

CONSERVATION COMMISSION

REGULAR MEETING DECEMBER 18, 2012

CONFERENCE ROOM L 101

These minutes are not verbatim, but represent a summary of major statements and comments. For minutes verbatim, refer to audiotape on file in the Office of the Town Clerk. Audiotapes are retained for the minimum period required under the retention schedule as provided under Connecticut Law.

Vice-Chairman Zelek called the roll call at 7:00 p.m. and noted Commissioners Clark, Igielski, Sadil and Shapiro were present. Also present were Alternate Paskewich and Chris Greenlaw, Town Engineer.

NOTE: Vice-Chairman Zelek designated that Alternate Paskewich would vote for the vacant position.

ITEM III

ACCEPTANCE OF MINUTES

Regular Meeting of November 20, 2012

Commissioner Clark noted the following corrections:

- A. The spelling of Bonefish (Bone Fish) on pages 4, 5 and 6.
- B. The spelling of outflow (out flow) on pages 5 and 6.
- C. The spelling of underground (under ground) on page 5.
- D. The spelling of run-off (run off) on pages 5, 6 and 7.
- E. The spelling of wildlife (wild life) on page 6.
- F. The spelling of outlet (out let) on page 6.
- G. The spelling of overflow (over flow) on page 6.
- H. Bottom of Page 8---Remark Mr. Greenlaw should read "Mr. Greenlaw noted that he, Commissioner Clark.....Training Program. The subjects of the third phase were (was) "Vernal Pools and Monitoring and Benthic Macroinvertebrates". He....entire program.

Commissioner Igielski noted on page 7, ITEM VII B should read "Application 2012-24."

Motion made by Commissioner Sadil to accept the minutes as amended and was seconded by Commissioner Shapiro. There was no discussion. Vote was 6 yes, 0 no and the motion was carried.

ITEM IV

PUBLIC PARTICIPATION ON NON-AGENDA ITEMS: NONE

ITEM VA

Election of Officers

Office of Chairman

Vice-Chairman Zelek read correspondence from Chairman Block that stated he was interested in retaining the position of Chairman.

Motion made by Vice-man Zelek to place in nomination the name of Philip Block and was seconded by Commissioner Igielski.

Vice-Chairman Zelek noted that there was no additional nomination from the floor and closed nominations. Vote was 6 yes, 0 no and Mr. Block was elected Chairman.

NOTE: Mr. Block retained the position of the Chair.

Office of Vice-Chairman

Motion made by Commissioner Igielski to place in nomination the name of Jeffrey Zelek and was seconded by Commissioner Shapiro.

Vice-Chairman Zelek noted that there was no additional nomination from the floor and closed nominations. Vote was 5 yes, 0 no, 1 abstention (Zelek) and Mr. Zelek was elected Vice-Chairman.

Office of Secretary

Motion made by Commissioner Igielski to place in nomination the name of Kathleen-Marie Clark and was seconded by Commissioner Shapiro.

Motion made by Vice-Chairman Zelek to place in nomination the name of John Igielski and was seconded by Commissioner Sadil.

Vice-Chairman Zelek noted that there was no additional nomination from the floor and closed nominations. Vote was 1 yes for Ms. Clark (Paskewich), 4 no (Igielski, Sadil, Shapiro and Zelek) and 1 abstention (Clark) and 4 yes for Mr. Igielski (Clark, Sadil, Shapiro and Zelek) 1 no (Paskewich) and 1 abstention (Igielski) and Mr. Igielski was elected Secretary.

ITEM VB

Meeting schedule for 2013 and January 2014

Motion made by Commissioner Igielski to accept the proposed meeting schedule for 2012 and January 2013. Third Tuesday of the month would be used for the regular meeting and the first Tuesday of the month to cover the possible need to hold a special meeting or workshop and Special Meeting of **January 8<sup>th</sup>** as submitted and was seconded by Commissioner Shapiro. There was no discussion. Vote was 6 yes, 0 no and the motion was carried.

ITEM VI A

Application 2012-26, Adjacent to 2903 Berlin Turnpike

Vice-Chairman Zelek asked if there were any item(s) that may warrant further discussion? Mr. Greenlaw responded that he had received today the responses from the applicant to questions raised at last month's meeting. He passed out the responses to Commission members.

Mr. Jason P. Mikrut, P.E., Senior Project Engineer, Vanasse Hangen Brustlin, Inc and representing the applicant noted the presence of Mr. Patrick O'Leary, the property owner's representative, and entered the following remarks into the record:

- A. He noted that Vice-Chairman Zelek had asked if the property (Firestone site) under discussion had ever been checked for wetlands? Mr. Mikrut responded that he had sent over a memo from May 2008 that states in the third paragraph that there are no wetlands or watercourse on the northeast corner of the property (proposed Firestone site) when the study was being done for a previous possible development.
- B. He noted that a question was raised in correspondence between the Chairman and Mr. Greenlaw if the detention basin on the ConnDOT property to the north was within 100 feet of the site? Mr. Mikrut responded that using an aerial photograph a distance of 110 feet was determined using a conservative measurement. He noted that at the time of the previously noted possible development, the boundary line in question had not been set. The site plan shows a distance of five (5) feet between the fence and the basin; whereas, the aerial photograph shows a distance of 110 feet.

Commissioner Clark asked the following questions:

- A. Has the detention basin (on the ConnDOT property) changed in size since 2008? Mr. Mikrut responded no. He does not believe the size of the detention basin has changed since the study was done.
- B. Were soil samples taken on the land under discussion? Mr. Mikrut noted that there was a previous study and that the detention basin (on the ConnDOT property) is used for storm water management. The soil scientist did take soil samples on the property (in 2008). None were taken in the northeast corner (Firestone site). Based on the

reputation of the soil scientist, there is nothing to suggest that a wetland exists beyond the area where the samples were taken.

Vice-Chairman Zelek asked the following questions:

- A. What is the difference in elevation between the site and wetland to the west? Mr. Mikrut responded the site slopes from east to west. The eastern side of the property is about fifteen (15) above the wetland and the western side about four (4) feet.
- B. Does any part of the site flow into the ConnDOT detention basin? Mr. Mikrut responded approximately 200 square feet.
- C. What is the impact of an accidental oil spill on the (hydrodynamic) separator? Mr. Mikrut responded the floor drains within the building would contain the spilled material and direct it to an oil/water separator that would be connected into the MDC sanitary sewer system. He also noted that Firestone has procedures are in place for handling questionable materials. In addition, the onsite drainage system has catch basins with deep sumps and a (hydrodynamic) separator in line prior to the oil reaching the underground (storage/infiltration) system.

Commissioner Sadil asked if the preventative measures meet EPA standards? Mr. Mikrut responded yes.

Vice-Chairman Zelek asked what happens if the occurrence (accidental spill) is outside of the building? Mr. Mikrut responded that the site curbing around the facility would direct the material to the onsite (drainage) system.

Commissioner Clark asked the following questions:

- A. When do the catch basins and the (hydrodynamic) separator get cleaned? Mr. Mikrut responded the catch would be cleaned two (2) times a year and the separator would be checked periodically or at least one (1) time a year.
- B. Where would the removed material go? Mr. Mikrut responded that companies are hired to remove and dispose of the material.

Vice-Chairman Zelek asked who inspects the site to see if the plan is followed? Alternate Paskewich noted that he heard that DEEP periodically comes in. Mr. Mikrut responded that he is not sure of the DEEP schedule.

Mr. Mikrut noted that the applicant could be held accountable by an agreement between the Town and the owner.

Mr. Greenlaw noted that a condition could be added to the permit that all structures be cleaned at least once or on an annual basis.

Commissioner Clark noted in last month's minutes, Vice-Chairman Zelek asked what is the value of the subject wetland under discussion relative to vegetation, trees and wildlife? You (Mr. Mikrut) responded none. What is the basis for that statement? Mr. Mikrut noted the report submitted with this application is actually the same study submitted by the soil scientist for the Fishbone application. The study was for the entire site that included a function evaluation of the wetland (under discussion tonight). It was concluded that the main function of the wetland under discussion was for storm water (detention) purposes. He also noted that the wetland on the property to the north is the true wetland.

Commissioner Clark noted that she could not see how the applicant could piggyback on the Fishbone application. It was her opinion that activity occurring on this application (Firestone site) in the upland review area would impact the wetland and a new study should be done today on possible wildlife impacts.

Vice-Chairman Zelek noted that there was mention of a cottonwood tree in either the 2008 report or the report that is part of this application. This brought to mind the possibility that it could be the type of species that was found on Cedar Mountain which was determined to be of an endangered species.

Commissioner Clark stated that in her opinion the wildlife portion of this application is inadequate. The changes resulting from this application and the fact that it is being piggybacked on a previous application warrant a new study.

Mr. Greenlaw asked the applicant to clarify the 2008 and 2012 reports relative to wildlife? Mr. Mikrut responded that the 2012 report is where the functions and values were performed. It was not based on the 2008 report. The wetland provided for 2008 pertains to the Firestone portion of the site and refers to the wetland as well as the upland review area. The wetlands system that is referenced in the All Points application for Bonefish makes reference to the same wetland before the Commission. There has been no change in the wetland systems.

Alternate Paskewich asked how was the detention basin created? Mr. Mikrut responded the detention basin was created as part of a previous application (Krispy Kreme). Originally, there was a small basin area; now the system is larger.

Mr. Greenlaw provided a history of the area and noted the initial development (Krispy Kreme) of the property created the wetland that is present today.

Mr. Greenlaw noted that the activities under this application occur in the upland review area and the Commission's responsibility is to review the potential impact(s) on the wetland and (detention) basin.

Commissioner Sadil asked the following questions:

- A. Is it (area under discussion) a detention basin? Mr Mikrut responded yes because the majority of this wetland serves as a detention basin. It was designed to handle storm water from site.

- B. Was this a fabricated (detention) basin? Recording Secretary Peter Arburr noted that the detention basin was constructed as a condition of the Krispy Kreme approval. An earthen berm was constructed across the westerly edge of the wetland to hold back excess surface runoff emanating from the development of the site. A pipe of a designated diameter was installed through the berm to control the down stream outfall flow off site.

Mr. Greenlaw reviewed the history relative to the creation of the basin (listen to audio tape for details of his remarks). The design parameters for the basin were to maintain pre and post development flows (at the outlet side of the berm) for up to the 25 year storm, which was a condition of the Krispy Kreme approval.

Commissioner Sadil asked what is the route of the outflow discharge down stream from the basin? Mr. Arburr noted the outflow flows to the west under Main Street and ends up in the major wetland behind Churchill Park.

Vice-Chairman Zelek called for a 15 minute recess to allow Commission members time to review the 2008 and 2012 documents.

Commission went into recess at 8:03 p.m.

Commission came out of recess at 8:25 p. m.

Vice-chairman Zelek asked the following questions:

- A. The 2008 survey makes reference to cell 1 and cell 2. Can you explain this reference? Mr. Mikrut making reference to a sketch which was part of the 2008 memo, located the two (2) wetlands referred to as cell 1 and cell 2. He also located the larger wetland on the sketch that was on the property to the north.
- B. Who owns the property to the north? Mr. Mikrut responded ConnDOT.

Commissioner Clark asked if ConnDOT was advised of this application? Mr. Greenlaw responded that ConnDOT was not notified of this application; but was notified of the proposed map amendment under the Bonefish application where a public hearing was held.

Mr. Mikrut, referring to a paragraph on wildlife on page 4 of the 2008 memo, read the contents into the record (listen to audio tape for the contents of his remarks).

Commissioner Clark noted that in her opinion that per the definition of a watercourse in the state statues, the body of water referred to in this application is a watercourse.

Mr. Greenlaw noted that the wetland was identified by a soil scientist and went through the process as an application (for a map amendment).

Vice-Chairman Zelek suggested that Commission handle the species of the cottonwood tree as a separate matter. It was the consensus of Commission members to go along with the Vice-Chairman's suggestion.

Mr. O'leary suggested that a condition of approval could call for a botanist to go out into the field and identify the species of the cottonwood tree and submit a letter to the Commission as to the findings in the field.

Vice-Chairman Zelek asked if the application was complete? Mr. Greenlaw responded yes.

Motion made by Commissioner Igielski that based on the information before it, the Commission make a finding of fact that a public hearing is not necessary for Application 2012-26 because the proposed activities would not have a major impact or significant effect on the regulated areas. Motion seconded by Alternate Paskewich. There was no discussion. Vote was 6 yes, 0 no and the motion was carried.

Mr. Greenlaw passed out a list of suggested conditions for review and comment.

There was a general discussion and review of the conditions for the application.

Motion made by Commissioner Igielski to grant a permit by Summary Ruling for Application 2012-26 and subject to conditions noted in the record (audio tape) or "Official Notification of Action". Motion was seconded by Commissioner Sadil.

Vice-Chairman Zelek noted that the site is perched above the wetland. The detention basin to the north does exhibit wetland characteristics. He cannot think of any other use of the property that would result in a higher risk (to the wetland). The pipes and materials stored on the property in his opinion pose a threat to the contamination of the wetlands. The system in place would probably handle normal storm events. He has a concern that dumping outside the parking area could end up in wetland.

Commissioner Igielski noted that many similar types of installations have been built in town over the years and the measures (in place) appear to satisfactorily do the job.

Commissioner Shapiro said that he reviewed all materials and would vote on the application.

Vote was 5 yes, 1 no (Zelek) and the motion was carried.

#### ITEM VIII

PUBLIC PARTICIPATION ON NON-AGENDA ITEMS: NONE

#### ITEM IX

COMMUNICATIONS AND REPORTS: NONE

Motion made by Commissioner Sadil to adjourn meeting at 9:04 p.m. and was seconded by Commissioner Shapiro. There was no discussion. Vote was 6 yes, no and motion was carried.

  
Peter M. Arburr, Recording Secretary

Commission Members

Tanya Lane, Town Clerk

Town Manager, John Salamone

Town Planner

Councilor Myra Cohen

Councilor David Nagel

Chairperson, Town Plan and Zoning Commission.

Peter Boorman, Esquire, Town Attorney

Chris Greenlaw, Town Engineer

Lucy Robbins Welles Library (2)