Town of Griswold

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GRISWOLD INLAND WETLANDS & WATERCOURSES CONSERVATION COMMISSION & AQUIFER PROTECTION AGENCY

Unapproved Minutes
FOR DISCUSSION ONLY

SPECIAL PUBLIC HEARING
MINUTES **SEPTEMBER 13, 2012** **GRISWOLD TOWN HALL**

I. Public Hearing (7:00 P.M.)

1. Call to Order

Chair Courtland Kinnie called this public hearing of the Griswold Inland Wetlands & Watercourses Conservation Commission to order on September 13, 2012 at 7:10 p.m.

2. Roll Call & Determination of Quorum

Present: Courtland Kinnie, Robert Parrette, Stacie Stadnicki, Dean Rubino, Glen Norman, Alternates Lauren Churchill, Clarence (Pete) Merrill, WEO Peter Zvingilas, Town Attorney Bryan Fiango

Absent: Edward (Jay) Waitte, Lawrence Laidley, Alternate Gary Serdechny, Town Planner Carl Fontneau, Recording Secretary Donna Szall

There was a quorum for this public hearing. C. Kinnie appointed L. Churchill to sit for J. Waitte and P. Merrill to sit for G. Norman.

3. Matter Presented for Public Comment

A. CC 14-12 Kreative Property Development of CT, LLC, Peter Kuzyk, 96 Den Hollow Road, Guilford, CT 06737. Property location: 688 & 700 Hopeville Road (CT Route 201), Griswold. Request approval of commercial activity within 150 foot regulated area for the excavation of 46,980± cubic yards of sand and gravel on the southern portion of the property; and with filling and re-grading of 8,600± cubic yards of material on the northern portion of the property within a 5.1 ± acre area of an 11.0 ± tract of land to prepare site for future commercial development. Excavation and re-grading is within the CTDOT right of way of CT 201 (Hopeville Road). Property is zoned C-1.

C. Kinnie stated that this was a continuation of a public hearing that has been open for some time now. He stated that this application has intervenor status on the part of Mr. Dillon Serdechny. He asked the applicant to being his presentation. Harry Heller, 736 Route 32 in Uncasville, He stated that John Faulise, Robert Schuch, PE, Demian Sorrentino, George Logan, REMA Ecological to address issues raised for targeted species on the target site. H. Heller reviewed submission to the file. He stated that wetlands function analysis be marked as an exhibit. C. Kinnie stated that it is in the file. Targeted species investigative report by REMA Ecological, revised project plans prepared by Boundaries, revised August 27, 2012, to removing grading from within the state right of way and revised stormwater report from August 9, 2012. C. Kinnie confirmed these items were in the file.

H. Heller explained that the commission is a municipal wetlands agency acting under the authority of the State of Connecticut and the Department of Energy and Environmental Protection in effecting the local administration of the regulations of wetlands and watercourse and fulfilling the legislative polices of the Inland Wetlands and Watercourses Act of the CS 22a-36 that in regulating wetlands and watercourses, the DEEP and municipal wetlands commissions must balance the need for the protection of the wetlands to provided an orderly balance the economic growth and use of its land and to protect its environment and ecology.

C. Kinnie stated that G. Norman arrived at 7:18 p.m.

H. Heller explained that subsequent case law has changed the scope of regulation to include upland review areas for activities that could impact wetlands and watercourses. He stated that subsection d of Section 22a-41 was incorporated to the statues to define more clearly the scope of a municipal wetlands commission review process. H. Heller read this for the

record stating that inlands wetlands agency shall not deny or condition an application for a regulated activity in an area outside a wetlands or watercourses on the basis of an impact or effect on aquatic plant or animal life unless activity impacts or effects the physical characteristics to such wetland or watercourse.

H. Heller explained that the application is to engage in earth product excavation and reclamation operations in upland areas with portions in the upland review area adjacent to the wetlands system on the site but with no proposed direct impacts to wetlands or watercourses. H. Heller explained the Sheet 3 of 5 of site plan revised on 8/27/12, contains the wetlands system that occupies the entire easterly portion of the site and a portion of the central portion of the site. He stated Route 201 is the southerly bound of the site and the Northbound on ramp to I-395 is the westerly boundary of the site; east of the site is Bishop's Crossing Road. He explained that the wetland system does bifurcates the upland portion of property into two notes; node 1 being previously developed residential area northerly side of Route 201; node 2 of upland review area of sufficient size suitable for development of the northerly portion of the site. He stated that this property is zoned C-1 Commercial district based on the Planning & Zoning Commission Zoning map.

H. Heller stated that in the previous presentation suggested that the Plan of Conservation and Development (PoCD) adopting by Planning and Zoning Commission in 2006 representing the desires of the future development of the town which recommends the elimination of the C-1 commercial node along Route 201. He explained areas of the Plan of Conservation and Development to clarify the development of the area at the interchange of exit 86. He read the Economic Development Section 3B of the PoCD for the record citing that commercial development of business and age restricted housing in the town of Griswold creates a positive tax revenue and most beneficial development. He read Section 3D-2 for the record citing the major transportation routes on State highways available in Griswold and of the two interchanges along I-395. He read Section 3D-4 for the record citing competitive municipalities provide developable parcels; formulate economic development programs, and the provision of incentives to businesses locating within their borders. H. Heller stated that this property is exacting seeks to do at the exit 86 interchange is to be readied for two ready-to-build commercial pads where a potential commercial developer can develop these parcels based on the economic development program of Griswold. H. Heller read page 57 of the PoCD regarding the provision that to attract new businesses, land use commissions will maintain appropriate zoning districts and realistic development-friendly zoning regulations.

H. Heller read Section 4D of PoCD for the record of Goals to be Accomplished cites R-1b support development of commercial clusters or nodes at strategic locations along major transportation corridors in the areas surrounding exits 85 and 86. He cited Section Economic Development Plan Section R-1b support development of commercial clusters or nodes at strategic locations along major transportation corridors in the areas surrounding exits 85 and 86. He stated that the priority ranking for that goal is 1. He read Section R-2b citing the focus of large scale development on properties on State routes with access to interstate 395 at exits 85 and 86 has a priority ranking of 1. He read Section R-5b citing remove commercial zoning district of area of Deanna Drive, Hopeville and Stone Hill Road as it is not beneficial to development commercial property in the area. He submitted for the record a copy of the current zoning map of Griswold focusing on the area in questions; he showed that the plan highlights two commercial nodes on Route 201 at the exit 86 interchange where the Kreative property is a component and a spot zone at Deanna Drive which is cited for elimination in the PoCD. He stated that clearly this application's proposal to ready this property for commercial development is consistent with the land use plan of Griswold and should be encouraged by all boards commissions provided it can be accomplished in accordance with the regulations for the protection the wetlands and watercourses. He stated we will demonstrate that this proposal will not adversely impact wetlands and watercourses and does satisfy the permitting criteria of 22a-41 of the statutes as well as your municipal wetland regulations.

H. Heller explained the proposal is to excavate 46,000 c. y. of material in the southerly development node located adjacent easterly of I-395 and northerly of Route 201. He explained the topography which is a disturbed site with knolls and valleys containing Hinckley soils which are excessively drained soils with the least erosive characteristics. He stated that about 8000 c. y. of the material removed will be brought back to the northerly development node to grade the node in a manner that will create a pad suitable for development; with the remaining 36,000 c .y. to be removed from the site. He stated that there are no proposed disturbances to the wetlands and watercourse resources themselves; there are proposed excavation and filling activity in close proximity to the wetland boundaries. H. Heller explained the two areas of concerns to the commission 1) the activities proposed do not result in the introduction of silt or sediment to the wetland as a result of the excavation and filling occurring on the site; 2) in performing this operation and the proposed regrading, the hydrologic régime that provides support to the hydrology of the wetland is not adversely affected as a result of the development.

H. Heller explained that Robert Schuch, PE has developed a comprehensive erosion sedimentation control plan for the project that will address the first concern and is on Sheet 3 of 5 of the revised plan. H. Heller explained that wood chip berms or silt fences around the entire periphery of the area to be disturbed from Route 201 to wetland flag 1-6 which is the limit of disturbance; temporary sedimentation basins sized based on 2004 guidelines to accommodate 134 c. y. of material for each acre disturbed, will be maintained in the 3 areas where drainage will be focused as a result of development as excavation and development is ongoing on site. H. Heller stated that the methodology has been reviewed by CLA engineers and there should be a letter in the field that they are satisfied with the plan.

H. Heller explained that the development of access drive of the northerly development node, the structural fill will be place and will create a channel for the flow of water along the westerly periphery of the site along the state non-access line; the project engineer has specified two cross culverts to maintain the flow under the fill to get water across to the wetland systems to maintain the flow pre-development; the stone check dams are introduced along the toe of the entire fill to maintain minimal velocities and to filter out pollutants as stormwater reaches the culverts and passes under the embankment fill.

H. Heller explained the report prepared by Demian Sorrentino, Soil Scientist and also referenced in the REMA report, indicates the primary function of the wetlands is stormwater discharge so the hydrology is supported by stormwater discharge rather than an area of recharge. He stated the reports identifies 3 primary means where recharge occurs to the wetlands and identifies a semi-perennial watercourse running under Bishop's Crossing Road and through the Serdechny property providing recharge this wetland system; there is overland flow from the north that has been identified, and a 15 inch RCP culvert that discharges from the northbound on ramp of I-395 that is discharging on state property to the east of the on bound ramp and a bituminous paved leak off where stormwater is discharged from the state system that enters this property. The project engineer has identified the potential for some flow occurring from those discharges and has designed the introduction of the stone check dams to mitigate velocity and filter out pollutants from this discharge with the anticipation that the flow will reach the culvert and pass under the fill into the wetland system.

H. Heller stated that the commission, in evaluating this application, must utilize the criteria in their regulations and in CS 22a-41 to evaluate whether or not the proposal is in conformance with the regulations and whether it will have an adverse impact on the physical characteristics on the wetland system itself.

H. Heller introduced D. Sorrentino to give his presentation, George Logan will follow afterword, H. Heller will conclude by going through the evidence presented and explain how the project satisfies the criteria of the regulations.

Demian Sorrentino, Soil Scientist at Boundaries, LLC submitted a copy of his resume for the record and recounted his qualifications to the commission. He explained that there is a report in the file that describes the inland wetlands system to supplement the information provided at the site walk in June. He stated that 4.9 acres of wetlands on the site and he described the types of soils on the site Scarborough muck, Sudbury sandy loam and Hinckley soils. He explained that he set the wetlands flags on the site. He described the upland islands within the wetlands which he did not delineate. He stated that it s a lush and forested wetlands referred to as a red maple swamp. He stated that he observed that water was received from a semi-perennial stream, overland flow that is slightly channelized at WF 1-6, and an overland flow received from the I-395 northerly on-ramp. He stated that the wetland maintained surface water hydrology during sparse precipitation and high temperatures during June and early July. He explained some of vegetative species that was observed as well and animal species observed. He read for the record the eight wetland functions and five wetland values established by the Army Corp. of Engineers and identified them for the record.

D. Sorrentino stated that he performed the Descriptive Approach Wetland Value Assessment utilizing field conditions and his professional judgment for those functions and values in Appendix B which he read for the record. He stated that the subject property is located 1/2 mile from an established of the CTDEEP Natural Diversity Database Area in the vicinity of the pond and we completed a request for a natural diversity database state listed species review from CTDEEP natural resources that the site had potential for presence of two endangered species, the eastern spade footed toad and the blue spotted salamander so based on this recommendation, the applicant hired REMA Ecological Services. He explained the analysis of impacts to the commission citing that it addressed direct wetland impacts of which there is no direct wetland impact. He stated that the proposed clearing and grading portions of the site and that activity will include to cross culverts to serve to maintain the existing hydrology from the north to the south surface water flow and the bituminous leak off and the 15 inch RCP from the southerly cross culvert under the driveway. He stated that the semi-perennial watercourse from the Serdechny property and surface water flow at WF 1-6 will not be affected.

D. Sorrentino explained the limits of vegetative clearing serves to maintain the existing tree canopy for the inland wetland and maintain the current ground and surface water temperature regime during and post construction. He explained that groundwater discharge is the primary function of this wetland the tree throws had standing water during the dries portions of the year when there was no input from the intermittent watercourse or the stormwater drainage system. He read Section 22a-41d for the record and asked that the commission consider this regulation.

C. Kinnie asked for questions from the commission. L. Churchill asked about direct impact from a 100 year storm. D. Sorrentino stated that Bob Schuch would address that question later.

S. Stadnicki asked if any vernal pools were identified on the property. D. Sorrentino stated that he did not identify and vernal pools. There was discussion of this matter including that he did not feel that there were no vernal pools.

George Logan, REMA Ecological Services, explained his resume and recounted his qualifications for the record for 23 years. He stated that he was contracted to deal outside this proceeding for two potential species of the eastern spade foot toad and the blue spotted salamander in its pure genetic form is an endangered species because they appeared on the database of endangered species. He explained that when there were some potential issues with other species on the site, he gave a second report. G. Logan explained the process of gathering the information for his second report. He spent three hours on the site and his associates spent for five separate site visits by four separate people for a total of 20 hours there evaluating the habitats as well as targeted searches for the two species and whatever else was found.

G. Logan explained the herpetological species on the site such as red back salamanders, green frogs, and bull frogs. He explained the procedures used such as cover searching, dip netting in aquatic habitats, looking at the semi-perennial stream and looked for invertebrates such as crayfish and stoneflies and aquatic beetles. He stated that a night search was performed to look for the spade footed toad on August 15, 2012. He stated that several photographs were taken of various species. He stated blue spotted salamanders or spade footed toads were not located at that time. He stated that it was concluded that the two listed species based on the search efforts that there was a very remote possibility that the species, but highly unlikely that the two listed species were there. He stated that there was a population to the north and west but that it was severed by I-395 for the spade foot and blue spotted salamander.

G. Logan explained that as a wetland biologist and wildlife biologist is a four-toed salamander was located on the site; the four-toed salamander likes the exact habitat that exists on this site that has relatively wetter swamps, sphagnum moss with micro topography and portions of the land above the water all the time especially preferred by the females. He explained another species found that was one of the two obligate species of vernal pools; namely, the wood frog which is a keystone species in Connecticut. G. Logan explained vernal pools as classic isolated vernal pools in the middle of the forest that flood in the spring and go dry in the summer to which species congregate to in the springtime which cannot survive without these vernal pools. He explained that wood frogs are plastic in habitat as long as they can reach their breeding habitats, they can speed up their metamorphosis as much as two weeks and are fairly secure in Connecticut; fragmentation is the only issue that can affect the wood frog. He explained another adaptation for wood frogs in the winter is that wood frogs do not go into the ground, they don't freeze by turning their body fluids to glycol.

G. Logan explained that wood frogs are on this site and that the intervener has postulated that there are vernal pools habitats for wood frogs and salamanders. He stated that he really does not know 100 percent what is going on this site. His professional Ecologist's opinion was that the probability of wood frog breeding in this swamp is relatively low. He showed the areas on the site plan where the wood frog breeding could happen. He explained how the wood frogs deposit their eggs together to form a raft. G. Logan explained that the activities proposed will take out some forest; and are potential areas where wood frogs forage; there are areas of the swamp where there are upland islands are potential habitats. His professional opinion that there are enough terrestrial habitats remaining that the wood frogs would subsist in similar numbers. He stated Wetland Scientist's opinion is that the only way to have an impact on this particular wetland via the wood frog impact would be if a huge population of wood frogs was eliminated to the point that the physical and chemical characteristics of their breeding pools and nutrient cycling changed dramatically for the worst. He cited Riversound as an example that this is not the case for this site. He stated that all the other species found on the site live within the swamp itself, would do fine since they do not go into the water.

G. Logan concluded confidently that having reviewed this particular proposal, not future conditions proposed, there would not be an adverse impact or unreasonable impairment or pollution or destruction of the natural resources including critters and vernal pool, and potential vernal pool habitats on the site. G. Logan cautioned the developer, the commission and he would caution in the report that in any future condition for a specific proposal that would come before the commission, that certain things need to happen so there is no physical impact; beside the obvious continued erosion and sedimentation controls, would be insure that Low Impact Development processes are to be used because this is a discharge wetland with as stabile hydrologic regime and to insure that it remains a stable hydrologic regime, you must infiltrate the run-off into the ground; first pretreated and then infiltrated into the ground. He stated that with these systems and these soils, it would be easy to do.

R. Parrette asked about the spaded toad frog how far it lives underground. G. Logan stated that it can be about two to three feet. R. Parrette asked what soil it favors. G. Logan stated that it likes loose sandy soil which is the type of soil on this site. R. Parrette asked with the nearness to the interstate, how the frog would react to the constant vibration of traffic or would it move to the other side of the pond where it is quieter. G. Logan stated he would have to look into that, but it is a point that other critters do not like the vibration but that he must study this to give you an answer; but there is a likelihood that it is sensitive to vibration. R. Parrette asked the same question regarding the blue spotted salamander. G. Logan stated that he did not know, he stated that general studies in the Netherlands and Boston, and those major transportation corridors that the ecological effects can impact species up to 600 feet from the highway for measurable impacts on a variety of species.

S. Stadnicki asked if there were other snakes on the site. G. Logan stated that he did not see other snakes that the garter snake but it was possible.

H. Heller stated that the intervenor introduced into evidence photographs of salamanders which he forward to G. Logan, did he review those photographs. G. Logan explained that they saw on the site the large amount melanistic form of the dark form of the red back salamander the intervener saw. When they are on the young side, they have blue spots which make it confusing and the salamanders in the photographs are melanistic red back salamanders and not blue spotted salamanders. R. Parrette stated that they were told it was determined by testing to confirm. Glen Norman stated that testing determined whether it was diploid blue spotted salamander. G. Logan explained that the testing is done when Jefferson vs. blue spotted salamanders are found, and there are no Jefferson salamanders west of the Connecticut River.

H. Heller asked G. Logan in his opinion was your search efforts sufficient to have identified blue spotted salamanders or spade foot toads on this site. G. Logan stated yes.

H. Heller explained to the commission that in deliberating on this application based on criteria CS Section 22a and your regulations is to evaluate whether or not this proposal to excavate and remove material and place material in the northern portion of this site will have a physical impact on the wetlands; and that the commission is not evaluating what any potential future use will have on this site. He stated that he hoped that these efforts will be successful to develop this site; and depending what the future use it, it will have to come before this commission and will be competently engineered using best management practices to maintain the hydrology and quality of the run-off so the future development will not have an impact.

H. Heller reviewed and read for the record the criteria and how the evidence presented satisfies the permitting parameters: **Criteria:** Environmental impact of the proposed regulated activity on wetlands and watercourses through erosion and sedimentation measures and stable soils in remote; hydrology of the discharge wetland and surface sources of recharge are not being altered or diverted and surface runoff will continue to reach he wetlands; after the excavation activity, the proposal calls for creation of two pads in a gravel state for future development; the remainder being disturbed will be loamed and seeded as specified by Mr. Schuch in his stormwater report and believe no adverse impacts to the wetlands system; **Criteria:** Feasible or prudent alternatives to the proposed regulated activity causing less or no adverse impact to wetlands or watercourses; he read the definition of feasible and prudent for the record. He stated that the one of the alternatives proposed by the intervener was not building the access road and not improving the development plan. H. Heller stated that this alternative was imprudent since the interchange area at Exit 86 is one of the nodes for intense commercial development in Griswold; the site has sufficient soils and upland areas to accommodate commercial users and evidence shown does not have an adverse effect on the physical characteristics of wetlands itself. He stated that the applicant is entitled to use and develop this area of the property and can be accomplished without adverse effects on the wetland system; denial of the permit to development would be imprudent. **Criteria:** Relationship between short term and long term impacts of regulated activity on wetlands and watercourses and maintenance and enhancement of long-term productivity of wetlands and watercourses: the evidence indicates that short term concern in no introduction of sediment into the wetlands through material excavation and filling operation and is mitigated by the nature of the disturbed soils and the use of comprehensive sedimentation and control plan insure protective measures will be in place throughout the operation as designed by the project engineer. The closure plan is to provide large vegetative areas for filtration of pollution before the runoff ever reaches the wetland system; the evidence submitted by the professionals show there is no adverse impact of the wetland because of these activities. **Criteria:** The irreversible or irretrievable loss of wetlands resources caused by the proposed regulated activity: the evidence by the professionals is that **1)** there will be no physical disturbance of the wetland, **2)** no change to the hydrology of the wetland, **3)** the canopy will maintained so there is no change in water temperature of standing water of the wetland; conclusion: there is not change the physical characteristic of the wetlands. **Criteria:** The character and degree of injury to or interference with safety, health, or reasonable use of property that is caused or threatened by the proposed activity: there is no evidence in the record that shows and danger to property as a result of the proposed regulated activities; the proposed runoff from the site is not being changed significantly as a result of this proposal; there is a large wetlands system equal to the amount of the property being disturbed that is available for flood flow and alteration; no evidence that these proposed activities will pose a danger to health or property. **Criteria:** Impacts of the proposed regulated activities to wetlands and watercourses outside the area for which the activities are proposed and future activities associated with or reasonable related to the proposed regulated activity which are made inevitable and have an impact on wetlands and watercourses that deals with potential downstream impacts to wetlands and watercourses that may be caused by this operation. H. Heller explained that this site is well contained and stormwater runoff is well attenuated by highly permeable soils and the runoff coefficients will not be altered significantly as a result of the excavation and re-grading operations so there is no real potential for downstream adverse impacts as a result of this proposal.

H. Heller concluded that the proposal will not impact the physical characteristics of the wetlands that the proposal complies with the permitting criteria in your regulations and the Statutes and should be approved by the commission. H. Heller stated that they would answer any questions.

S. Stadnicki asked Bob Schuch about the sedimentation controls for the project. Robert Schuch explained the erosion and sedimentation control measures using sedimentation fence around the entire perimeter of any disturbed areas; an anti-tracking pad will be installed at the crushed stone entrance; the excavation area in the southern section is designed to maintain the hydrologic flow to the wetlands using 3 temporary sedimentation basins excavated in the being of construct for water to be contained in those areas that will gently overflow to a riprap area and dispersed over the ground. These have been designed according to DEEP criteria for 130 c. y. of storage for every acre that is drained. B. Schuch stated that the gravel access area will be prepared to deposit 8600 c. y. of material to the fill area and berm alongside the sediment fence to create a dam to collect stormwater run off as an additional protective measure. B. Schuch explained the existing culvert from I-395 and there will be a grass swale to discharge to the culvert and stone check dams to break the water flow and stop sediment reaching the culvert that was designed for a 25 year storm but have a 100 year storm capacity; the outlets will have riprap aprons sized to the 2004 Stormwater Manual; staked hay bales will allow the water to go through to maintain the hydrologic regime. B. Schuch explained how the drainage was designed based on the amount of flow and final grading will be sheet flow to Route 201 as well as maintaining current sheet flow to the wetlands; and there is room for on the site for development that could incorporate low impact development features. B. Schuch explained the soil testing and sewage disposal areas. C. Kinnie asked about the existing soil there now for the 8600 c. y. brought in for the pad. B. Schuch stated that the area will be cleared, stripped and stockpiled and he showed those locations on the site. C. Kinnie asked about silt fence for the stockpiles. B. Schuch stated that it is in the narrative. H. Heller stated that it will be surrounded by silt fence and temporarily vegetated with rye grass.

R. Parrette asked the size of the foot print of the northerly site prep area, the square footage. B. Schuch stated that it is 14,000 sq. He stated that it was prepped for a potential tenant to review the site which has Hinckley gravels. S. Stadnicki asked if the garbage will be removed. Peter Kusyk stated that the garbage has been removed and the derelict homes, the mobile homes, abandoned vehicles have been removed within two months of purchase. S. Stadnicki asked if the fibrous material has been removed. P. Kuzyk stated that it will be removed in a dumpster and transported away. There was discussion of this matter.

L. Churchill asked about the rectangle, would a septic system be in that area. B. Schuch stated that the septic would be placed down gradient of the area where the test holes by the Health Department. G. Logan asked about the runoff to the turnpike, the lower culvert with the riprap will be replaced in the future. B. Schuch stated that nothing will be disturbed in the highway right of way non access highway line. He stated that it takes half the ramp flow and discharges to a vegetated area and will not become filled which will be the State's responsibility to clean. P. Zvingilas stated that he received a call from Kelly at DOT that she gave a verbal conceptual approval for the revised plans and a letter will be sent to the file.

R. Parrette asked about the two proposed culverts, can the 14,000 sq .ft. pad be dropped into the southerly node. B. Schuch stated that it could be developed too in the end and would have to meeting zoning requirements. H. Heller stated that the pad was ready to market the site for commercial buyers. S. Stadnicki asked why it is not expanded closer to Route 201. B. Schuch stated that it was to keep the pad on the knoll. J. Faulise stated that the areas identified were for marketing purposes; it is not a development or the limits of a potential development. He explained the intent of the plan was to assure to the commission that this site was developable and that there are protective measures to protect the wetlands and there are no runoff problems. P. Zvingilas asked if a permit was needed by the State DOT. J. Faulise stated that a permit is need from DOT and is part of their approval you spoke to Kelly today. J. Faulise stated that the driveway location on Route 201 is a fixed location. S. Stadnicki what will be paved. J. Faulise stated that the driveway apron will be paved and drains to Route 201.

H. Heller explained that this is a proactive effort by Kreative to put the property in a state that can attract developers to this location at the I-395 interchange, based on the PoCD. There was discussion of this matter.

C. Kinnie asked the intervenor, Mr. Serdechny if he has questions for the applicant and the Board. Dillon Serdechny asked about REMA report about a 75 foot area filtering runoff from I-395 and wanted to know how it would be affected by this operation. H. Heller explained that the area is the current discharge from the culvert of northbound onramp and 75 feet from the discharge to where the water enters the wetlands system. The flow train will be increased because of the construction of the access area and will be diverted to the impoundment areas so the vegetative area will be increased. D. Serdechny stated concerning the REMA inspection dates, he felt that it was too narrow a window for the seasons. He cited the New England vernal pools assessment sheet from Army Corp of Engineers which he read for the record regarding site visits. D. Serdechny stated that the spade footed toad March April and July and to conduct a study when they are not breeding is not appropriate in his opinion.

C. Kinnie asked that the applicant representatives take a record of the questions and comments raised by the intervenor should this public hearing be continued tonight because of the limited recording device. S. Stadnicki asked the applicant to what the cost would be to require a study based on the Army Corp of Engineers' New England Vernal Pool Assessment so that we would know the cost if we are to support the PoCD.

D. Serdechny stated that the Army Corp of Engineers recommends 3 to 5 years. D. Serdechny stated that one year would be appropriate. He stated that on 8/15 REMA did a 3 hour site visit. He stated that on the REMA website that stream bio surveys using methods for examining wetlands that it is best performed throughout the year in spring summer and fall and not a narrow window. He submitted it for the record. D. Serdechny read for the record, page 5, section 3 of the REMA report regarding metamorphosis of wood frog tad poles. D. Serdechny stated that D. Sorrentino's report cited that it was a particularly dry year. He read for the record Section 7.3 of the Inland Wetlands regulation that the commission will determine if there is adequate investigate. He stated that the site was described as poor for vernal pool dependent species. He stated that wood frogs were believed to be able to survive in areas other than vernal pools. He stated that the spotted salamander relied on vernal pools, and that mole salamanders are present on his property. He submitted photos of the mole salamander for the record. He submitted a photo key of the photographs submitted. D. Serdechny submitted photographs by his neighbor of salamanders for the record. C. Kinnie stated that the photos should be site specific for application and that they must show where and when the photos were taken and we are getting outside the realm of our consideration. D. Serdechny submitted an aerial of the area showing a spring overview of the property covered in trees. He submitted a photo of the green area showing the wetlands and that it was lush.

R. Parrette asked G. Logan about the comment "vernal pool dependent" used by the intervenor for a salamander with yellow spots; and if the animal is vernal pool dependent. G. Logan stated yes, that the salamander is vernal pool dependent; we call them vernal pool obligate. G. Logan explained that there are vernal pool habitats impeded in the landscape where salamanders were found in old test pits, in ruts next to railroads. He stated that the same technique used to find the spotted salamanders if they were an abundant and common species of this site; and that we didn't find them; but that they are somewhere near his property or his neighbor's property where there are vernal pool habitats where they breed, just that they do not breed on this site. He stated that with fish on the site, spotted salamanders are sensitive to fish.

D. Serdechny read for the record Section 8.7 citing that the commission may deny an incomplete application can be denied. He read for the record from the REMA report page 6, section 3, citing the information about the pond that in spring this area can likely support the breeding and reproduction of amphibians. D. Serdechny stated that the investigation should have occurred in the spring not in August when they are dry and difficult to determine. D. Rubino stated that nothing that is being proposes will be affecting the wetlands. D. Serdechny state that the upland review area is described as being primarily fed from the ground, and to compact the soil will make it difficult for filtration and percolation to take place in the northwest to southeast direction. He asked why the inflow to these wetlands described in the north has not been added to the diagrams. There was discussion of this matter including that it is overland surface flow and not stormwater and does not need to be shown to be compliant.

D. Serdechny cited the Woodstock conservation article of study done in Massachusetts regarding small development can affect negatively impact vernal pool wildlife where the wood frog population became extinct. R. Parrette asked if this was a vernal pool expert. G. Logan stated no. C. Kinnie asked that any information that is any information that was found in a previous hearing has been covered; and he asked him to cover only new information. H. Heller stated that case law in Connecticut is very clear that the commission cannot disregard the uncontroverted testimony of expert witnesses on issues that require expertise. He stated that the applicant has spent a significant amount of money in order to provide your commission with the expert information for the commission to make a decision on this application. He stated we have heard about articles pulled from the internet that have no relevance to this site and no basis in fact with respect to this site.

R. Parrette asked D. Serdechny to be more defined with his information. C. Kinnie stated that D. Serdechny needed to have direct questions to what was presented tonight. D. Serdechny asked if the committed was to have a full and informed picture of this entire operation in relationship to endangered species; and that the expert has stated that he did not know how it would affect the species when asked. D. Serdechny read Section 10.1c for the record that the commission could consider comments from any outside expert testimony. D. Serdechny stated that it was submitted so late that it makes it impossible to be reviewed by a party that he has hired; and that at such a late date; or to have it reviewed by a party that the commission would have it reviewed by. R. Parrette asked D. Serdechny where his expert was, since he has had as much time to have his expert to investigate the site. S. Stadnicki stated that if we are to deny an application, it is up to you to provide a feasible and prudent alternative; and that a 3-5 year study or even for one year is not feasible or prudent; it would create a precedent to have anyone put up a site, it would require a 3-5 year study every time. D. Serdechny stated that he maintains that the study should have been done in the spring.

D. Rubino asked Attorney B. Fiango what he thought regarding the intervenor. B. Fiango explained that an uncontroverted testimony of an expert would weigh heavily and it would be prudent to grant the testimony that it deserves. D. Serdechny stated that he would like the plans reviewed by an expert.

P. Zvingilas asked when the report was received. C. Kinnie stated that it was received on Monday and we got it tonight.

R. Parrette asked G. Logan if he had fluency in the spaded footed toad. G. Logan stated that as a wildlife biologist is an expert on any species that is out there even though he has not seen it. R. Parrette asked G. Logan if he could make a determination in August if the toad is there. G. Logan stated that if he thought that if he could not reasonably find the species in the time that he had, then he would have told his client that he could not find the species in the time that he had. He stated that Attorney Heller called him about what he was looking for from the DEEP has a higher authority and species are regulated under state statues, the commission regulates the habitats of species; and he explained the reference books he used; namely Dr. Michael Klemens book Amphibians & Reptiles of Connecticut and Adjacent Regions, 1993 that he used and he read page 115 for the record that in most specimens found in Connecticut and Rhode Island found by Rafael were found crossing road on warm rainy nights in the summer. He stated that if you look carefully on a warm rainy night for five hours, you will find them because that is when they come out. He was on the site on 8/15 and his associate was there in the rain for 5 hours. G. Logan was confident that the effort put in was the right effort for the spade footed toad and the blue spotted or spotted salamanders and they did not find any because there is not a prime vernal pool habitat.

J. Faulise stated addressed the time frame for this application was made in May, and a site walk was done in June, and at the June meeting this petition arrived. In that time frame we added additional experts to address the concerns of the intervenor; the applicant had the same time frame to provide his experts to refute what we proposed. J. Faulise stated that for time to establish experts to do this work, we both had same time amount of time to do that. He stated that they have made our case to the commission of why there are no significant impacts. He stated that he felt that the intervenor has not made an attempt to provide that same type of expertise based on the accusations of his position.

C. Kinnie asked for questions from the commission members. S. Stadnicki asked what we can do procedurally. There was discussion of this matter.

D. Serdechny stated that Mr. Logan commented that a physical change can take place in the wetlands when the wood frog population is diminished. He asked what was the impact of the dominant amphibian species in the area that breed in the wetlands and make their migration to the upland review area when 1,384 linear feet that is in contact with the wetlands is disturbed and that habitat is removed for those amphibians, how does that affect the egg masses of those species and not just the wood frog. H. Heller stated that Mr. Logan has given his testimony, and his professional conclusion is in his report that he has evaluated this operation; and his professional opinion is that operation will not change the physical characteristics of the wetlands or the breeding populations of the various amphibians and animals he saw in the wetlands. G. Logan concurred.

C. Kinnie asked D. Serdechny if he had any other direct question to ask of the commission. D. Serdechny stated not at this time. S. Stadnicki asked if he had any other information to submit. D. Serdechny stated not at this time. S. Stadnicki stated that when the public hearing was closed, he could not submit any more information.

P. Merrill asked a point of order regarding his status to vote in place of Mr. Norman There was discussion of this matter. C. Kinnie stated that everyone can have an active role in the discussion during the deliberations of this application; but voting depends on who was present at the public hearings. C. Kinnie reappointed P. Merrill to sit in the place of L. Laidley in this matter.

C. Kinnie asked for any comments or questions from the public at this time. Hearing none he asked for a motion to close the public hearing.
MOTION: D. Rubino motioned to close the public hearing for application CC 14-12. R. Parrette seconded the motion. All were in favor. The public hearing was closed at 9:56 p.m.

Respectfully submitted,

Donna M. Szall
Recording Secretary