**REGULAR MEETING MINUTES**

**WINDSOR INLAND WETLANDS & WATERCOURSES COMMISSION**

**TUESDAY FEBRUARY 3, 2021 7:00PM**

**Meeting Location:** Online webinar, to join via computer please go to the link below

<https://us02web.zoom.us/j/81398354343>

To join via telephone please dial: 1-301-715-8592 then when prompted 813 9835 4343#

Chairman Morando called the meeting to order at 7:00 PM.

**I. Roll Call**

Present: Chairman L. Morando, Secretary Towers, Commissioners, A. Schibley, S. Fraysier, D. DeCarlo, K. Washington and R. Williams. A quorum was established.

Absent: Vice Chair St. Amand

Also present was Inland Wetlands and Watercourse Agent Emily Perko.

**II. Public Communications** (3-minute limit on items other than Public Hearings)

 Public communications opened at 7:01 PM.

 There were no comments from the public.

 Public communications closed at 7:01 PM.

**III. Business Meeting**

1. **Minutes**

Commissioner Towers made a **motion to approve the minutes for December 1, 2020 as amended**. Commissioner Schibley seconded the motion.

**Vote 7-0-0**

1. **New Business**

**Application 21-229\_4 Walters Way – Applicant: Thomas Defranzo – Agricultural Exemption for a fish pond and vineyard**

E. Perko gave a brief overview of Agricultural Exemptions to the commission.

Wilson (Skip) Alford Jr., P.E., on behalf of Thomas Defranzo, applicant, presented the agricultural exemption proposal of a vineyard and fish pond on his property stating he would like to have people come in and pay to catch fish that are being raised in the pond. A letter was presented from Rowledge Pond Aquaculture L.L.C in support of the proposed operation. Skip further stated Defronzo would be raising the fish in the pond and a farm pond under 3 acres essential to the farming operation is considered exempt under the regulations.

Commissioner Schibley asked Skip to present the plans for the proposed pond, raising concerns regarding relocation of watercourses with continual flow and filling of wetlands. He asked for Skip to go over the plan further.

Skip presented the plan from 2010 stating the area the pond would be excavated is in the wetlands but there are no streams in the area of the actual pond itself.

Commissioner Schibley pointed out an area on the plan that showed a possible watercourse running north/south through the south east corner of the pond.

Skip stated he walked out on the property the other day and did not see a stream there.

Commissioner Schibley gave the definition of a continuous stream.

Skip stated he did not notice anything in the area, presented how pond would be built and excavation would occur in the wetland. Stating there is some fill proposed in the wetlands but could be removed.

Commissioner Decarlo asked where the water from the pond would be coming from.

Skip stated given the area is wetlands they would dig down into the water table which would fill the pond. On the north side stone swales would take some of the water from the streams into the pond. On the south west side of the pond a pipe from another stream would outlet into the pond as well then discharge in another area to another pond down gradient. If it was deemed the streams were continuous the connections could be removed given the area is mostly wetlands.

Commissioner Decarlo questioned without continual flow how the applicant will ensure the pond remains clean and algae free.

Skip stated since it is so deep it will be intercepting ground water, which is 55 degrees and the water temperature is sufficient for the rainbow trout that will be in the pond. Bubblers are not intended in the pond.

E. Perko asked if any calculations were done to determine the amount of flow coming from the northern streams and how the size of the stone swales determined.

Skip stated he looked at the area and the stone would keep fines and sand coming into it and would act as an under drain. Stated the majority of the pond is in a wetlands and at least in the spring the water table would be 15-18 inches below the surface.

E. Perko stated this application was presented to the former wetlands agent whom received communication with the State of CT requesting the applicant to contact the Army Corps of Engineers for a determination if a permit would be required. This correspondence was sent to the applicant on November 25, 2020 so he could be made aware.

Thomas Defranzo stated he spoke with Skip and they decided to remove the swales and pipes diverting the water, given the area was already so wet.

E. Perko stated the plan presented before the commission does not show those changes.

Skip stated the plan was created ten years ago and the connections could easily be removed.

Commissioner Schibley pointed out an area between the two stone swales in the wetland that is proposing higher elevation then what is currently there. And asked how the material excavated would be handled

T. Defranzo stated excess material would be hauled off site or moved to another part of the property.

Commissioner Schibley asked about the outer edges of the pond and asked if the outer edges would be built up so water stays in the pond

T. Defronzo said there is no real berm that would need to be built because the outer edge is mostly at current ground level.

Commissioner Decarlo asked about the current elevation of the existing pond to the south east and if the pond over flows.

T. Defranzo stated the water is continuously running out of the pipe.

Commissioner Decarlo asked if the new pond would then be a self-contained pond.

Secretary Towers asked is the fish pond was the only thing being considered.

Skip stated at least for tonight there may be a future application for vineyards.

Secretary Towers asked if the fish would actually be raised on the property.

T. Defranzo stated he had a bunch of applications for aquaculture in CT and would be getting an FDA certification but needed the pond approval first.

Secretary Towers wanted to ensure the rainbow trout would be raised in the pond and the pond would not just be stocked and kept there for the duration.

T. Defranzo stated the fish would be raised, fed, and once mature to sell some will be sold, a private fishing derby would be held once a year for the “Make a Wish” Foundation.

Skip stated by definition the fish do not have to be harvested just raised. The fish would be bough, put in the pond and raised.

Secretary Towers stated at Walden Woods the pond was stocked with fish so residents in the area could catch and release fish in the pond.

Skip stated according to the statue that is considered a farm because you are technically raising the fish.

T. Defranzo stated he was also working with the state to raise Salmon in the future which can coexist with rainbow trout

Commissioner Williams questioned where the water from the streams to the north were coming from.

Skip stated the soils are very sandy and water flows through them well. Mostly relying on the fact there are wetlands and during a portion of the year the water is in 18 inches of the surface.

T. Defranzo stated when digging down in the upland there is a clay layer and he is confident the pond will be able to hold water.

Commissioner Schibley asked the applicant if he had a soil science training

T. Defranzo stated he is a developer with 6 Connecticut licenses. He has conducted a pit in Windsor for 15 years, worked with George Logan and Skip Alford for 30 years in different parts of CT. Stating when digging down on his property there is a layer of top soil from trees then a foot of subsoil followed by sand and 5-6 feet of sandy mix with fines and clay characteristics and then into water which holds water well.

Commissioner Washington asked for clarification from the applicant if he was a qualified science specialist of any type.

T. Defranzo stated he does not.

Commissioner Fraysier asked if there was an expiration to this exemption if the use were to change

E. Perko stated if the use changed any future action the applicant would need to meet the regulations for any future projects, however what is existing cannot then be redacted.

Commissioner Schibley asked if those coming to the pond to fish would be catching and release.

T. Defranzo stated catch and release, if a fish is damaged it will be removed.

Commissioner Schibley asked if the prominent use of this pond is recreation.

T. Defranzo stated yes along with food for his family, similar to how you would with chickens or goats.

E. Perko highlighted relocation of watercourses with continual flow and filling of wetlands is not permitted as of right by the commission regardless of agricultural uses, asking S. Alford how those issues would be addressed.

Commissioner Schibley pointed out an area in the wetland between the two swales that shows the proposed elevation as higher than the existing by as much as four feet, thus requiring fill.

Skip stated he would like time to flesh out the issues with the current plan before a determination is made.

T. Defranzo asked if the exemption could be granted with the condition changes would be made to meet the qualifications.

E. Perko stated the current plan being presented to the commission is not considered a permitted activity as of right given it shows the filling of wetlands and relocation of watercourses. This is not an application but an agricultural exemption, the burden of proof is on the applicant to articulate this is an as of right activity, it currently does not.

Commissioner Schibley stated he is concerns that the plan is over ten years old and would like to see updated information, the plan is not just insufficient but the way the applicant has presented the proposed activity appears to be a recreational use. Stocking a pond and feeding fish might be engaged in raising but goes beyond purpose of exemption which is to protect people engaged in the production of fish. The fact some people might on occasion eat the fish doesn’t change the fact the primary purpose is recreation. Additionally, the plan presented shows filling of wetlands and relocation of watercourses. Streams are not only being diverted from water but appears to be a stream where the pond is. Even if this is considered farming the regulations of not permit this activity as of right.

T. Defranzo stated he is farming because he is buying fish that are 15 inches long and growing them to 30 inches when they have weight on them to sell and consume them. Stating he will have an FDA license for that.

Commissioner Schibley stated he is concerned the wetlands may not be where they think they are in addition to the actual location of the streams.

Commissioner Washington asked for additional information on how the maintenance of the pond will be conducted to ensure the long term survival of the fish.

The commission discussed how to proceed with the exemption.

Chairman Morando stated the definition for farming is very broad and he follows that definition.

Commissioner Williams stated his major concern is the effect on the wetland, there is a lot of unknown information regarding the flow of the stream and filling of wetlands

Discussion occurred on the definition of agriculture and farming as it relates to this exemption.

T. Defranzo stated he has the state permits in front of him that he will be filling out tomorrow and will hopefully have the approval for the next meeting. One of the permits is to remove fish from the Rainbow Reservoir to stock the pond and another application for fish aquaculture production. Also an FDA permit for having them come out and see the pond whenever they want to make sure fish influence is not causing a problem

E. Perko questioned the applicant if he had any of the necessary permits to acquire the fish to place in the pond.

T. Defranzo stated the permits could not be acquired until permission for the pond was granted.

E. Perko asked if there is another plan in the instance the required state permits were not granted

T. Defranzo stated everyone he has talked to at the state is very amped about him doing this.

**Commissioner Fraysier made a motion to table the application 21-229\_4 Walters Way – Applicant: Thomas Defranzo – Agricultural Exemption for a fish pond and vineyard to the next meeting. Commissioner Washington seconded the motion.** Commissioner Schibley stated he is of the opinion the information presented is full and complete and includes activity that falls outside the definition of permitted uses as of right and the petitioner has given information to the committee today that is not only out of date but shows the primary purpose of this pond is recreation and does not believe the application is incomplete, it is very specific in what needs to be done and falls clearly outside of the definition of what is permitted as of right and the petition should be denied. Commissioner Williams agrees.

**Vote 5-0-2**

**Application 19-109B\_1201 Kennedy Road – Applicant: All-Points Technology Corporation – Modification to existing permit**

Commissioner Fraysier recused himself from this application

E. Perko stated this was a previously approved permit and the applicant is coming back to the commission for a modification to the employee parking lot and previously filling in of a farm pond.

Dean Gustafson, professional soil scientist, presented the proposed modification stating a reconfiguration of the employee parking lot for safety reasons and traffic circulation is being requested. Proposed plan revision would place the parking on top of an area that was a former irrigation pond that was filled in by the previous land owner. The pond was excavated in early 1940’s and around 2017 was filled in due to the change in crop production which no longer required irrigation water. The former owner was unaware a permit was required to fill in the pond. This application is also to correct the after the fact activity. The reconfiguration matches existing drainage patterns and results in a slight decrease of overall drainage area. Applicant also consulted with DEEP and Army Corps filing an after the fact application to correct the filling in of the farm pond. To compensate for the previously unauthorized filling the applicant has proposed a 9.5 conservation easement on the western side of the property.

E. Perko asked how the 3:1 slope would be stabilized adjacent to the now parking lot configuration and bridge.

D. Gustafson stated it would be seeded down to a meadow type habitat

E. Perko expressed concerns about erosion heading into that wetland and going downstream into the neighboring property.

D. Gustafson stated additional detail could be provided to show more robust erosion control measures. Through adding double up protection measures with filter socks mid slope and in front of silt fence backing.

Commissioner Schibley asked what the safety concerns are.

D. Gustafson stated employee safety getting to the building and this new traffic pattern configuration will make this access safer.

Daniel Madrigal, Scanell Properties, confirmed there are no plans to add a building in Lot B

Commissioner Schibley asked whom the recipient of the conservation easement would be and asked if the easement could be held by the current property owner.

D. Madrigal stated the owner would be in favor of taking ownership of the easement.

Commissioner Schibley made a motion to accept application **19-109B\_1201 Kennedy Road – Applicant: All-Points Technology Corporation – Modification to existing permit.** Commissioner Towers seconded the motion

**Vote: 6-0-0**

Commissioner Fraysier rejoined the meeting.

1. **Old Business**

None

**IV. Discussion**

**V. Authorized Agent Actions**

**VI. Agent Report**

**VII. Petitions from Commissioners**

The Commission extends their thanks to Ruth Jefferis for her many years of service.

**VIII. Adjournment**

Commissioner Towers made the motion to adjourn at 9:05 PM.

Commissioner Schibley seconded the motion.

**Vote:** 7-0-0

I certify that these minutes were approved on

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Marlene Towers, Secretary

Inland Wetlands and Watercourses Commission