

From: SimsburyCT Postings June 7, 2012 2:26:33 PM  
Subject: Water Pollution Control Authority Minutes 05/31/2012 -  
SPECIAL MEETING  
To: SimsburyCT\_WPCAMin  
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WATER POLLUTION CONTROL AUTHORITY  
SPECIAL MEETING  
May 31, 2012

1. CALL TO ORDER

Chairman Philip Richardson called the special meeting of the Water Pollution Control Authority to order at 7:30 p.m. in the Simsbury Water Pollution Control Facility Conference Room, 36 Drake Hill Road, Simsbury. The following members were present: Michael Park, Loren Shoemaker, Warren Coe and Paul Gilmore. Also present were: James Clifton, WPC Superintendent; Richard Sawitzke, Town Engineer; Alison Sturgeon, Clerk; as well as other interested parties.

2. SAFETY BRIEF –Mr. Richardson gave a safety brief regarding summertime safety and the use of gas grills.

3. DISCUSSION OF BASIS FOR DEVELOPER’S VARIANCE REQUEST REGARDING PARCEL FLOW ALLOCATION

Mr. Richardson stated that the underlying zones for this property were I-3 and R-40, which provided 2,708 gallons of underlying capacity (sewer flow allocation) under the original sewer plan. The allocation for I-3 is very low but was consistent with the use of the land as a sand quarry. By the calculational methodology used by the WPCA, this allocation would support 18 bedrooms (150gpd/BR), or six 3BR homes. Mr. Richardson acknowledged that this figure may not seem reasonable for this area of land, but it nonetheless reflects the underlying allocation basis. Mr. Richardson further acknowledged that he was not present at the previous WPCA meeting (April 12, 2012), but the minutes reflected use of a different methodology to support the planned development of twelve 3BR homes. At the April 2012 meeting, it was represented by the applicant’s presenting representative that the applicant was 1.07 parcels short on flow allocation for the development of the 12 lots being proposed for development. Mr. Richardson remarked that the developer used information that came out of the draft FCC study in evaluating the extent of the allocation shortage for the proposed 12 lot development on the property. He stated his concern that the basis

for the approval of the project at the April meeting may not have been an appropriate basis for approving the project. He stated that the subject parcel is now zoned R-15 and that the WPCA should determine whether to change the allocation for this property in light of the zoning change.

Mr. Gilmore stated that the applicant should not have used information from the draft FCC study when presenting its application for consideration and approval because the data reflected in the study has not been considered or accepted by the Authority as a basis for decision-making. The Authority made a decision based upon the representation that the parcel was one lot short on sewage flow allocation for the project, which had been otherwise approved by the town, and that the town had agreed to re-zone the parcel so that residences could be built upon it. He does not believe that a significant basis upon which the decision was made – that the parcel was only one lot short on allocation – is correct (because the developer relied on unsanctioned data), and that the same should not serve as a basis to justify this project or serve as a precedent for future projects.

Mr. Gilmore stated that although no basis for a determination that the parcel had sufficient underlying flow capacity was articulated previously, he feels that one does exist. Specifically, if the I-3 parcel is considered as rezoned to R-15 for purposes of determining its flow allocation, then the applicant would have sufficient capacity, such that the developer would not need a flow variance from the WPCA in order to develop the project in accordance with their plan.

Mr. Richardson agreed with Mr. Gilmore and stated that using an I-3 allocation for a property subsequently rezoned R-15 may not be appropriate. He had been informed that there were no remaining I-3 parcels in Town, however Mr. Girard stated that there is one more I-3 parcel on Quarry Road, although it cannot be developed and is outside the sewer service area. Mr. Sawitzke stated that there is a conservation easement on this Quarry Road property; it is owned by the Land Trust.

Mr. Gilmore made a motion to ratify the decision to approve the proposed development plan predicated not on the rationale upon which the approval was initially based because of the mistake underlying that rationale, but instead upon the rationale that has been discussed this evening: the zone change to R-15; and the amenability of the parcel to have the capacity allotted to an R-15 new designation. Mr. Shoemaker seconded the motion.

Attorney Knierim expressed his concerns that the Authority had prejudiced his client upon re-opening the approval that had been made and relied upon. He stated that, also, he did not make any misrepresentation that this Authority acted upon. He stated that the Engineer worked with Town staff to make the calculations that were presented to the Authority.

The motion was approved. Mr. Coe abstained.

4. SAND HILL SIMSBURY, LLC – DEVELOPER’S AGREEMENT / CONSIDERATION OF PROPOSED DEVELOPER’S AGREEMENT AND POSSIBLE ACTION TO AUTHORIZE EXECUTION OF DEVELOPER’S AGREEMENT REGARDING SAND HILL ROAD PROJECT

Mr. Richardson stated that the Developer’s Agreement for this development has been prepared; it was not available at the May 10th meeting. He stated that Article XI is a change from the standard policy, and now reflects that the FCC will be determined by the policy that is in effect on the date of connection.

Mr. Gilmore made a motion to approve the Developer’s Agreement for construction of sanitary sewers by the developer for Sand Hill Simsbury, LLC. Mr. Shoemaker seconded the motion, which was unanimously approved.

5. ADJOURN

Dr. Park made a motion to adjourn the meeting at 8:10 p.m. Mr. Shoemaker seconded the motion, which was unanimously approved.

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Philip Richardson, Chairman