

From: Carrie Vibert June 27, 2012 3:05:02 PM
Subject: Conservation Commission Minutes 05/01/2012 ADOPTED
To: SimsburyCT_ConserveMin
Cc:

CONSERVATION COMMISSION/INLAND WETLANDS &
WATERCOURSES AGENCY MINUTES
MAY 1, 2012
REGULAR MEETING

I. CALL TO ORDER

Richard Miller, Chairman, called the Regular Meeting of the Conservation Commission to order at 7:35 p.m. in the Main Meeting Room at the Town Offices. Other members and alternates in attendance were Patrick Kottas, Ryan Mihalic, Margery Winters and Donald Rieger. Also present were Howard Beach, Conservation Officer, Janis Prifti, Commission Clerk, and other interested parties.

II. APPOINTMENT OF ALTERNATES

Chairman Miller appointed Commissioner Rieger to serve for Commissioner Cunningham and Commissioner Kottas to serve for Commissioner Sexton.

III. PUBLIC HEARING(S)

None.

IV. PRESENTATION(S), DISCUSSION AND POSSIBLE VOTE

a. Application #12-10 of Aquarion Water Company of Connecticut for an Inland Wetlands Permit for the demolition of a former water treatment building and associated water tanks within 100 feet of the Upland Review Area on property located at 38 Westledge Road (Map A07, Block 203, Lot 029).

Dan Rikikowski of Tighe & Bond in Westfield, MA, provided the presentation for Aquarion regarding the building demolition. He stated Aquarion acquired the facility in 2000 from the Village Water Company and has not used it. He said recently there have been break-ins to the building with a fair amount of graffiti and Aquarion thinks it is in their best interest to remove the building from the site because of liability concerns. He said the demolition plan for this 1931 treatment building is straightforward as

shown in copies of the plan provided to the Commissioners. He pointed out a water tank that discharges from Simsbury reservoir; additionally, a remnant of an old building foundation would be taken to 2 feet below the ground surface to remove tripping hazards. He said an asbestos and hazardous material assessment has been done and any such materials will be removed offsite prior to demolition. He said first the building will be removed and then a temporary timber mat bridge will be laid across the water course and the tank on the opposite side of the water course will be demolished. He said all demo materials will be moved offsite and there is no plan to backfill excavations with any demolition material; lead painted surfaces are assumed to be present and will be disposed of as lead-containing waste. He stated equipment to be used includes an excavator with articulating thumb, a hull ram, bobcat, and demolition loader. He added there are manholes and a vault close to the water course which will be removed to 2 feet below grade, but the entire vault will not be removed as it may impact the water course. He said specified sedimentation and erosion controls include straw wattles or mulch logs for ease of use and moveability. He said on the site walk invasive species were identified and Aquarion has an agreement with the Land Trust to remove the invasive species, which will be removed fairly soon; Gary Haynes was on the site earlier this week and indicated they would be moving forward soon. Regarding the access road, he said trucks and equipment will come in from Westledge Road to the site with some trees to be removed by Aquarion shortly; areas of road washouts have been identified and upgrades will consist of placing stone in those areas. He said due to the steep grade down to the water course and in order to get to the other side with the building in place, they use a timber mat bridge made of wooden timbers bolted together in dimensions of 16 feet long by 4 feet wide with a couple stacked on each side of the stream lengthwise and timbers are run across providing a temporary crossing for equipment without impacting the water course. He said the wattles will run the entire length and erosion control blankets will be used to stabilize the site following demolition, and they will use a seed mix of wet plants and upland plants which should work well on this site. He stated demolition would be completed this summer and once the inland wetlands permit is secured the project will go out to bid; they anticipate it will take a couple of weeks for demolition but abatement will take a longer period of time. Chairman Miller pointed out a thunderstorm could produce major disruption into the stream during this process; the Commissioners questioned whether straw is adequate to protect the stream and the potential need for site inspections during the process. Mr. Rikowski stated past experience indicates the straw works very well. Regarding the soils present, he indicated they are fill soils brought in to build the dam embankment and the soils will be evenly graded to match conditions on each side. He said the tank in the ground is planned to be removed in its entirety and back filled; if it cannot be removed, holes will be punched in it to allow water to drain through. Regarding the

foundation, he said if they determine it is a slab within 2 feet, it will be removed; if there is no slab, it will just be the frost walls removed 2 feet below the surface. He said there is a fair amount of riprap on the stream bank with rock face. He spoke with Aquarion's engineer today about removing the invasives, as part of the specification they will indicate wherever there is Japanese Knotweed; anything disturbed has to be moved offsite to limit their spread. Regarding delineating upland and wetland soils, he said he flagged wetlands and the high water mark of the stream; it is within the buffer zone, but not in an area that will be disturbed because of a berm. Commissioner Mihalic asked why this Application by a utility would not come before Siting for wetland issues. Mr. Rikowski said that Aquarion is not a state agency and all the work his company does for Aquarion goes before local Inland Wetland Commissions throughout the state. He said Tuller Farm receives water at no cost from Aquarion, but not from this facility. He suggested the Town have direct discussions with Aquarion regarding long-term resource planning.

Commissioner Rieger made a motion that this is a regulated activity as it includes construction, removal, and deposition of material in the wetland area and in the upland review area.

Commissioner Mihalic seconded the motion and it was passed unanimously.

Commissioner Rieger made a motion this is not a significant activity because there is no evident damage to the wetlands and very significant mitigatory efforts are involved to assure that no harm is done.

Commissioner Mihalic seconded the motion and it was passed unanimously.

Commissioner Rieger made a motion to grant the permit with conditions as follows:

- 1) Erosion danger on the service road be addressed in appropriate places with stone and gravel in a way satisfactory to Town Staff;
- 2) Timing of the activity be satisfactory to Town Staff in terms of assuring that the planting and placement of materials is mindful of the change in calendar;
- 3) That the demolition site be stabilized to the satisfaction of Town Staff during construction and that interim inspections be done as needed to assure erosion danger does not arise due to weather conditions during the construction;
- 4) That invasives be properly taken care of during this process so there is no danger of worsening the invasive problem in the wetland habitat;
- 5) That the plantings and invasive situation be surveyed by Town Staff from time to time and maintained to assure the plantings are properly

established and the invasives are not reasserting themselves;

6) Given the sensitivities discussed, approval is subject to any other requirements of Town Staff during removal and demolition phase; and

7) If there is any further washout of the road from truck traffic, that it be returned to its original state.

Commissioner Mihalic seconded the motion and it was passed unanimously.

V. SHOW CAUSE HEARING

a. Cease and Desist Show Cause Hearing for Tom and Caroline Leite, Owners, for construction of a deck and fence and its associated disturbance within the 100-foot Upland Review Area without first obtaining a permit for such activity on property located at 18 Banbury Drive (Map A14, Block 410, Lot 057).

Caroline Leite presented drawings of the original shed/cabana location; they got a permit to build it and after-the-fact realized it was in the wetlands and FEMA flood zone; the Town asked them to relocate the shed and it was moved in October. She said the deck area was previously grass, and without digging because of the wetlands, they built a deck. She said they had to remove crushed stone in the FEMA wetland area. The Commissioners did not remember granting approval for the shed. Mr. Beach clarified the Applicant came in for a building permit after building the shed/cabana and moving the shed has removed the incursion into the upland review area; however, the deck is partially in the upland review area. Mrs. Leite said that Henry from the Building area looked at the property and that nothing was removed underneath the deck. She said the house has since been sold and will close 6/29/12 and they don't want the buyer to have a problem. Commissioner Mihalic clarified the effect of the Cease and Desist Order was to bring the Applicant in to determine whether to approve a permit for the deck after-the-fact and also due to the previous issues with the shed and the need to follow the required process.

Commissioner Mihalic made a motion that the Applicant showed sufficient cause as to why the cease and desist order should be lifted based upon the representation that they will file a permit with Town Staff to review in an administrative capacity.

Commissioner Winters seconded the motion and it was passed unanimously.

VI. PRESENTATION

a. Review of Planning Application #12-02 of Attorney Thomas W. Fahey, Agent for Dorset Crossing, LLC, Owner, requesting a subdivision of property located at 1507 Hopmeadow Street (Map H04, Block 403, Lot 013A), 1515

Hopmeadow Street (Map I04, Block 403, Lot 013), and 1519 Hopmeadow Street (Map H04, Block 403, Lot 13B) to allow for the creation of 6 lots. Zones B-3 & I-3.

Tony Giorgio, Managing Director of Keystone Companies, showed what was purchased in 2004, the old Garrity pit, which they spent several years filling in and was zoned I-3. He showed a drawing of what Dorset Crossing will become, with the 1st building scheduled for completion in July with occupancy by his company and St. Francis by September 1st. He noted the Town subsequently developed a PAD regulation. He said they applied for rezoning the property to B-3, and the Zoning Commission rezoned 20 acres B-3, allowing for residential, office and retail; the remaining 25 acres stayed I-3, although it was anticipated to become residential, but in 2007 the market for residential homes changed dramatically. He said the Town asked them following the B-3 zone change to submit the property as an apartment complex in a Town application to the State of Connecticut for an IHZ grant program to create workforce development properties, but the Town did not get the grant. He said they began to realize the property made the most sense as a rental development consistent with the POCD, and they began a master plan which received Town approval in 2007. He said in 2009 they came back with a modification following St. Francis' request to replace one 30,000 sq. ft. building with two 15,000 sq. ft. buildings. He said currently, the 1st 15,000 sq. ft. building is almost fully leased and there is a lot of activity on the 2nd 15,000 sq. ft. building; they have two developers - one from Fairfield, who wants to develop about 216 market-rate apartments, with whom they have a letter of intent, and another developer from Westchester County in NY, who wants to develop 48 special needs homes, with whom they have a contract, and 40 of these rentals will be dedicated to MS patients and 8 to those with bona fide disabilities desiring to live independently. He said they are working closely with Mt. Sinai, which has an active MS center, and they have also been contacted by the special needs advocacy group in Simsbury; there is only one other facility in the U.S. completely dedicated to this type of use. Recently, he said they received a proposal from Walgreens for a new prototype New England-type facility. He said the application in front of Zoning is to change the entire property from B-3 and I-3 to the PAD zone and to subdivide the property into 6 individual lots, including a 16.4 acre parcel available to the Town as an undeveloped land. Following completion of the Town's Charrette process for Rte. 10, Fuss & O'Neil reactivated development of a new road across their property intersecting with a Town road to relieve traffic pressure; following meetings with Messrs. Peck and Sawitzke, they redesigned their road to facilitate this. However, NU decided to expand their transfer station to the east into Dorset Crossing's planned cul de sac; he said the Town negotiated with NU an exchange of land and NU will build to the west and Dorset Crossing will give the Town a similar amount of land. Mr. Giorgio also showed a rendering of the special needs housing.

Dave Zyacks, PE. with F.A. Hesketh & Associates in East Granby, said the applications before Zoning and Planning involve a zone change and subdivisions to be developed. He said there is a 4 acre landlocked parcel owned by the Town zoned I-3, and the Town is joining with them in applying for the zone change to the PAD. He said the entire "T" shaped project is 50.1 acres under the PAD application with 3 lots: 13, 13A, and 13B, which is the Town's parcel. He said to the North is R-40 land owned by River Bend and an R-25 developed subdivision; to the South, open land; and toward the West, the Easterly approved subdivisions of 30 years ago with 2 open space parcels owned by the Town, which could be joined with Wolcott Road by a right of way across River Bend to the Lot E 16.4 acres of undeveloped land. He said the old crossing area is heavily disturbed and a culvert crossing that meets proper standards would improve the area; Saxton Brook continues on crossing back to River Bend's land and through a Rte. 10 culvert, eventually leading to the bike path and Farmington River. He said, depending on whether this is a conservation easement or actual dedicated open space, some form of easement to allow public access could connect the parcels to the Farmington River corridor. He said there is a wooded corridor along Saxton Brook which they will not touch and the open disturbed piece offers the opportunity to establish a meadow habitat. Regarding whether the redesigned plans affect LID, he said they are following the Phase I permit plans to the letter, and as they move along, they plan on putting roof water infiltration systems on the site and potentially some pervious pavement techniques. He said they will come in with separate site plans for the rental units and probably begin with the MS housing because they both involve regulated activities. He said as they come in for each site plan, the Commission will see individual stormwater control and LID features; but at this point, they are requesting a zone change and master plan approval. By the fall, he anticipates filing wetland applications for each of the lots. Mr. Giorgio said the site work to date represents \$2.2 Million with the front 8 acres designed to accommodate the long-term development of the rest of the site; the infrastructure being built will accommodate several hundred thousand square feet of development. He said the two developers are very sensitive to the overall standards established for the overall site and wetlands.

Mr. Zyacks said NU is tripling the size of the equipment currently on its site. Mr. Giorgio said the NU team is from MA and it is a \$140 Million project for clearing and upgrades. Mr. Beach said the transfer station power line is a substantial upgrade of NU's East/West service; they have 115 kv and are adding 345 kv.

Mr. Zyacks said the open space lot could be taken as conventional open space in fee or as a permanent conservation area depending on what the Town would like to do. He said it could also be managed by the commercial

portion of Dorset Crossing. Regarding how the open space corresponds with the 345 kv right of way, he said the right of way would not change and is a marsh area. He said the open space corridor to the River is a wildlife habitat and as development takes place these corridors will become more important to establish. Regarding managing open space and the Town not having the resources to do that, Mr. Giorgio said it is a policy issue and they want to figure out a way the 16.4 acres will be beneficial to the Town. Mr. Zyacks stated it will be open space and does not affect moving forward with the PAD application. Mr. Beach said the open space parcel ends at the new proposed Town road and they have been discussing extending to the limits of the FEMA flood plain as a conservation easement with a tree corridor providing thermal cover for the stream which would remain undisturbed. Mr. Zyacks said the FEMA flood plain follows the tree line. Mr. Giorgio stated his philosophy to work on an interactive and flexible basis; he said this property is located within a 1/4 million residents in a 15-mile radius. Mr. Giorgio and Mr. Zyacks believe the PAD regulation positions this community favorably for the kind of development it wants. Mr. Giorgio added the community tax benefit on a basically abandoned parcel should increase from \$15,000/year to a net of about \$400,000/year. Mr. Beach clarified the Commission tonight is providing a referral on whether they like the master plan and the applicant will come back for permits.

Commissioner Mihalic made a motion to forward this Application to Zoning and Planning with a favorable recommendation based upon the presentation by the Applicant with specific consideration of the acquisition of the parcel to the west as either open space through a conservation easement or in fee simple and expansion of the conservation easement to follow Saxton Brook and interconnect various other parcels of Town open space land.

Commissioner Winters seconded the motion, and it was passed unanimously.

Mr. Beach stated the PAD was designed to rectify the situation in the past where approved site plans built in phases became unrecognizable as the project progressed; now if the master plan changes they go back through the whole process. Regarding the substation, he said some serious buffering of sound will be needed. In clearing trees in the right of way for the power lines, Commissioner Winters commented they are incredibly valuable thicket habitats for animals on the endangered species list and power line right of ways represent the largest share of thicket habitat in the state.

VI. RECEIPT OF NEW APPLICATION(S)

Commissioner Mihalic reviewed that for 444 Firetown Road, the permit was approved, except for extension of the pipe which would require a separate application to be scheduled for a public hearing. Mr. Beach put it down as a new application until he investigates it further because of the 14-day

appeal period.

Mr. Beach said he received an application from Grove Capital Properties for Drake Hill. He said when they piped the stream to the property, despite the Commission's comments, they did not go to DEEP or Army Corp for permits and there is no provision to channelize a stream for a road crossing and a DEEP representative saw it. He said after a 1 1/2 year process, while they won't make them rip it out, they will require Grove to remove all invasives from the Town-owned parcels—both the pipe to the Farmington River and from Hopmeadow Street up to the Library Lane dam—and also to install some little fish structures at Stratton Brook. He said the invasives near Iron Horse are massive and they will go in with an excavator to remove them and since soil will be disturbed, they will need a wetlands permit; behind the Library they cannot get equipment in and will work by hand. He will inform the boy scout scheduled to do his work in late February/early March in this area that he has a 4-week window to complete the work and earn his badge. He said Grove originally offered offsite mitigation, which the Commission legislatively could not require, and these are basically the areas they originally proposed.

VII. STAFF REPORTS

None.

VIII. DISCUSSION

None.

IX. CORRESPONDENCE/ANNOUNCEMENTS

None.

X. APPROVAL OF MINUTES of April 3, 2012 and April 17, 2012

Line 175 was amended to change “Senator Blumenthal” to “Senator Lieberman”; and on Line 176, “allowing liquor on Sundays.” was deleted and replaced with, “designating the Lower Farmington River as a Wild and Scenic River.”

Commissioner Rieger made a motion to approve the April 17, 2012, minutes as amended. Commissioner Kottas seconded the motion and it was passed unanimously.

XI. ADJOURNMENT

Commissioner Mihalic made a motion to adjourn the meeting at 9:30 p.m. Commissioner Winters seconded the motion, and it was passed unanimously.

Ryan Mihalic, Secretary