

From: Lois Laczko April 9, 2009 10:49:37 AM
Subject: Conservation Commission Minutes 03/17/2009 ADOPTED
To: SimsburyCT_ConserveMin
Cc:

ADOPTED

CONSERVATION COMMISSION/INLAND WETLANDS & WATERCOURSES AGENCY
MINUTES – REGULAR MEETING
March 17, 2009

I. CALL TO ORDER

Chairman Miller called the Regular Meeting of the Conservation Commission/ Inland Wetlands and Watercourses Agency to order at 7:35 PM in the Main Meeting Room of the Simsbury Town Offices. The following members were present: Commissioners Donald Rieger, Margaret Sexton, Ryan Mihalic, Darren Cunningham and Patrick Kottas. Also in attendance was Howard Beach, Conservation Officer.

II. APPOINTMENT OF ALTERNATES

Chairman Miller appointed Commissioner Kottas to serve in the absence of Commissioner Zackeo and Commissioner Rieger to serve in the absence of Commissioner Bucknam.

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

a. Application of Raymond M. Kastner, Applicant, for an Inland Wetlands Permit for regulated activities associated with the construction of a single family home, associated grading, and the installation of a well within both the wetland and the upland review area to a wetland on property located at 299 Bushy Hill Road.

Mr. Beach stated that this is a continuation of the application, but it was determined at the last meeting that a public hearing was needed.

Mr. Kastner stated that he purchased this lot in 1987. After the purchase, he found out that the lot was not buildable because it could not support a septic system. He is now proposing to use a sewer injector pump, which will make this a buildable lot.

Mr. Kastner stated that he has made some changes to the plans based on the

discussions at the last meeting. He has reduced the house 5 feet, which is something that the Commission asked him to do. He stated that the Soil Scientist has also submitted a planting schedule, which was also based on a request from the Commission. Mr. Kastner stated that the Commission had also discussed moving the house forward, although because of the busy road, he did not feel that this was appropriate. During construction, they will be trying to move the well forward, more toward the house, if possible.

Regarding the planting plan, Commissioner Winters questioned what would be going between the plants. She feels that there is a lot of space between them. Mr. Kastner stated that mulch would be put down between the plants. Commissioner Winters stated that she does not have any issues with the plants shown on the plans. She feels that if the applicant is going to have a disturbance in the wetlands, it is reasonable to have these kinds of plantings to help mitigate the impact on the wetlands. Commissioner Winters stated that there was some discussion at the last meeting to minimize the backyard and also the creation of this planting plan to help future homeowners from going further into the wetlands. She stated that the conservation easement would also be delineated by plantings. Mr. Kastner stated that he is willing to have all of the work done, including the plantings, prior to the Town issuing the certificate of occupancy.

Mr. Kastner stated that there is an oak tree near the driveway, which he will try to save. Also, the planting plan shows pine trees near the driveway, which may need to be shifted slightly because of the site lines.

Chairman Miller asked if any member of the public had any comments or questions regarding this application. There were none.

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 the construction of a house, garage, driveway and related utilities within the wetland and upland review area to a wetland. Commissioner Winters seconded the motion, which was unanimously approved.

Commissioner Mihalic made a motion that this is a significant activity, but as set forth by the applicant and per the wetlands assessment prepared by the Soil Scientists, there are no feasible and prudent alternatives to the proposed construction. Commissioner Sexton seconded the motion, which was unanimously approved.

Commissioner Mihalic made a motion that the Commission approve this permit subject to the conditions set forth by the Town staff. While there are significant activities, the record reflects that there are no prudent or

feasible alternatives. The applicant has been willing to address all of the Commission's concerns and take whatever steps were necessary to mitigate the development. Regarding the applicant's planting plan, there would be possibly some moving back of the trees that are closest to the street on the east corner to allow for better site lines for egress out of the driveway. Commissioner Kottas seconded the motion, which was unanimously approved.

b. Application of P. Anthony Giorgio, Dorset Crossing, LLC – Owner, for an Inland Wetlands Permit for site improvements on property located at 1507 and 1515 Hopmeadow Street.

Commissioner Mihalic stated that in the past, he has recused himself from this application because of his employment with Murtha Culina. The reasons for his recusal are no longer applicable.

Mr. Ziaks, professional engineer, showed the Commission members an aerial photograph of the site. He stated that this site is 46.05 acres. The front 20 acres and the back 5-6 acres of the site were, in the past, used as a gravel operation. He stated that Saxton Brook comes in from the west of the property and goes through the southwest corner and continues toward Route 10. The brook then goes through a 30" culvert between the barns and through another culvert near Route 10.

Mr. Ziaks stated that the portion of this property that is the subject of this wetland application is 20.4 acres; the rest of the site is zoned I-3, which is a mining operation zone. The proposed development is under the B-3 zone with mixed uses, a medical office, retail and residential. The proposed nine buildings will total approximately 117,000 square feet.

Mr. Ziaks stated that they are proposing 36 apartment units, which will be located in Buildings # 8 and #9. There will be 594 parking spaces; they are taking advantage of the 20% shared parking rule. The coverage for this site will be 40% - 45%. There will be public water and Town sewer, which would come in off of Route 10.

Mr. Ziaks distributed handouts to the Commission members that addressed the changes to the plans and a written narrative, which Town staff requested, regarding a storm water management plan.

Regarding the regulated activities on the site, Mr. Ziaks stated that, on the north side of the brook, there is a wooded buffer. They will be holding this wood line that currently exists. He stated that they have carefully designed the project this way. Regarding the landscaping plan, he stated that CR3 has prepared this plan, which will be reviewed by the Design Review Board and the Zoning Commission.

As part of the storm water management plan, Mr. Ziaks stated that they understand that Saxton Brook is a sensitive watercourse. There is currently windblown sediment and miscellaneous runoff from the property that gets into the watercourse as well.

Taking advantage of the soil conditions on the site, Mr. Ziaks stated that they have incorporated a lot of infiltration capability in their design. The parking lots and driveway runoff will be collected in a conventional catch basin, although they have introduced four water quality basins that serve as treatment facilities for the storm water runoff. Prior to the discharge runoff into these storm water basins, there are separator structures, which have been designed to handle and remove 80% total suspended solids.

Mr. Ziaks stated that the other regulated activities, as part of this application, are on Route 10. They are proposing to widen Hopmeadow Street at that location. When the State came in and put an overlay in with curbing, this created issues because they did not put in any storm drainage. Mr. Ziaks stated that they will be installing catch basins and a new pipe location with a rip rap plunge pool, which will fix the erosion problems. He stated that this will be an improvement to the water quality.

As part of the plans, Mr. Ziaks stated that there is a planting plan for along the brook and for the basins. He stated that they are working with Ed Pollack regarding environmental seeding for the basins.

In summary, Mr. Ziaks stated that there will not be any direct wetlands impacts; they have designed a state of the art drainage system for this project; there are no impacts to the aquifer; they will be stabilizing the unstable soil on the site; and they will be improving the drainage system on Route 10.

Ed Pollack, Soil Scientists, stated that the soils on this property are formed from sandy and gravel glacial outwash, which make them ideal for ground water infiltration. Mr. Pollack stated that one prominent feature of the site is the steep sided sandy dune, which is a natural feature that has remained. He stated that there are also wetlands associated with Saxton Brook. He stated that there is a small pond on the site, which is possibly man made. This pond provides a habitat for Painted Turtles as well as for larger Snapping Turtles. He stated that the wetland corridor is crossed by a dirt road, although it is off site. Downstream of this, a wetland exists as a deciduous wooded swamp, which receives the drainage from the marsh upstream.

Regarding sediments in the watercourse, Mr. Pollack stated that there are a

lot of sediments that have been deposited in the channel because of the gravel operation; there were no erosion control measures on the site at that time. He stated that he did find salamanders on the site, which are associated with cleaner water systems.

Wildlife habitat is compromised by the disturbed character of the site. The function is also compromised, although Mr. Pollack did observe 72 wildlife species while on the site. He stated that the botanist who visited the site found species of special concern, a plantation, although he believed this was found outside of the area. Mr. Pollack stated that he did find three individual northern leopard frogs, which is a species of special concern, although this is not a representation of a breeding population.

Mr. Pollack stated that the pond on the property acts as a sediment trap. If they cut off the source of the sediments, the wetland will become cleaner.

Commissioner Mihalic asked Mr. Ziaks to describe how the construction plan would be built. Mr. Ziaks stated that where the two buildings will be located, there will not be a lot of earth work necessary for construction. There will be a concrete foundation with a wood building on top of that foundation. Mr. Ziaks stated that Phase I will be focusing on the front portion of the site, but they will also be constructing the water quality basins during the first phase as well. He stated that construction of the other buildings may be delayed because of the market conditions. They will move forward with the other buildings when the economy is better. He stated that they will be putting in vegetation in front of the buildings during this time also.

Commissioner Mihalic questioned if the grade was level between the apartments and the brook. Mr. Ziaks stated that there is a 204 elevation that drops to 200 in the back of the buildings. He stated that the #4 basin will need to be excavated. If the buildings are not built now, they will also be putting down top soil.

Mr. Beach stated that the applicant has recently met with Mr. Sawitzke and himself. The Town Engineer is satisfied with the proposal and there are no outstanding issues.

Commissioner Sexton stated that she is comfortable with the post development, although she has concerns with during the development. She is also concerned with dust control. Mr. Beach stated that they will be putting up silt fence along the southern entrance, which is shown on the plans. Regarding the dust, the applicant can put up 8' high silt fence or they can water the area when working on the site.

Mr. Ziaks stated that an erosion control narrative was submitted with the application. This meets the criteria that DEP requires. He stated that when they start construction, they will develop a micro-erosion control plan for each phase as they go along. He stated that they will work closely with Town staff to fine tune the plans. The DEP will also be involved with an even more thorough review because the site is over 10 acres.

Mr. Giorgio stated that they have a 30,000 square foot medical office building that there is a lease on. The tenant would like to be in the building by December 2010. Because of the amount of work needed on the site, in order for him to successfully develop the site, they need to do a lot of the work related to the water quality control and plantings. He stated that they will put erosion controls in place that will improve the overall quality of the brook and aquifer. They are very sensitive to the neighbors regarding dust and will keep it at an absolute minimum.

Regarding the back half of the site, Commissioner Winters questioned if that, after construction of the water treatment system, the applicant would vegetate or seed the area. Mr. Ziaks stated that they will grade and seed the area where there are no buildings.

Chairman Miller questioned if an environmental assessment has been done. Mr. Giorgio stated that one has been done; they have already done work associated with that assessment. He stated that they have done the Phase I assessments; all of the problems have been mitigated. Mr. Giorgio stated that they are anxious to get started.

Chairman Miller asked if there were any comments or questions from the public. There were none.

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

Commissioner Mihalic made a motion that this is a regulated activity because it involves construction activities within the 100' upland review area and due to the size of the project and the extent to which there is an issue of storm water management. Commissioner Winters seconded the motion, which was unanimously approved.

Commissioner Mihalic made a motion that this is not a significant activity because the presentations by the applicant and the applicant's retained professionals indicate that, in fact, the construction activities proposed are going to improve the quality of the wetlands and actually reduce the amount of impact from runoff on the site and will result in a better quality wetland and upland review area than currently exists. Commissioner Winters seconded the motion, which was unanimously approved.

Commissioner Mihalic made a motion that the Commission approve the permit subject to the conditions set forth in the Staff report. Commissioner Cunningham seconded the motion, which was unanimously approved.

IV. PRESENTATION(s), DISCUSSION AND POSSIBLE VOTE

a. Application of Noris E. Christensen, Neils E. Christensen and Noel E. Christensen, Owners, Noris E. Christensen, Applicant, for an Inland Wetlands Permit to construct two driveways and related grading, construction of a portion of one house, and construction of portions of three septic systems within the 100-foot upland review area to a wetland on property located on the north side of Shingle Mill Road (Map A-10, Block 419, Lot 13) (continued from March 3, 2009)

Commissioner Rieger and Cunningham recused themselves from the Commission.

Mr. Whitney, Professional Engineer, stated that since the snow cover has melted, they can set up a site walk prior to the next meeting. He stated that since the last meeting, he has made several changes to the plans. Since then, he has met with the Fire Marshal and the Town Engineer and they discussed the driveways and the driveway widths. Mr. Whitney stated that the revised plans show one common driveway, which will be 15 feet wide with 3 foot wide shoulders. He stated that the Fire Marshal and Town Engineer have agreed to this alternative. Also, the radius has been increased from 30 feet to 50 feet. He has also created an area to be used as a hammerhead turn around or where two cars can pass. The driveway has been moved to where the intermittent watercourse comes down with a culvert to intercept the watercourse and discharge it below the hammerhead turn around, which does involve some fill as part of the construction. Most significant to wetlands, he stated that they have eliminated the driveway between the isolated and larger wetland and moved the entrance farther to the east. Commissioner Mihalic suggested that the Commission look at both the initial and revised plans when out at the site walk. Commissioner Winters stated that this is a tough site and she feels that the applicant has addressed the Commission's concerns with the revised plans and there is no need to look at the original plan.

Commissioner Mihalic felt a site walk was necessary. He stated that there are significant runoff issues regarding this application with regard to the driveways. He does not feel that the Commission should act on this application tonight. He stated that during the last several meeting, the applicant was looking for some type of vehicle to go to the next step so the applicant could get the necessary approvals from the other Land Use Boards prior to starting the process. He stated that many questions were not asked of the applicant that he feels would be necessary prior to any

approvals. Commissioner Winters stated that the Commission should ask the applicant about the septic system, erosion controls, grading and plantings tonight so they can either grant or deny the permit.

After some discussion, the Commission agreed to have a site walk on March 28th at 8:30 a.m.

The Commission discussed if a public hearing was needed for this application. Mr. Beach stated that, historically, the Planning Commission has a public hearing for subdivisions, although they are not required. Commissioner Mihalic stated that he does not think that anything in this application would trigger a public hearing. He stated that public interest can sometimes be an issue, although no one from the public has come to any of the meetings regarding this application. The Commission decided that a public hearing was not needed for this application.

Mr. Whitney stated that he would submit a letter granting an extension because the 65 days would come to an end prior to the next meeting.

Commissioner Rieger returned to the Commission.

V. APPROVAL OF MINUTES – March 3, 2009

Commissioner Winters made a motion to approve the March 3, 2009 minutes as written. Commissioner Rieger seconded the motion, which was unanimously approved.

VI. RECEIPT OF NEW APPLICATION(S)

There were none.

VII. STAFF REPORTS

There were none.

VIII. DISCUSSION

Mr. Beach stated that if any Commission member had any comments regarding the PAD draft regulation, that they should submit them to Mr. Peck as soon as possible.

Commissioner Mihalic stated his concerns regarding the joint meetings between the Commissions and also regarding prejudgment and bias-type issues. Also, he stated that the Town Attorney stressed that this is a voluntary process and because it is voluntary, a lot of requirements can be put into the regulation to make the applicant do certain things.

Commissioner Mihalic stated that if this is true, then they should put LEED requirements in the regulation.

The Commission continued their discussion regarding the PAD regulation helping to streamline the process and also how they would like the Conservation Commission and Inland Wetlands and Watercourses Agency represented in the document.

Chairman Miller suggested that the Commission review and highlight issues regarding the PAD regulation to discuss at the next meeting.

IX. CORRESPONDENCE / ANNOUNCEMENTS

There were none.

X. ADJOURNMENT

Commissioner Sexton made a motion to adjourn the meeting at 10:48 p.m. Commissioner Winters seconded the motion, which was unanimously approved.