hydro-period is really not long enough to support wetland and wildlife that it requires.

Dr. Dimmick asked if it was possible in the south western proposed enhancement area – is it possible within this design to lower it about a foot – and to have some of the storm water go into it and to preserve some of the function of the area.

Mr. Davison said he believed there was an overflow to that area.

Mr. Giudice said the hatched area along the enhanced area is our spill way for our detention area and this passes the storms into the enhancement area – they are very low flows that reduce deep flow runoffs; they can definitely propose to lower that area by a foot or two – and would be easy.

Mr. Davison said as long as they were comfortable that they would not be claiming these areas have wetland hydrology – they could lower them to make them more transitional so they could receive stormwater.

Mr. Davison said other enhancement area is adjacent to the other detention facility in the back – they could accomplish the same goals by lowering it a foot.

Ms. Simone said to follow up on the comment that a report was submitted yesterday – they didn't receive any thing yesterday – so the Commission doesn't have the advantage of seeing anything prior to this meeting.

Mr. Giudice said he would resend the reports now and knew they would need time to digest it; it would get the report over to Suzanne and she could it to Commission members.

Mr. Giudice reviewed the alternates to this proposal – at the last meeting there was a question regarding access on Realty Drive – Attorney Hershman who is on the call had submitted a legal opinion on the property from the title company – they don't legally have the right to access on Realty Drive – that is the reason for the proposed submittal as is – when we started this we knew this was not the most desirable proposal – we tried to look at other alternatives – he did submit to Suzanne as summary of the alternatives.

The alternative plans were posted on the screen for review.

Mr. Giudice said the proposed application proposes a driveway opposite a driveway across the street; from a traffic and safety prospective they felt this was the best alternative – it did create some

wetland impact for us but we thought comparing the other options this was the best alternative – it was their hope the Commission would agree with their reasoning however they know the Commission has to look at alternates, what they considered and why they proposed this (plan).

Mr. Giudice reviewed the summary as to why they proposed alternate number one – they spoke with DOT traffic division who has final say over the driveway - during those discussion they (DOT) were very eager to have us put this driveway opposite to the driveway across the street – and after Eric looked at the wetland area he felt the impact was to a lower quality wetland; therefore they proposed twice the enhancement area of 80 SF; as part of this proposal they are taking stormwater off of Highland Avenue – right now it flows uncontrolled to the wetland area (shown on the plan) – they are going to pick it up in a manhole with a flared end and divert to a plunge pool – there will be some treatment of water coming off of Highland Avenue before it gets into this wetland area; he talked about the design would allow for easier long term maintenance and prohibit future impacts to the wetlands by maintaining the slopes around the wetland areas – and this is the safest alternative .

Mr. Giudice reviewed alternative number two – is very similar to alternate number one - the driveway location in the same location and they feel is the best – across the street from the other driveway and was preferred by the department of transportation– the wetland impact is lower with 3,000 SF of wetland impact as proposed to the 4,900 SF in alternate number one however this (plan) does not provide the treatment for the storm water off of Highland Avenue and they were concerned about the long term impact of maintaining the retaining wall in that area – they felt in time they though that area would need to be maintained or replaced – there may be future impacts to the wetlands with this plan; they felt their first proposal was a better plan.

Mr. Giudice reviewed alternate number three – he said it was an attempt to alleviate all regulated direct wetland area impacts – this was the least desirable option for the department of transportation however there were no direct wetland impacts; it does not provide any treatment for the current drainage on Highland Avenue – the biggest issue on this (plan) is the turning movements from this driveway and the driveway across the street and the next driveway to the south – it poses somewhat of a safety concern for traffic – they felt safety was their biggest reason – he said he did not want to come here and ask to fill but from a safety perspective they felt that alternate number one was the best alternative.

Mr. Giudice said so those were the alternates they considered and the reason they are not connecting to Realty Drive is outlined in Mr. Hershman's letter – that he hoped the Commission did have – that

was the reason they went this route; he asked if there were any questions about the alternates (plans) and what they propose.

Dr. Dimmick commented that in their regulation's safety is one of those things they are supposed to consider in weighing things so it's a valid point.

Mr. Giudice said it's something (safety) they don't take likely and they want to come before you with the best plan and in this case safety was the driving factor.

Mr. Giudice went on to say they talked about the town engineer's comments and their alternates – they felt the design of this plan is a great design – there are not a lot catch basins or storm drainage piping underground – there's going to be a lot of infiltration – there's going to be a lot of cleaning of the runoff when it leaves the site – they have been able to manage storm events with reductions in flows up to the 100 year event – he felt they had a good landscaping plan for the site – they have incorporated recommendations from the town engineer – he thought that was the end of the presentation – he asked if there were any questions of him or Eric or Attorney Hershman.

Chairman Kurtz asked about the Realty Drive alternative and if it was an established fact that that access from Realty Drive is not a legal access or is that an opinion.

Attorney Hershman said that's the opinion of himself and the American Title Insurance Company who handled the search and prepared the preliminary title commitment – based on the review of the declaration that was part of the condo association – the declaration created that condo off Realty Drive.

Chairman Kurtz asked if they thought we needed verification of that in order to rule that out as an alternative – he said he was asking the question – not trying to prove a point.

Attorney Hershman said he could tell you that three attorneys at First American Title reviewed this with me and came to this conclusion – we came to it together – could there be a different opinion – there certainly could be but it's our opinion that deeded access is not there currently – we need an easement.

Mr. Giudice asked Attorney Hershman if the property owner (also) agreed with that assessment – along with their attorney.

Attorney Hershman said he didn't want to speak for their attorney, but he can say their attorney certainly understood our reasoning as to why we think that it is not there.

Dr. Dimmick said he asks out of curiosity – we thought at one time there was an access.

Mr. Giudice said in 2006 this Commission did approve a site plan for a sports complex on this property – but at that time the plan shows a connection on Highland Avenue as well, so he didn't know if that applicant had the same concern.

Dr. Dimmick said he thought he remembered there was an access on Realty Drive (but he could not verify).

Attorney Hershman said there was something recorded on the land records – and that was cleaned up in an attempt to deed additional easements to the parties – however it's their opinion that wasn't based on declarants' rights in the declaration; and did have the access.

Mr. McPhee said there's more information that's not being shared on this access – from his knowledge – he said Jimmy Fazzone is the person that would help the most with knowledge of understanding that access.

Attorney Hershman said the preliminary title commitment with the opinion was submitted in writing (Commission members received – its dated June 18, 2020.

There was discussion about the access and the opinions about the access as well as the proposed plan and the alternatives presented.

Chairman Kurtz said the alterative coming off of Realty Drive might not be the most feasible or most desirable way but he thought with that question and other questions that we have - they probably need to get some answers and may need to have our town attorney speak to a couple of people on that particular issue and we need more information to digest.

Dr. Dimmick said they still need to look at the ecological report.

Chairman Kurtz asked if there were any questions and comments from the Commission or from the public – there were no other questions or comment made by the Commission and received no questions or comments from the public.

Mr. Giudice said he'd make sure the reports are received by staff and by the next meeting all of the town engineer comments are addressed.

The public hearing was continued to the Tuesday, July 21, 2020 meeting.

VI. ADJOURNMENT

The public hearing was adjourned at 8:20 pm by consensus of Commission members present.

Respectfully submitted:

**Carla Mills
Recording Secretary
Cheshire Inland Wetland and Watercourse Commission**