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ADOPTED

CONSERVATION COMMISSION/INLAND WETLANDS & WATERCOURSES AGENCY
MINUTES – REGULAR MEETING
APRIL 20, 2010

I. CALL TO ORDER

Chairman Miller called the Conservation Commission's meeting to order at 7:30 p.m. in the Main Meeting Room of the Simsbury Town Offices. The following members were present: Margery Winters, Ryan Mihalic, Margaret Sexton, Darren Cunningham, and alternates Donald Rieger, Jr., and Patrick Kottas. Also in attendance were Howard Beach, Conservation/Inland Wetlands Officer and other interested parties.

II. APPOINTMENT OF ALTERNATES

Chairman Miller appointed Commissioner Rieger to serve for Commissioner Bucknam and Commissioner Kottas to serve for Commissioner Zackeo.

III. APPROVAL OF MINUTES – April 6, 2010

Commissioner Kottas moved to approve as presented the Minutes of April 6, 2010. The motion was seconded by Commissioner Rieger and passed unanimously.

IV. PRESENTATION(s), DISCUSSION AND POSSIBLE VOTE

a. Application of Douglas and Roberta Morehouse, Owners, McLean Affiliates, Inc., Agent, for an Inland Wetlands Permit for drainage improvements within the 100-foot upland review area to a wetland on property located 59 Great Pond Road. (Map F-08, Block 147, Lot 002)

Attorney Donohue, Killian & Donohue, LLC, Attorney, representing McLean spoke on behalf of Mr. and Mrs. Morehouse. He gave a brief background on why they were here this evening. A month and half ago they filed an application for activities in the upland review area and for a wetlands map revision. At the initial meeting it was requested by petition and by the

Commission that they have a public hearing. The public hearing is also before them to be continued this evening. Attorney Donohue said that during that period of time they went on a site walk and the public hearing was established and a date set. He said that during the course of the public hearing and the site walk and review of the site, it was determined that the immediate down stream property (Morehouse property) would be affected conceivably by certain things that they would do. They have worked with the Morehouse's, and have come up with a plan that is embodied in the Morehouse application before this Commission tonight. Tom Daley, Milone and MacBroom, Philip Carignan, Moran, Shuster, Carignan, & Knierim, LLP, Attorney for Mr. and Mrs. Morehouse, and Mr. and Mrs. Morehouse are also in attendance this evening. Attorney Donohue said that Tom Daley has red line notes that will be distributed to the Commission members and staff. Also the Post Construction Operation and Maintenance of Storm Drainage Facilities, an Invasive Species Management Plan, and an Integrated Pest Management Plan will also be distributed.

Commissioner Cunningham stated that they have a letter from Attorney Carignan, dated April 2, 1010, stating that this letter will serve as a letter of agency to McLean's to act on behalf of our client in this matter.

Tom Daley, Professional Engineer, Milone & MacBroom stated that he is working with the Morehouse's and their Engineer, David Batista from Lenard to develop a plan that mitigates both existing problems they have out there and also the potential impacts associated with the development of this project. Mr. Daley spoke of an existing level spreader that was put in with the emergency access drive. He said that when they walked the field they saw that the discharge from the water coming out of that goes down towards the Morehouse's property. He showed this on a plan. Mr. Daley said at the last meeting they proposed to put a small urban berm to redirect this water away from the area that goes 90 degrees and get it to go over into an area (showed on plan) where there is an existing drainage system that works well. They have also changed some of the flows on the McLean property so there is less decrease in flow down through the area.

Mr. Daley said that on the Morehouse property they are looking to improvements in three (3) areas. He said that they did a survey on the Morehouse property to make sure that they had the exact location of the existing storm drainage structures. They basically have a dry well system located on the northern end of the property, south of the house there is another dry well and a catch basin that has a 12-inch pipe that goes to the pond. It is his belief that these drywells are actually interconnected with stone trenches. Mr. Daley said that several weeks ago he went out after we had some very heavy rain and did not see a drop of water in the dry well. He explained that these are not true drywells, but more like a French drain connected pipe that goes in between there. They are very

confident that these systems have sufficient capacity. Mr. Daley spoke of the dry well or the catch basin to the north saying alternately water does flow there, but the area graded around there that water by passes that yard drain and goes across the road causing some push and erosion to some plant beds (showed on the plan location). They are proposing to shape a little and kind of nudge the water into where it should be going. They will create some swales to get the water into the dry well, just enough to get the water to pitch properly.

Mr. Daley said that between the side yard of the house is a fairly flat and graded area where water gets trapped. He is proposing a yard drain that would be small, but big enough so that they have enough capacity. This would be located outside the fence line (showed on plan). This would be interconnected to the existing drywell with an 8-inch perforated pipe. He said that there is also a second catch basin that is in a landscaped area (showed on plan), and a berm and swale system that runs in direct setting water that comes off another area and directs it to the north to a catch basin (showed on plan). He would like to create a little bit of a swale system to get the water into the catch basis more effectively.

Mr. Daley said that all the improvements discussed are on the Morehouse application. These improvements would be, weather permitting, installed in the very early stages of construction. There is infrastructure in place so when this project goes on it is already sitting there and sufficient for them to do the work. He said that as it is a small amount of work, a contractor can be in and out of there in just a couple of days, re-establish it, topsoil and seed it. There is not a high potential for erosion.

Commissioner Mihalic asked if this work would be done whether or not they get through the Zoning process. Attorney Donohue said that their agreement with the Morehouse's is contingent upon concurrent approvals and contingent upon the project going forward.

Commissioner Mihalic asked what kind of equipment will be used. Mr. Daley stated that a small back hoe would be used, as it is only an 8-inch diameter pipe and only one yard drain or possibly a mini excavator may be used.

Commissioner Rieger questioned if the activities regarding the McLean application would create any additional flows onto the Morehouse property. Mr. Daly stated that the amount of peak flow would actually be reduced.

Mr. Daley stated that he is confident that the Morehouse's problems will be solved.

Commissioner Mihalic questioned if there would be any excess material coming off of the property. Mr. Daley stated that he does not anticipate any excess material; this is minor reshaping. The only excess material might be where they put the pipe and stone. This little amount of material will be taken off site.

Chairman Miller questioned if the applicant would be using any silt fencing for the excavation or disturbance in order to protect any resources. Mr. Daley stated that they are proposing inlet protection at the catch basins. He stated that because there is a large vegetative buffer between the proposed activities and the pond, no silt fence, he feels, is necessary.

Commissioner Mihalic made a motion that this is a regulated activity because it involves construction and removal of material located in the upland review area of a wetland. Commissioner Winters seconded the motion, which was unanimously approved.

Commissioner Mihalic made a motion that this is not a significant activity based upon the application presented by the applicant and the fact that there is no construction occurring in the wetland and the evidence of any disturbance appears to be minimal. Commissioner Winters seconded the motion, which was unanimously approved.

Commissioner Mihalic made a motion to approve the permit subject to the Town staff's recommendations and representations made during the application. Also, a reminder that the applicant has five years in which to take action under the permit. Commissioner Winters seconded the motion, which was unanimously approved.

V. PUBLIC HEARING(s), DISCUSSION AND POSSIBLE VOTE

a. Application of McLean Affiliates, Inc., Owner, David J. Bordonaro, Applicant, for an Inland Wetlands Permit for construction of sixteen independent living cottages within the 100-foot upland review area to a wetland on property located at the McLean facility, 75 Great Pond Road. (Map E-08, Block 147, Parcel A) (continued from meeting held on 4/6/2010)

Mr. Daley stated that at the last meeting, the Commission recommended a review of McLean's Operation and Maintenance Plan. He stated that he has conducted a field inspection of the McLean site of their existing catch basins and detention basins. He stated that he can report that they are very well maintained; they were very clean because they typically do not use sand on the roads any more in the winter. Mr. Daley stated that they are still requiring a formal program that the catch basins be inspected one to two times per year.

Regarding the Integrated Pest Management Program Plan, Mr. Daley stated that overall, the McLean site does not have a lot of lawn area. This will be maintained even after these units are constructed. He stated that McLean does not currently have an Integrated Pest Management Plan. They currently identify the problem and treat it appropriately, which will be formalized in a document. This document will be given to the landscaping company that McLean uses.

Mr. Daley stated that there was also some discussion at the last meeting regarding invasive species. McLean is willing and has committed to, in the area of the 16 units, developing an Invasive Species Removal Plan.

Mr. Daley stated that they have submitted revised plans. He stated that they did look at some low impact techniques. They are proposing to narrow the roadway; they have reduced the pavement to 20 feet, although they will have a structured sub-grade to 24 feet. He stated that they are proposing that the visitor parking be constructed of permeable concrete pavers. In addition to this, Mr. Daley stated that they have incorporated rain gardens into this project. They are also proposing a run off filter berm along the wooded edge. As water flows off the lawn area, the water filters through this berm. He stated that these low impact techniques are also low maintenance techniques.

Regarding erosion control measures, Mr. Daley stated that the site is needed to be stabilized as quickly as possible. He stated that the contractor will come in to do the earth work and then immediately hydro-seed the areas. If they are past the growing season, they will be spraying an erosion control blanket that has a wood fiber in it. He stated that he has identified these areas on the plans as critical seeding areas.

Mr. Daley stated that they have also added a note to the plan regarding the earthen berm going through the wetlands. It states on the plan that the berm can be installed before mass excavation work begins, weather permitting.

Mr. Daley stated that the applicant has worked with Mr. and Mrs. Morehouse and have also modified the outlet control structures for the detention basins in order to reduce the water even more. They have also taken some of the drainage back to the bigger detention basin, which is up gradient from the catch basin that has significant capacity.

Commissioner Mihalic stated that the applicant took seriously the recommendations from the Commission. He questioned what the decrease in permeable surface was based upon the LID additions. Mr. Daley stated that he has not calculated this, although he feels that the decrease is significant.

Commissioner Winters questioned if the applicant would be adding material for the rain gardens. Mr. Daley stated that it is typically a mix of organic material, a sandy material and a native material. He stated that they have also modified the plant list to more native plantings.

Regarding the IPM Plan, Commissioner Mihalic stated that it does talk about chemical controls. Mr. Daley stated that this is an educated approach. McLean does not do their own lawn care and do not store any of these chemicals on site.

Regarding other activities on the other 100 acre site in the context of making sure it would not be an additional burden on the watershed, Attorney Donohue stated that they are confident that the village is appropriate. Regarding future plans, McLean has done a lot of planning, but the plans that are in place now would be a new connecting building between Burkholder and the main building, although this is in a different watershed than these village activities. Attorney Donohue stated that the second item in the not immediate future for possible planning would be the existing cottages; the cottages may be removed to have a larger structure. He stated that these are some long term master plans for the future.

Regarding the provisions in the Post Construction and Operation and Maintenance Plan for the drainage facilities, Commissioner Rieger questioned if Town staff is satisfied with the information provided by the applicant. Mr. Beach stated that every year, the applicant may need to submit a bill so there is proof that the maintenance has been done. Maintenance records are also kept on site.

In response to a question by Chairman Miller, Mr. Daley stated that all of the stockpiled material will be sprayed with spray mulch. Chairman Miller suggested moving the stockpile area toward the south because of the topography lines. Mr. Daley agreed that it should be moved up the slope toward the proposed units.

Chairman Miller questioned if there were any comments or questions from the public.

Attorney Carigan stated that he would like to commend the applicant for their willingness to listen to his client's concerns with respect to the project's drainage impact on the Morehouse property and their willingness to resolve these concerns. Mr. and Mrs. Morehouse feel that with the additional drainage improvements that were proposed tonight, their fears and concerns will be alleviated. Attorney Carigan asked that the additional improvements on the Morehouse property be made a condition of this particular permit application.

Mr. Loether, 11 Washburn Drive, questioned if there would be erosion control measures taken around the detention pond. Mr. Daley stated that the plan shows erosion control measures in this area. Mr. Loether questioned if the Fire Marshal could overrule this Commission. Commissioner Mihalic stated that the Fire Marshal has discussed his concerns regarding width of roads and he has provided this Commission with guidelines for purposes of making sure everything is done in harmony. Although the Fire Marshal has the last say, this Commission, at times, works with the Fire Marshal to compromise. Mr. Beach stated that the Fire Marshal's concerns are to make sure that the width of the road is wide enough and that there is not too much of a curve in the road in order for emergency vehicles to get through.

Mr. Loether questioned if this Commission takes the calculations that the applicant provides as correct. Mr. Beach stated that the Town Engineer checks these calculations.

Commissioner Mihalic made a motion to close the public hearing. Commissioner Winters seconded the motion, which was unanimously approved.

Commissioner Mihalic made a motion that this is a regulated activity because it involves construction, removal and depositing of material within a wetland in the upland review area. Commissioner Winters seconded the motion, which was unanimously approved.

Commissioner Mihalic made a motion that this is a significant activity because on parts of the Commission's prior finding that this is a significant activity for purposes of scheduling a public hearing and based on some of the activities being conducted in and around the wetlands. Commissioner Winters seconded the motion, which was unanimously approved.

Commissioner Mihalic made a motion that because the Commission found a significant impact on wetlands or watercourses, the Commission found, based upon the application, the applicant working with this Commission to address concerns from both the public and Commission with regard to impact to the wetlands and watercourses, and taking significant steps to mitigate any and all potential impacts, that the Commission finds that a feasible and prudent alternative does not exist to the proposed application. Commissioner Winters seconded the motion, which was unanimously approved.

Commissioner Mihalic made a motion to approve the permit subject to the conditions set forth in the Town staff report, inclusion as appropriate in the Town records and is part of the permit itself, the Post Construction Operation Plan, Integrated Pest Management Plan, Invasive Species Plan and the other conditions stipulated during the hearing process, included but

not limited to the condition that the runoff mitigation activities proposed on the adjacent Morehouse property are conducted prior to construction on this property.

Commissioner Rieger asked that Commissioner Mihalic make an amendment to his motion to include that the Commission approves the addition of the Engineer's certifying the appropriate completion of the storm water system and also continuing obligation to make a diligent effort to control the invasives.

Chairman Miller asked that Commissioner Mihalic made another amendment to his motion to include the relocation of the stockpile area.

Commissioner Mihalic included these amendments to his motion. Commissioner Winters seconded the motion, including the two amendments, which were unanimously approved.

VI. PRESENTATION(s), DISCUSSION AND POSSIBLE VOTE

a. Application of Glen & Marion McIntyre, Owners, for an Inland Wetlands Permit for construction of a barn within the 100-foot upland review area to a wetland on property locate at 303 Hopmeadow Street. (Map F-15 & G-15, Block 116, Lot 8)

Mr. McIntyre stated that he and his wife are requesting to construct a garage on their existing house.

Commissioner Kottas questioned what would be stored in this garage. Mr. McIntyre stated that the garage would store two cars, a motorcycle and lawn mower. There will not be any plumbing or electric in the garage. He stated that the garage will have a 4" concrete floating slab. In response to a question regarding the driveway by Commissioner Mihalic, Mr. McIntyre stated that the proposed garage will be located in the turnaround area of the driveway. He will be using a chip seal; this is an oil stone mix that is impervious.

Commissioner Mihalic stated that this Commission has concerns regarding the storage of vehicles in an area where there could be seepage of oil and gasoline into the ground and eventually into the wetlands. He questioned if Mr. McIntyre would be storing any gasoline or oil or other materials in the garage. Mr. McIntyre stated that he would not be storing any materials; the garage is strictly for the vehicles.

Commissioner Winters questioned if the applicant would need to do any excavation prior to putting in the slab. Mr. McIntyre stated that the concrete piers will be approximately 6" above grade; the grade is up over

36'. He stated that there will not be any excavation; he will be bringing in a small amount of process.

Commissioner Mihalic made a motion that this is a regulated activity because it involves construction within an upland review area. Commissioner Cunningham seconded the motion, which was unanimously approved.

Commissioner Mihalic made a motion that this is not a significant activity based upon the information provided by the applicant and the plans that have been provided about the shed. Commissioner Cunningham seconded the motion, which was unanimously approved.

Commissioner Mihalic made a motion to approve the permit. Commissioner Cunningham seconded the motion, which was unanimously approved.

b. Application of the Town of Simsbury, Owner, Gerald Toner, Director of Parks & Recreation, Agent, for an Inland Wetlands Permit for parking lot improvements next to field #2 on property located at Memorial Park, 60 Plank Hill Road. (Map G-9, Block 202, Lot 22)

Mr. Beach stated that the parking area has grown just by people parking further into that area. In this corner of the property, there is a small pond that is close to the property line. When it rains, the water puddles in this area. The Town is requesting to fill in these hole by slightly grading the area and putting down gravel. The parking area will not be expanded; they would just like to level the area. Mr. Beach stated that there is a paved road up to this parking area.

Commissioner Sexton questioned if putting gravel in this area would encourage people to park beyond this area. Mr. Beach stated that this is would not be possible because there is a wooded area next to this lot.

Commissioner Cunningham made a motion that this is a regulated activity because the activity is within 100' of the pond. Commissioner Mihalic seconded the motion, which was unanimously approved.

Commissioner Cunningham made a motion that this is not a significant activity because it will decrease the affect upon the regulation area. Commissioner Mihalic seconded the motion, which was unanimously approved.

Commissioner Cunningham made a motion to approve the permit as submitted. Commissioner Mihalic seconded the motion, which was unanimously approved.

VII. RECEIPT OF NEW APPLICATION(s)

There were none.

VIII. STAFF REPORTS

There were none.

IX. DISCUSSION

Chairman Miller stated that the Town is applying for grants in order to clean up the invasive species along the public park areas. The Commission discussed invasive plants and getting volunteers to help get rid of them.

Commissioner Rieger stated that he sent the active State Swimming Pool Regulations regarding chemicals to the Town staff. These Regulations apply to operators of public pools and people who make a living managing private pools; individuals who own pools are not covered in this Regulation. He stated that there are standards that commercial servicers have to comply with and this Commission could consider making this a condition of approvals when applicable.

Chairman Miller asked that this information be distributed to the Commission members for discussion at the next meeting.

X. CORRESPONDENCE/ANNOUNCEMENTS

There were none.

XI. ADJOURNMENT

Commissioner Mihalic made a motion to adjourn the meeting at 9:20 p.m. Commissioner Winters seconded the motion, which was unanimously approved.

Ryan M. Mihalic, Secretary