

**NEW HAVEN CITY PLAN COMMISSION INLAND WETLANDS REVIEW
NEW HAVEN CITY PLAN COMMISSION SITE PLAN REVIEW
NEW HAVEN CITY PLAN COMMISSION COASTAL SITE PLAN REVIEW**

RE: **46 RIVER STREET.** Site Plan, Coastal Site Plan and Inland Wetlands Review for existing site. (Owner: DuPont; Agent: Mark Sussman of Murtha Cullina LLP.)

REPORT: 1501-02

INLAND WETLANDS FINDING: Approval with Conditions

SITE PLAN ACTION: Approval with Conditions

COASTAL SITE PLAN ACTION: Approval

CONDITIONS OF APPROVAL

1. Pursuant to State Statute, this Inland Wetland and Site Plan approval is valid for a period of five (5) years after the date of decision, to January 21, 2020. Upon petition of the applicant, the Commission may, at its discretion, grant extensions totaling no more than an additional five (5) years to complete all work connected to the original approval.
2. The applicant shall record on the City land records an original copy of this Site Plan Review report (to be provided by the City Plan Department) and shall furnish written evidence to the City Plan Department that the document has been so recorded (showing volume and page number), prior to City Plan signoff on final plans.
3. Comments under **Site Plan Review** shall be reviewed with the City Plan Department and resolution reflected on final plans, prior to their circulation for signoff.
4. Signoff on final plans by the Greater New Haven Water Pollution Control Authority, Fire Marshall, City Engineer, Department of Transportation, Traffic and Parking and City Plan Department in that order shall be obtained prior to initiation of site work.
5. Construction Operations Plan/Site Logistics Plan, including any traffic lane/sidewalk closures, temporary walkways, detours, signage, haul routes to & from site, and construction worker parking plan shall be submitted to the Department of Transportation, Traffic and Parking for review and approval to prior to initiation of Site Work.
6. A Bond, or other financial instrument acceptable to the City's Corporation Counsel, in an amount of 2% of the certified overall estimated project cost, including grading, paving, fencing, storm drainage, soil erosion measures, landscaping and the like, shall be provided to the City Plan Department, with a copy to the City Engineer, prior to initiation of Site Work.
7. Flood elevation certificate elevation shall accompany application for building permits. Applicant will provide As-built drawings of site. (See #11.)
8. Any proposed work within City right-of-way will require separate permits.
9. Any sidewalks or curbs on the perimeter of the project deemed to be in damaged condition shall be replaced or repaired in accord with City of New Haven standard details.
10. Following completion of site work, any City catch basins in the public right-of-way impacted by the project shall be cleaned, prior to release of Site Bond.

11. As-built site plan including finished grading shall be filed with City Plan Department, with a copy to the City Engineer, prior to release of Site Bond. Site Plan shall be submitted in both mylar and digital format [.pdf file].

Submission: SPR Application Packet including DATA, WORKSHEET, SITE, CSPR, IW and SESC forms. NARRATIVE attached. Application fee: \$270. Received December 17, 2014.

- Drawing set by URS with proposed grading and details. (4 sheets) Dated 11/24/14 and received December 17, 2014.
- Correspondence regarding letters to adjacent landowners from Sydney Neer of URS dated January 12, 2015.
- Supporting documents including Wetland Delineation Soil Report, Photographs, CT DEP permit from April 29, 1977, USACE permit from June 9, 1977

PROJECT SUMMARY:

Project: 46 River Street
Address: 46 River Street
Site Size: 1.81 acres
Building size: not applicable
Zone: IM (Marine Industrial)
Financing: private
Parking: not applicable
Owner: DuPont (Sathya Yalvigi, Project Director) **Phone:** 302.999.2764
Applicant: same
Agent: same
Site Engineer: URS Newark DE (Nate Carlson) **Phone:** 302.668.9196
City Lead: City Plan Department **Phone:** 203-946-6379

BACKGROUND

Previous CPC Actions:

CPC 850-07: CSPR and SESC for Medical Waste Processing.
CPC 1369-35: LDA to Advanced Alloy Metal.

The City has an agreement for remediation with the current owners. The site is located within the River Street Municipal Development Area.

Zoning:

The Site Plan as submitted meets the requirements of the New Haven Zoning Ordinance for the IM zone.

Site Description/existing conditions:

The site is currently owned by EI du Pont de Nemours (DuPont). DuPont intends to sell the property to the City of New Haven for re-use as a development site. **The site is polluted from past industrial activities and will be remediated by DuPont to current Connecticut standards. The remediation will meet the applicable criteria of the Connecticut Remediation Standard Regulations (RSRs) for Industrial Commercial Use.**

The site is located in the River Street Municipal Project Development (MDP), which was designated in 2002. The site is currently vacant; historically it was used for various types of manufacturing and commercial activities, most recently by the site's current owner, DuPont. No structures currently occupy the site, and the project does not propose to construct any new structures.

Proposed Activity:

Construction will consist of Phase 1 and Phase 2 remediation and will include the following:
Phase 1:

- Excavation, relocation and off-site disposal of "dirty" material to grade the area outside the 50-foot River Walk strip that includes an area of federally- and CNH-regulated non-tidal inland wetlands. This area will be initially graded to an elevation 8 feet above mean sea level (AMSL). It is anticipated that approximately 400 cy of fill will be relocated on-site and approximately 1920 cy will be moved off-site.
- Grade and place approximately 4 feet of clean fill within the Phase 1 fill area to a final elevation of 12 feet AMSL to meet the Connecticut Remediation Standard Regulations for Industrial Commercial Direct Exposure Criteria. To reach the final elevation of 12 feet AMSL, it is anticipated approximately 9450 cy of fill will be added on-site. In addition, Approximately 236 SF of non-tidal inland wetlands will be filled. (See inland wetlands section of this report.)

Phase 2:

Due to a portion of the Phase 2 activities being below the Coastal Jurisdiction Line (CJL), and disturbance of federally- and state-regulated tidal wetlands, these activities will require additional permitting. (The CJL defines the jurisdictional limit between state and federally-regulated surfaces.) Permits are anticipated to be obtained by the City of New Haven. Pending approval of both State and Army Corps of Engineering (ACOE) permits, the following Phase 2 activities will be completed by either DuPont or the City of New Haven:

- Removal of vegetation and placement of 4 feet of clean fill on-site within the 50-foot River Walk strip and state/federally-regulated tidal wetlands landward of the 50 foot strip to meet the Connecticut RSRs for Industrial Commercial Direct Exposure Criteria. It is anticipated that approximately 1978 cy of clean fill will be added on-site. In addition, 9636 SF of state- and federally-regulated tidal wetlands will be filled. Of these tidal areas, approximately 2071 SF will be landwards of the CJL and 7565 SF will be water-ward.
- Placement of additional clean fill to the final grade of the Phase 2 fill area. In is anticipated that fill will be placed to 10 feet AMSL along the bulkhead and will slope upwards to the Phase 1 area (graded to elevation 12). This will require an additional 1852 cy of clean fill.

It is anticipated that Phase 2 activities will be shared between the City and DuPont as set forth in the Purchase and Sales Agreement between DuPont and the City. Applicant states that "if permits are received in appropriate time" DuPont will complete the Phase 2 fill activities landward of the 50-foot River Walk strip as part of the Phase 1 activities. If not, the application states that the City will be responsible for these activities.

The applicant has explained, and the City has confirmed, that the Purchase and Sales Agreement between DuPont and the City provides that (i) the agreed "appropriate time" for receipt of permits by the City is set for no later than June 30, 2015; and (ii) sufficient funding is to be set aside at Closing by DuPont to be held by the City to fund the Phase 2 work.

The City has been acquiring, remediating, and assembling sites here under the River Street MDP. The City will retain and improve an area along the waterfront as part of its Coastal Area Management Plan.

Circulation/Parking/Traffic:

No Circulation, parking or traffic is relevant as the site is a vacant parcel.

Trash removal: Not applicable

Signage: Not applicable

Sec. 58 Soil Erosion and Sedimentation Control:

Class B (significant impact)

Cubic Yards (cy) of soil to be moved, removed or added: 15,600 cy

Start Date: Spring 2015

Completion Date: needs clarification

Responsible Party for Site Monitoring:

Nathanael Carlson of URS Corporation
Newark DE
302.781.5882

Robert Tedeschi of URS Corporation (Day-to-Day monitor)
Rocky Hill CT
860.990.6811 or 860.681.8422 (emergency)

This individual is responsible for monitoring the site to assure there is no soil or runoff entering City catch basins or the storm sewer system. Other responsibilities include:

- monitoring soil erosion and sediment control measures on a daily basis;
- assuring there is no dust gravitation off site by controlling dust generated by vehicles and equipment and by soil stockpiles both during the demolition and construction phases;
- determining the appropriate response, should unforeseen erosion or sedimentation problems arise; and
- insuring that SESC measures are properly installed, maintained and inspected according to the SESC Plan.

Should soil erosion problems develop (either by wind or water) following issuance of permits for site work, the named party is responsible for notifying the City Engineer within twenty-four hours of any such situation with a plan for immediate corrective action.

All SESC measures are required to be designed and constructed in accordance with the latest Standards and Specifications of the *Connecticut Guidelines for Soil Erosion and Sediment Control*.

Sec. 60 Stormwater Management Plan:

The site is currently vacant. A stormwater management plan will be required upon redevelopment of the parcel.

Sec. 60.1 Exterior Lighting:

Not applicable

Sec. 60.2 Reflective Heat Impact:

Not applicable

Project Timetable:

Site remediation is proposed to begin in Spring 2015. The application is unclear as to proposed end date.

SITE PLAN REVIEW

Plans have been reviewed by the Site Plan Review team with representatives from the Departments of City Plan, City Engineer, Building, Disabilities Services and Transportation, Traffic and Parking and have been found to meet the requirements of City ordinances, Regulations and standard details except for the following issues, which must be addressed prior to sign-off for permits:

- **Applicant must clarify “allowable time” as it relates to its SESC narrative; applicant states that “mulch of hay or jute mesh will be applied to protect the areas which cannot receive a vegetative cover within the allowable time”. Staff suggests site must be completely seeded (at a minimum) following completion of filling and grading activities;**
- **Given the amount of filling on site, the stakes for the silt fences should be increased in length and should penetrate the ground surface a minimum of 36”, in lieu of 18”;**
and
- **Silt sacks shall be installed in all adjacent City catch basins to guard from soil migration from site; these sacks should be inspected daily and replaced as necessary to maintain the City’s system.**

COASTAL SITE PLAN REVIEW

The Commission's Coastal Site Plan Review, in accordance with Section 55.C of the New Haven Zoning Ordinance shall consider the characteristics of the site, including location and condition of any coastal resources; shall consider the potential effects, both beneficial and adverse, of the proposed activity on coastal resources and future water-dependent development opportunities; follow the goals and policies of the Connecticut Coastal Management Act, as amended, and identify conflicts between the proposed use and any goal or policy of the Act.

Characteristics and Condition of Coastal Resources at or Adjacent to the site:

This site is located In Flood Zone AE on FEMA Panel 0442J. A flood elevation permit will be required for any Building Permit application.) Base elevation for floods in this zone is elevation 12.

This site lies on the Quinnipiac River and is considered a WATERFRONT site. Per CT General Statutes, the applicant must detail the relationship of the proposed uses to water-dependent uses. The eventual use of the site for development is not known, so the applicant can not truly address whether the site will be used for water-dependent uses. The site is located on a navigable body of water, but the proposed work does not preclude the development of water dependent uses in the future. The MDP plan completed by the City includes a waterfront pedestrian walkway, but that is not part of this application. Future construction may include the re-sheeting of the existing bulkhead, but that is also not part of this application.

Coastal Resources on or adjacent to the site include: tidal wetlands, freshwater wetlands and watercourses (see inland wetlands section of this application), estuarine embayments, coastal flood hazard area and developed shorefront.

A full discussion of impacts can be found in the text of the application and need not be repeated here.

Potential negative impacts on coastal resources and mitigation of such impacts:

Because the proposed work includes the proposed filling of both City-regulated inland wetlands and watercourses and state- and federally-regulated tidal wetlands, there is potential that the City will be losing a valuable resource in wetland functionality, ecology and stormwater cleansing and absorption. However, the wetlands contain contaminants. The City's construction of the waterfront walkway here is part of the overall mitigation plan. The applicant has stated that the City itself will provide off-site mitigation within West River Memorial Park to compensate for the loss of wetland areas. While it is unusual for a second party (NOT the applicant) to provide for mitigation of wetland loss in another area, there is nothing in the regulations to prevent this transfer of responsibilities, and the City has a remediation agreement with the applicant.

Positive Impacts on Coastal Resources:

The proposed remediation of the site sets the stage for future development of the site with its associated positive impact on the local economy. Depending on the type and nature of the future development it may also have positive impacts on ecology, aesthetics, coastal access, and water-dependent uses. These impacts, however, remain outside the scope of this application, and it must be noted that the proposed work leaves the site in a more positive place than it is now, but largely neutral in terms of overall coastal impact.

INLAND WETLANDS REVIEW

CLASSIFICATION

- Class N: Non-Regulated Uses
- Class A: Uses Permitted by Right
- Class S: CTDEP Regulated Operations and Uses
- X Class B: Inland Wetlands Commission Regulated Operations and Uses Having a Minor Impact
- Class C: Inland Wetlands Commission Regulated Operations and Uses Having a Major Impact

Definition of Regulated activity - any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration, or pollution of such wetlands or watercourses, and any earth moving, filling, construction, or clear-cutting of trees, or any such operation within fifty (50) feet of wetlands or watercourses.

Determination of Classification:

On site there is a combination of both City-regulated inland wetlands and state- and federally-regulated tidal wetlands. The City's jurisdiction extends only to the inland wetlands on-site, a total of 236 sf.

The application states that "the area of non-tidal wetlands was formed due to a floor drain outfall of an adjacent former building and is located in Area of Concern 33 and AOC 2. Soil conditions in the AOCs are very poor, consists of dredge fill previously placed in this area in 1980, and are impacted by PAH compounds." Remediation of the area via the deposition of clean fill will make the on-site pollutants inaccessible to humans, though water may still percolate through the soils and may carry pollutants within the underlying soils and water table.

Given that the inland wetland as it exists is both minimally ecologically functional and poses exposure risk, it is deemed by staff to fall within the definition of a Class B wetland having minor impact.

Proposed Regulated Activity:

The applicant proposes to fill the inland wetland with approximately four feet of clean fill, rendering the area re-useable under Connecticut state Remediation Standard Regulations.

Soil Science Report:

A complete Wetland delineation report is included with the application and was dated 11/2/14 and amended 11/17/14.

Vegetation:

Existing vegetation includes dense stands of invasive Phragmites with a sprinkling of other native and non-native species including Robinia pseudoacacia, Rosa multiflora and Artemisia vulgaris.

Planting Plan:

Planting is proposed only via seed mixes used to establish vegetative cover for soil erosion and sedimentation control. Mixes include both an annual rye/redtop mix for temporary stabilization and New England erosion control mix for permanent cover. Again it is reiterated that staff recommends the applicant establish permanent vegetative cover following completion of filling and grading activities.

Application Evaluation Criteria: In reviewing a Class B or C Application, the Commission must consider the following environmental impact criteria in its evaluation, as stated in Sections 7.2 and 7.3 of the City's Inland Wetlands and Watercourses Regulations:

- The ability of the regulated area to continue to absorb, store or purify water or to prevent flooding.
- Increased erosion problems resulting from changes in grades, ground cover, or drainage features.
- The extent of additional siltation or leaching and its effect on water quality and aquatic life.
- Changes in the volume, temperature, or course of a waterway and their resulting effects on plant, animal and aquatic life.
- Natural, historic, or economic features that might be destroyed, rendered inaccessible or otherwise affected by the proposed activity.
- Changes in suitability of the area for recreational and aesthetic enjoyment.
- Existing encroachment lines, flood plain and stream belt zoning and requirements for dam construction.
- Any change in the water effecting aquatic organisms or other wildlife, water supply and quality, or recreational and aesthetic enjoyment.
- The existing and desired quality and use of the water in and near the affected area.
- Reports from other City agencies and commissions not limited to the Environmental Advisory Council, Building Official, and City Engineer.
- The importance of the regulated area as a potential surface or ground water supply, a recharge area or purifier or surface or ground waters, a part of the natural drainage system for the watershed, a natural wildlife feeding or breeding area, its existing and potential use for recreational purposes, existence of rare or unusual concentrations of botanical species, availability of other open spaces in the surrounding area, or its value for flood control.

In this case, given the isolated nature of the wetland fragment and its existing soil contamination, it most likely does not act as an effective environmental filter for

purification of water. The proposed fill area will still act to absorb and store water and to prevent flooding.

Erosion control has been adequately addressed in the application with the caveats mentioned under SITE PLAN REVIEW; as long as these items are addressed, there should be no issues with erosion control.

Siltation or leaching should not be an issue with this application given SESC control measures proposed.

No changes in volume, temperature or course of the adjacent waterway is anticipated.

Given the degraded nature of the site, there are no natural or historic features on-site. Economic features are increased through the possible redevelopment of the site as enabled by this project.

The City has a long-planned 50 foot River Walk along the Quinnipiac River for recreational and aesthetic enjoyment of its citizens. This project does not inhibit that project in any way.

The project does not affect any encroachment lines, flood plain or stream belt zoning. No dams are involved.

The project may in fact help increase water quality by removing hazardous soils and capping the area with clean fill. While it cannot prevent migration of existing pollutants within the water table, the four foot cap will help filter any new pollutants which may be introduced into the system.

The water in and near the affected area will be greatly enhanced should the City follow through with its River Walk project. This project sets the stage for that work to happen.

The remnant inland wetland in this case is so small and minimally functional that it is hard, if not impossible, to quantify its usefulness as a potential surface or groundwater supply or recharge area. The land will remain functional as a natural drainage system and recharge area for the watershed, at least until future development happens. At that time, other regulations, including Stormwater Management, will regulate the drainage systems. As stated previously, the City's development of the adjacent River Walk area is not at all impeded by this proposal.

The Commission must consider the following **additional** criteria:

- Alternatives which might enhance environmental quality or have a less detrimental effect, without increasing basic project costs.
- Short versus long term impacts.
- Potential loss of irrevocable resources or property impairment.
- Suitability of action for area.
- Mitigation measures which may be imposed as conditions.

There are no other alternatives which might enhance environmental quality without increasing the basic project costs. The short term impact of filling a minor wetland is offset by the long-term potential of the development site both ecologically and economically. There are no losses of irrevocable resources or property impairment. The proposed remediation is suitable for the site and falls within the goals established for the redevelopment of the district. Mitigation measures proposed for the tidal wetlands impacts will be addressed by the City as part of its bulkhead repair, tidal wetlands and River Walk permit process subject to review by DEEP and the Corps of Engineers(discussed further in the Coastal section).

Required Findings for a Class B Application:

The Commission must make the following findings for a Class B Application:

1. There is no preferable location on the subject parcel or no other available location could reasonably be required;
2. No further technical improvements in the plan or safeguards for its implementation are possible, or taking into account the resources of the applicant, could reasonably be required; and
3. The activity and its conduct will result in little if any reduction of the natural capacity of the wetlands or watercourses to support desirable biological life, prevent flooding, supply water, facilitate drainage, and provide recreation and open space.

INLAND WETLAND FINDING

For this application, there is no preferable location on the subject parcel to the proposed filling area. Except for the technical improvements required under SITE PLAN REVIEW, no further technical improvements or safeguards are possible. The activity and its conduct will result in little if any reduction of the natural capacity of the adjacent watercourses to support desirable life, prevent flooding, supply water, facilitate drainage, and provide recreation and open space. The activity WILL completely eliminate this inland wetland and any natural capacity it may have, though staff recommends its current function is minimal and negligible. Any proposed mitigation will more than offset the function lost here.

The Commission believes that the required findings for a Class B application have been satisfied, with the following condition:


- **The River Walk as proposed in the River Street MDP be constructed by the City as mitigation for the filling of the inland wetlands.**

The Inland Wetland application is hereby approved, in accord with the submitted plans and the Conditions as stated on page 1.

SITE PLAN ACTION

The City Plan Commission approves the submitted Site Plans subject to the standard conditions on Page 1.

ADOPTED: 21 January 2015
Edward Mattison
Chair


ATTEST: 
Karyn M. Gilvarg, AIA
Executive Director

COASTAL FINDING:

Taking into consideration all of the above information, the City Plan Commission finds the proposed activity consistent with all applicable goals and policies in Section 22a-92 of the Connecticut Coastal Management Act and incorporates as conditions or modifications all reasonable measures which would mitigate the adverse effects on coastal resources. The Commission therefore makes a finding of minimal impact on coastal resources and approval for a coastal permit to be issued.

Coastal Site Plan Review, based upon the application and materials submitted by the applicant, was conducted administratively without hearing by the City Plan Commission of the City of New Haven in accordance with the Connecticut Coastal Management Act (CGS, Sections 22a-90 to 22a-112). The Building Official hereby receives the above written findings and any conditions thereof are made conditions of the Building Permit.

DATE ADOPTED: 21 January 2015

ATTEST: 
Daniel O'Neill
Building Official