

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
PUBLIC HEARING
TUESDAY, SEPTEMBER 2, 2014
TOWN HALL AT 84 SOUTH MAIN STREET
COUNCIL CHAMBERS AT 7:30 P.M.**

Members present: Robert de Jongh, Charles Dimmick, Dave Brzozowski, Kerrie Dunne, Earl Kurtz and Will McPhee.

Members Absent: Thom Norback.

Staff: Suzanne Simone.

I. CALL TO ORDER

Chairman de Jongh called the public hearing to order at 7:30 p.m.

II. PLEDGE OF ALLEGIANCE

All present recited the pledge of allegiance.

III. ROLL CALL

Ms. Dunne called the roll.

Members present were Robert de Jongh, Charles Dimmick, Dave Brzozowski, Kerrie Dunne, Earl Kurtz and Will McPhee.

IV. DETERMINATION OF QUORUM

Chairman de Jongh determined enough members were present for a quorum.

V. BUSINESS

1. Permit Application	APP	2014-023
Pine Ridge Enterprises, Inc.	DOR	7/01/14
108 Blacks Road	PH	9/02/14
Site Plan	MAD	10/07/14

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

David Carson, a principal of the OCC Group was present representing the applicant (who was in attendance this evening as well as the property owner).

Chairman de Jongh explained to those present the process the public hearing would follow.

Mr. Carson said first he would like to start by requesting that all previous correspondence as well as the minutes from our previous meetings be made part of this public hearing record.

Mr. Carson said as Commission members well know the application process for the proposed use was initiated by the issuance with notice of violation for unauthorized activities in an upland review area. Pursuant to that issuance of that notice temporary erosion and sedimentation controls were installed which to date have effectively eliminated any adverse impacts to the adjacent intermittent watercourse.

Mr. Carson further explained despite continuing operations for the processing and removal of both the top soil and the mulch that is onsite.

Mr. Carson said it was basically the proven effectiveness of these temporary measures that in large part lead to the final design as delineated on the plan as submitted. He said not only to the plans provide for effective containment of stock piling and processing area under review but in fact they offer the opportunity for significant improvements to the benefit to the entire 6.5 acre site.

Mr. Carson said he had to admit – but he thought he would be renascent not to say that he has been somewhat perplexed by the general reaction to this application. He said of course he understand the initial response to the unauthorized activities on this site and the apparent disregard for the regulations but the fact of the matter is that the activities as they have gone forward once erosion control measure were in place – he said there has been really no impact to the adjacent wetlands from these activities.

Mr. Carson said these are allowed, permitted activities in this particular zone and we believe that the permanent measures that are designed as a part of this application basically assure the continue protection of the adjacent wetland which to date have been protected by temporary erosion control measures.

Mr. Carson explained in analyzing this site over the many months we've been working on it – he personally came to the belief that the grandfathered activities on this site offer much greater potential for adverse impacts than the specific use that is asking to be permitted by this application and it's because of that that the improvements to the site were designed to actually try to mitigate the long standing uses on this property; apparently there have been no significant adverse impacts from this site which dates more than 40 years now but of course the potential is there and he believed the improvements that are proposed as part of this application virtually assure that there will be no off site impacts going forward.

Mr. Carson said part of our proposal with regard to the general site is the plans call for the removal of all debris within the entire length of the intermittent watercourse, any and all debris that is in that watercourse has not come from the proposed it's come from the historic activities from the site over the years.

Mr. Carson said the plan also calls for the relocating of the storage units that in some cases actually cross the watercourse, the property owner has agreed to move those storage containers away from the watercourse.

Mr. Carson stated the original site plan approval for this site in 1970 or 1971 called for a 10' existing tree buffer along the westerly property line. He explained that tree buffer is there; unfortunately as you get toward the northern end of the property the intermittent watercourse is actually further than 10' away from the property.

Mr. Carson said the plan as proposed calls for the buffer at the northerly end of the property where the containment area is to increase that buffer to 32.5'.

Mr. Carson said that would certainly offer substantial protection of the intermittent watercourse not only from the proposed activities – any subsequent activity in the future.

Mr. Carson explained the application has been reviewed by the town engineering department, it's been reviewed by DEEP and it's been reviewed by the Regional Water Authority. He said just a recently as last Thursday he met on site with Ron Walters from the Regional Water Authority – he basically agreed that the plan as presented provides an improvement to the site.

Mr. Carson said Mr. Walters did supply a review letter dated August 29 where he enumerates several safe guards – we are in concurrence

with his recommendations – we discussed those while we were on the site and should the Commission ultimately decide to approve this application those items would be made part of the approval.

Mr. Carson said just to go back a little bit over some of the things we had discussed over the last several months. He explained on our site walk we have moved the proposed containment blocks further away from the regulated wetlands, they are now a minimum of 15' away which provides a minimum of 10' inside the limits of the existing process stone and gravel area as it presently exists and as it has existed before the current applicant started this operation.

Mr. Carson said he stated these storage units will be moved away from the watercourse. He said one of the significant aspects to the plan is the introduction of a formal drainage system with a trench drain in this location (shown on the plan) which will intercept as sheet flow from approximately the upper four acres of the site then transported to a designed area in the center of the property which will serve as a potential sediment bay filtering the possibility of any suspended solids, to raise catches, it has a weir inlet and that is discharged at the property line directly opposite an existing 36" culvert which goes underneath the driveway on the adjoining property.

Mr. Carson stated none of the site drains to the intermittent watercourse. He said obviously prior to this activity the site did drain to this point (shown on the plan) and in a big storm drained to a westerly direction and intercepted the watercourse at this location (shown on the plan); part of this proposal is to put the containment walls around the pond that was excavated on the site acknowledging again that was done without a permit – part of this application.

Mr. Carson stated the pond really has no impact on the functioning of the intermittent watercourse – the pond does provide for some peak storm water containment – that storm water is from wetland area on the southwest part of the site which once it fills up does flow down this intermittent watercourse and eventually into that 36" culvert; that area is to be protected. He explained the purpose of the pond is kind of threefold – storm water, some degree of storm water management, the potential for fire protection with regard to the mulch pile and the principal use is for water in the water use for the processing of mulch.

Mr. Carson explained the yellow containers that are onsite will be relocated just inside that containment wall – those will be used to store water during low flow periods. He said as you may recall when

we were on our site walk the stream and the pond were totally dry and that was the first time he ever saw it dry but obviously in the summers it totally dries up but that area will be protected.

Mr. Carson said in general we're creating a highly more protected watercourse than has existed for the past 40 plus years and by approval of this permit will once and for all be save guarded going into the future.

Mr. Carson stated the opportunity here is to grant an inland wetlands permit on this site for the first time in 41 years – a permit with conditions and a permit which certainly offers the town increased regulatory authority the same that the ongoing operations at this site meet the conditions of the permit.

Mr. Carson stated that fairly well sums up what he has to say and he was certainly prepared to answer any specific questions.

Mr. Carson said he forgot one thing – there was a question either on the site walk or at past meetings with regard to what's in these containment units. He said the property owner has identified for him six tenants; one is Ed's Appliance Service and there's used appliance parts in one unit; Butch Moran has used furniture and auto repair parts; John Sastilla has household items and some pair truck parts; All Fired Up is a chimney sweep company – their equipment is in there; Steve Kelley has old business records and CPP Trucking also has old business records.

Mr. Carson stated there are no hazardous materials in any of these storage units.

Chairman de Jongh said he wanted to address Mr. Carson's concern over the reaction by this Commission over the application and he was speaking for himself and not for our Commission members but he thought he was safe in saying one of the concerns that he had is that discovery of a couple of violations – one which was certainly brought before us and the subsequent epiphany that we had on the initial site visit when we found the pond that had been excavated without a permit.

Chairman de Jongh said he thought that was the reason why the Commission is concerned.

Mr. Carson stated he did understand.

Chairman de Jongh said he just wanted to address that that there was a reason – there were some legitimate reasons.

Chairman de Jongh said with the storage units – you said they had been moved or were going to be moved.

Mr. Carson stated they will be moved as part of this application.

Chairman de Jongh said he had a question relative to these containers that were in the pond area – they are due to contain water – those large yellow containers.

Mr. Carson stated yes.

Chairman de Jongh asked how they were going to be refilled.

Mr. Carson stated by pumping out of the pond.

Chairman de Jongh said okay which bring a question to his mind does the permit also ask for permission to drain that pond to subsequently fill the containers because those are pretty sizeable containers – he said they are probably 15' to 20' high and probably 10' to 12' in diameter.

Mr. Carson said he believed they were 8' high and 7' in diameter but there are substantial and yes part of the permit would be the request to withdrawn water from those.

Chairman de Jongh said the question he now has of staff is does the application have that as part of the verbiage because he didn't remember that being part of the original application.

Ms. Simone stated it was not specially mention that.

Chairman de Jongh said so then he has an issue with that because we are looking at not only the current site conditions but now we are looking at permit that potentially draws water from a watercourse - well not a watercourse but everything kind of feeds downward that area and as you said it's a subsequent detention or retention basin if there's an overflow but the real primary use of that is for fire mitigation for the mulch and also to provide water onsite if necessary.

Mr. Carson said the benefit of having those yellow storage drums filled with water in the event that we have a fire situation during the dry period we have that water to be pumped out of those.

Chairman de Jongh said he just wanted to make sure that the permit that we had before us talks about all of the issues that you want this Commission to consider and he didn't believe there's any mention of the usage of pond water to drain from the pond to fill the containers to continue the operation of the mulch process.

Mr. Carson said we have discussed this in the review of the application – you are correct that was not a specific item on the application itself.

Ms. Simone said she believed that can be added to the application now this is the opening of the public hearing as long as the scope does not change after the close of the public hearing.

Chairman de Jongh said that's fine – he wanted to make sure the record complete that we had the wording in there.

Dr. Dimmick asked if they were 3,000 gallon containers.

Mr. Carson said he said he thought they were 2,500 gallons – he said Dr. Dimmick could be right – he said he did the math but he did not recall.

Dr. Dimmick said maybe it's 2,500 to the fill mark and 3,000 if you fill to the top; he was just trying to get an idea of the volumes we were talking about.

Mr. Carson said you are probably absolutely correct on that; he said he could tell you now – he just did the math in his head – he said totally full they were 3,000 he said he thinks the pump mark is 2,500.

Dr. Dimmick asked if there was anything here when you were going to be filling those drums – he said there will be times when there is an super abundance of water in those ponds and times when there's very little water in the pond – he said it seems to him the impact of filling the tanks might very well depend on how much water is in the pond when you're doing it.

Mr. Carson said he would assume the normal operational method would be as soon as there was a storm event in the spring time that the drums would be filled and left filled and subsequently drawing water from the pond as long as there are rain storms – without rain storms the pond will never fill up – there is no water – there's no water in the watercourse – it only runs when it rains.

Dr. Dimmick asked has it been there long enough to know that during heavy rains does it overflow of some sort.

Mr. Carson stated it does – it overflows in a severe rain storm. He said he would have to estimate that it takes a 10 to 25 year storm for it to fill up enough to ultimately overflowing a typically 2 to 5 year storms it does not it takes approximately 3.5' of water depth before it gets to the point that it continues flowing in the intermittent watercourse channel.

Chairman de Jongh said there were a couple of pumps that we saw on site nearby that he assumed to use those storage containers.

Mr. Carson stated that's correct.

Chairman de Jongh asked if they automatically went on once the pond reaches a certain level.

Mr. Carson stated no they are manually operated and as part of the fuel container was right there and part of the application – all fuel storage inside – again it was a recommendation from the Regional Water Authority.

Mr. Carson said one of the things that he discussed with Ron and it is in his comments – not only the obvious fuel storage containment but he is recommending that the equipment not be left in the storage area but it be part in an impervious area and that can either be through the creation of a new area or brought up to where the buildings are where there are impervious materials. He said when he answered the question on Thursday he wasn't certain and he was actually out there today and two of the pieces of equipment that were being used when we were there on Thursday were both parked up at the building but there was a small excavator was still in that stock pile area – his (Ron Walters) recommendation is that they not be left within the area.

Chairman de Jongh asked if there were any other questions from Commission members.

Ms. Dunne said when Ms. Simone asked you last time then does this mean you don't plan on using the pond – so your plan for using the pond is that you only plan to take the water out for that or adding anything to the pond.

Mr. Carson said no we won't be adding we would be protecting it. He said one of the things that was added to the notes on the plan

sometime between our first and second meeting was to grade off the shoulders and seed the shoulders of the pond – right now it's pretty much an excavated hole – the site should be stabilized and seeded.

Ms. Dunne said just to clarify you are talking 15' from the containers to the watercourse not from the wetland boundary – correct.

Mr. Carson stated right and in that area they are one and the same.

Mr. McPhee asked Mr. Carson if he had any idea what they used for water consumption in the mulch process on an annual basis or a monthly basis.

Stefan Kijewski of Pine Ridge Enterprises addressed the Commission. He explained the work associated with mulch would mostly be in the springtime – he said that he has never seen the pond even remotely go down more than 6" so ballpark you are talking 5,000 to 10,000 gallons a month. He said right now they are not doing anything with water it's strictly there for fire purposes.

Mr. McPhee asked what you use it for – for dust depression.

Mr. Kijewski explained they pump it into the machine as well otherwise we have big dust piles and when we do some of dying as well when we add the colorants but that's strictly in the machine which has nothing to do with the pond or anything like that.

Mr. McPhee asked if it's all contained within the machine itself and if it was water disburseable – no solvent base.

Mr. Kijewski stated yes – it comes out dry; he stated no not at all to Mr. McPhee's solvent based question – he stated they were less toxic than backing soda.

Mr. Carson said just as a follow up along those lines he did provide Regional Water Authority with the specifics on the colorants that used.

Mr. Kurtz asked how the movement is going on the top and the mulch.

Mr. Carson said he was out there today and Thursday as he said – astronomically different from when we were on the site – he said it seems to be progressing nicely. He said he would have to be forthright in saying that in retrospect he did not believe that our original estimate of the amount of material that was there – the

estimate that he made on March 4 on the original plan – he said he thinks there was substantially more material there than was estimated was.

Mr. Carson explained they have already removed 20,000 CY and that's pretty much what he thought was onsite at the time.

Mr. Kurtz stated the reason for his question is at what point do you feel there will be enough material removed so you can institute the approval on this application.

Mr. Carson said he just had that conversation with Stefan this morning – the top soil which is to the easterly side of the site – that really hasn't and doesn't present any impact per se until all that material is gone – the containment of that area can't happen. He said on the opposite side the mulch is to a level where they are able to move these mulch pipes – get in behind them and actually install this containment area along the watercourse. He said basically we talked about being able to do that in the next 30 to 60 days.

Mr. Kurtz said and the drainage down the middle.

Mr. Carson said the drainage – it's hard to say quite honestly once we get through this wetland process we still have to go through the Planning and Zoning process that also entails a public hearing – he said he honestly would not see that drainage being installed until late next spring; but the reality of that drainage is that it's an overall improvement to the site.

Mr. Carson said this site has functioned with the operation ongoing with the temporary erosion control measures that are in place and with the containment walls it could continue to successfully operate that way until such time as a formal drainage system was put in – the drainage system itself is really more for the benefit of the entire site than it is for this particular portion of the site. He said realistically he didn't see the applicant or the property owner expending that kind of money until such time that they knew they had Planning and Zoning approval.

Mr. Kurtz said he was sure the operation is not going to go out of business or if there's an opportunity to bring material in they are going to do that too – he said he was wondering at what point the work could be done so the operation is in compliance and still be allowed to operate.

Mr. Carson said once they get the containment walls on the westerly side in – monitoring this outlet point for the sheet flow or the storm water will be fairly easy to do something that can be monitored routinely and address this as necessary; actually installing the stone in there with a settlement area even without the catch basin while basically accomplish what they were attempting to do.

Mr. Carson said as he previously stated there is no increase in runoff from the site – there's no difference as to where the storm water is running to – it's just a matter of the assurance that we are not carrying sediments with that water so that's a typical situation during almost any construction project while it's under construction – proper temporary erosion control measures – before the formal storm drainage system is installed – it's just something that needs to be monitored and kept after.

Chairman de Jongh asked if there were any other questions from Commission members or from the audience.

Ms. Dunne asked for clarification – is the application being amended to add the other item.

Ms. Simone stated that he (Mr. Carson) had already stated that on the record so that will be added to the application (regarding the containers).

Chairman de Jongh said he thought the Commission received all the information they need and so no other reason to keep the public hearing open.

The public hearing was closed at 8:05 pm.

VI. ADJOURNMENT

The public hearing was adjourned at 8:05 p.m. by the consensus of Commission members present.

Respectfully submitted:

Carla Mills
Recording Secretary
Cheshire Inland Wetland and
Watercourse Commission

