

CONSERVATION COMMISSION

REGULAR MEETING MAY 17, 2011

E. CURTIS AMBLER ROOM

These minutes are not verbatim, but represent a summary of major statements and comments. For minutes verbatim, refer to audiotapes 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.

Chairman Pappa called the roll call at 7:20 p.m. and noted Commissioners Byer, Forte and Igielski were present. Also present were Alternates Harlow, Turgeon and Zelek, Mr. Anthony Ferraro, Town Engineer and Mr. Chris Greenlaw, Assistant Town Engineer.

NOTE: Chairman Pappa designated that Alternate Harlow would vote for Commissioner Shapiro, Alternate Turgeon would vote for Commissioner Block and Alternate Zelek would vote for Commissioner Longo.

ITEM III

ACCEPTANCE OF MINUTES

Regular Meeting of April 19, 2011

Commissioner Igielski noted that on the bottom of Page 4 the remark by him should read "Commissioner Igielski noted for the record....employee of Northeast Utilities CL&P).....no benefit from the work."

Mr. Ferraro noted the following corrections:

- A. Bottom of Page 2---Remark by Chairman Pappa should read "Chairman Pappa asked how significant....by soil scientist is 3.8 acres to (and) 3.9 acres as determined from the Town Map".
- B. Top of Page 3--- Remark "A" by Mr. Grandwell should read "Property is 73.3 acres in size and contains approximately 3.8 (7.3) acres of wetland."
- C. Top of Page 3--- Remark "A" by Mr. Grandwell should read "Small wetland located in the northeasterly corner....filled with 1700 square feet (cubic yards) of fill material."
- D. Top of Page 5---Remark by Mr. Haskill should read "Mr. Haskill noted that he had appeared earlier....of contaminated material (TCE (TGE), a solvent degreaser) within a wetland area."

Motion made by Commissioner Igielski to accept the minutes as corrected and was seconded by Commissioner Forte. There was no discussion. Vote was 5 yes, 0 no, 2 abstentions (Byer and Forte) and the motion was carried.

#### ITEM IV

PUBLIC PARTICIPATION ON NON-AGENDA ITEMS: NONE

#### ITEM VA (Public Hearing)

Application 2011-03, Russell Road, North of Old Highway, Map Amendment

Attorney Tom Regan, representing the applicant, Toll Brothers, noted the request for the Map Amendment is to bring the Town Map into line with the our findings found in the field.

Mr. John Mancini, Principal Engineer, BL Companies, noted Toll Brothers submitted an application that included a plan showing a Boundary survey and Topographic survey and two (2) lines. The first line represents wetland boundary line from the Town Map, which is a digitized overlay. The good thing is that the shapes (shown on the Town Map) are generally the same that were found in the field (by the soil scientist). However, its placement on the topography is off in terms of grade and elevation.

Mr. Mancini noted a field survey was done and field plugs were taken to determine the actual field location of the wetlands. Stepping back, it should be noted the land parcel is 73.3 acres in size. He noted the Town Map shows a wetland in the center of the property that is 2.17 acres and a wetland on the westerly side that contains 1.82 acres for a total of 3.99 acres. The field survey found the middle wetland to be 1.84 acres and westerly wetland to be 1.98 acres in size. In addition, he noted a new wetland was found in the northeasterly corner that was .04 acres in size. The total acreage found in the field was 3.78 acres.

Mr. Mancini noted that the applicant by science has determined the actual (wetland boundary) limits in the field, which is the purpose of this application.

Alternate Zelek asked where is the location of the watercourse shown? Mr. Mancini responded the wetland definition of a boundary can include a finger of water or a watercourse symbology.

Chairman Pappa asked if the work done by Jodi Chase was part of this process? Mr. Mancini responded that to date Cynthia Rabinowitz, a soil scientist, has field mapped location of the wetlands in the field and BL surveyors have located said wetlands in the field. The biological report prepared by Jodi (Chase) would be brought in under the next application. She would be available to answer questions under the Q and A part of that presentation.

#### PUBLIC COMMENT

Ms. Lisa McQuale, 246 Richard Street asked if the Town can send an engineer into the field to check the location of the wetlands? Mr. Anthony Ferraro, Town Engineer, responded only a soil scientist can define wetland boundary limits in the field.

Mr. Alan Paskewich, 100 Cambria Avenue said that the Town should hire a soil scientist to confirm in the field the location of the actual wetlands to the plan used for the presentation.

Mr. Ed Horan, 35 Crestview Drive noted that taking into account the amount of rain we have had, does it matter when the soil samples are taken (in the field)? Mr. Mancini responded that since soil plug samples are taken in the field, the soil composition does not change due to weather conditions.

Mr. Ettore Namias, 18 Deepwood Road said the Town should do its due diligence and confirm independently the findings of the applicant that have been presented tonight.

Ms. Holly Harlow, 11 Edmund Street said that she supported the request of previous speakers that the Town verify the applicant's findings.

Mr. David Tatem, 29 Camp Avenue said that he supported the remarks of the other speakers and that due diligence should be done at each step in the process to preclude a problem from arising at some point down the Road.

Alternate Harlow said that per Section 7.6c of the Regulations, the Town has the discretion to bring in an outside soil scientist to do just what the public is asking us to do and he made a motion that we do so. (There was no second of the motion).

Attorney Regan said that since you are going to bring in a third party, you are going to have to keep the public hearing open to allow to abut anything we may disagree with.

Chairman Pappa asked who would be responsible for the payment (third party)? Mr. Ferraro responded the Town can hire third party and the cost would be paid for by the applicant.

Motion made by Alternate Harlow to add (retain) a soil scientist per Section 7.6c (of the Regulations) and was seconded by Commissioner Byer. There was no discussion. Vote was 7 yes, 0 no and the motion was carried.

Commissioner Igielski suggested that the applicant be given the opportunity enter any remarks into the public record.

Chairman Pappa asked if the applicant wished to enter anything further into the record? Mr. Mancini responded the lay of the land truly defines the wetlands. You (the Commission) have made the decision to hire a third party to verify our findings. We understand. Therefore, we have nothing to say at this time.

Motion made by Commissioner Igielski to keep the public hearing open and carry it over to the June 21, 2011 meeting and was seconded by Commissioner Forte. There was no discussion. Vote was 7 yes, 0 no and the motion was carried.

ITEM VB (Public Hearing)

Application 2011-02, Russell Road, North of Old Highway

Attorney Tom Regan, Representing the Applicant, Toll Brothers, said that in light of the discussion on the first application, it puts us in a bit of a box . We don't want to go forward with a new hearing on a wetland application that is predicated on a map amendment until we have had a chance to work with the Town to confirm the map amendment. We do not want to unduly delay the project. I think if we can get this third party review done within a month, my inclination (I would want to talk with my client first) would be to table the application pending the results of the map amendment.

Mr. Ferraro said he believed the work could be done within a month.

Mr. Ferraro out line the process that he would follow to secure the third party services to include a surveyor (listen to audio tape for details of his remarks).

Mr. Mancini said in similar situations the scenario that has been followed by the third party soil scientist would be to walk the areas flagged in the field. Where a problem should arise in the field and a modification required; additional flags would be placed to define the limits in the field. The soil scientist would take swing ties to tie down the locations. This information would be added to the plan and shown by a second line.

Attorney Ragen said a condition to the Town's decision to move forward is that a representative of the applicant be present in the field with the Town's agent. The applicant under the law has the right to be on the property. He requested a five (5) minute recess.

The Commission went into recess at 7:55 p.m.

The Commission came out of recess at 8:00 p.m.

Attorney Regan said the applicant is ready to proceed (with the hearing).

Attorney Regan said this application would be a 71 lot open space subdivision per the (Town of Newington) planning and zoning regulations. The property contains 73.3 acres that would contain 70 building lots along with a lot to be dedicated to the MDC. The subdivision would dedicate 37 acres of open space land to the Town.

Mr. Mancini introduced Mr. Ray Bradwell, Project Manager for the project.

Mr. Bradwell entered the following remarks into the record:

- A. The proposal is to develop a 71 lot subdivision on 73.3 acres of land. He proceeded to describe the location of the property (listen to audio tape for details of the location).

- B. The area of development would contain four (4) roads, 70 (residential) lots and a lot for a MDC pump station.
- C. Fifty (50) percent of the land would remain dedicated open space as it exists today.
- D. There is a wetland located in the center and a long linear wetland on the west side.
- E. The heavy green area on the plan indicates the dedicated open space land.
- F. The light green area on the plan indicates the area of the proposed 70 lots.
- G. The grading plan was done to mimic existing topography. The plan of development would work around the center wetland and away from the westerly wetland.
- H. The (storm water management) plan would contain five (5) detention ponds that would attenuate storm water flow from development to pre-development conditions and mimic existing field conditions (listen to audio tape for details of his remarks).
- I. The road layout and grading would mimic existing (field) conditions as allowed by the subdivision regulations. Referring to the plan, he proceeded to explain the grade pattern of each road (listen to audio tape for details of his remarks).
- J. The subdivision would be served by all public utilities. (Mr. Bradwell, referring to a plan showing the utilities described the location of each utility (listen to audio tape for details of his remarks).
- K. The sediment and erosion control plan would be done in two (2) phases. The first phase would include silt fence placed around the area of development. Diversion channels would be installed that discharged into sediment traps that would be located in the area of a proposed detention basin. Sediment traps would also be installed at other location (s) as required by field conditions.
- L. The regulated activities being proposed under this application would include work in the upland review area abutting the middle and westerly wetlands and the filling in of the 1700 square foot wetland located in the northeast corner of the property.
- M. The landscape plan would include the planting of trees per the subdivision regulations, the use of seed mixtures within the detention basins that would acclimate into a wetland environment and lawn seed mixtures on the 70 lots.
- N. Alternatives—The property is currently zoned R-20 Residential that would use a good portion of the property with a development of an 80 plus lot subdivision. After looking at other options, it was concluded that a 71 lot open space subdivision (allowed under the subdivision regulations) would be in the best interest of the Town and the applicant. Referring to a plan, he noted one or more areas where an alternative treatment was looked at in place of a retaining wall. The 1700 square foot wetland

(northeast corner) is proposed for removal by filling. If this isolated wetland is left in place, the road would have to be moved resulting in a number of lots being lost that could make the project not economical (listen to audio tape for details of his remarks).

Mr. Bradwell noted the team had worked with the Town to minimize the impacts and resulting in a project with 36 acres of open space (listen to audio tape for details of his remarks).

Attorney Regan said this concludes the presentation by the engineer. The plan under this application would leave 36 acres of open space to the Town. The land today is private property and is not open for public use (listen to audio tape for details of his remarks).

Chairman Pappa noted that the true focus of this application is what happens to the 1700 square foot wetland area (listen to audio tape for details of his remarks).

Alternate Harlow noted that the assessment report was received last Friday and did not include the Drew Report which is a vernal pool assessment of the wetlands. I believe that until we see this report, we should table the application.

Ms Jodi Chase, a wetland ecologist, said she conducted a wetland assessment exclusive of evaluating the herb logical assessment on the site. In my report, I noted two (2) wetlands on the site that have the characteristics of a vernal pool; namely, is isolated, has a defined impression in the landscape and does not have an inlet or outlet. The pocket wetland being proposed for filling does meet the criteria for defining a vernal pool. Knowing the public interest in the project, we felt it would be appropriate to have an herb logical consultant, who specializes in amphibians and reptiles evaluate all the wetlands to see if they are providing functional vernal habitat is what the Drew Report would address. She noted that her report was based on the Army Corp of Engineers Highway Methodology and does not address reptiles and amphibians.

Alternate Harlow said we do not have the Drew Report. Ms. Chase said the report would be available for next month's meeting.

Alternate Harlow said that since the Report is not available, I suggest that we table the item over to the next meeting.

Alternate Zelek asked the following questions:

- A. Do any of the detention basins connect to a wetland? Mr. Bradwell responded, referring to the plan, basins 1, 2 and 3 do not outlet into a wetland and basins 4 and 5 do connect.
- B. How would possible contamination (from run off) be handled? Mr. Bradwell responded that the BMP (Best Management Practices) as outlined in the Conn DEP Storm Water Policy Manual would be followed.

- C. Would the detentions basins be fenced? Mr. Bradwell responded no (listen to audio tape for details of his response).
- D. Would a new water main go up Old Highway? Mr. Bradwell responded no, it would go up Russell Road.
- E. Are any improvements being proposed for Old Highway? Mr. Bradwell responded no (listen to audio tape for details of his response).
- F. Would there be any blasting? Mr. Bradwell responded a study was done in November (2010). There is evidence of shallow rock. Some blasting would be required. We would try to work with the topography to minimize impacts.
- G. Is the type of rock basalt? Mr. Bradwell responded I am an engineer. To me it is rock.
- H. I have a concern on the impact of blasting on the site. The type of rock can result in high cracking and resulting in the possible draining of the wetland (from a previous application in the area). Is there anyone who is an expert? Mr. Bradwell responded that we do not have a blasting expert or Geologist present tonight.
- I. What would be the blasting impacts on the site? Mr. Bradwell responded blasting operations associated with road construction at the high points and excavations for house foundations (listen to audio tape for details of his response). Mr. Mancini noted that the existing wetlands are well below the grading lines and lowest house foundations (listen to audio tape for details of his response)

Alternate Harlow said a blasting analysis would be in order. Mr. Mancini said he would have an expert available at next month's meeting.

Alternate Zelek said where grading is steep, how would you keep debris out of the wetland? Mr. Bradwell responded that this not a commercial development. It is a residential area and the yards are fairly away from the wetland. As an example, he scaled a distance of 120 feet from the lot to the wetland. Mr. Mancini said one thing that can be done is to place markers defining the limits of the lawn area.

Commissioner Byer asked the following questions:

- A. Was consideration given to provide compensatory mitigation for moving the 1700 square foot wetland? Mr. Bradwell responded that we can discuss the matter with the Commission. There are options that are available (listen to audio tape for details of his response)
- B. What would be the affect of pesticides where slopes would drain into the wetlands? Mr. Bradwell said we can look at a pesticide management plan. There was a general discussion (listen to audio tape for the details of the discussion).

### REMARKS FROM THE PUBLIC

NOTE: Remarks in this section represent a summary of comments related to the Inland Wetland and Watercourses Regulations of the Town under which the application will be evaluated by the Commission (listen to audio tape for details of each individual response).

Ms. Holly Harlow, 11 Edmund Street said that per Statutes and Town Regulations, wetlands and watercourses are indispensable and should be protected. Although the wetland to be filled in is small in size, it serves a purpose. Mitigation would provide a product that would not be equal to the wetland that would be lost.

Mr. Stanley Cohen, Avon said Toll Brothers has the right to build (per Town of Newington Zoning Regulations) residential homes on the property.

Mr. Richard Spring, 47 Deepwood Road said that the Town's 20/20 Plan of Conservation and Development (Plan) says that it will protect environmental resources, particularly the wetlands on Cedar Mountain. If there are vernal pools on the site, they are most active in the spring. We may have lost the opportunity. CERT should be brought on board. A request was made to the Open Space Committee, but nothing has been done to date. He believes that a vote was taken by the Conservation Commission to bring CERT on board. Work would be done at no expense to the Town. Application is incomplete because the Drew Report is not in hand tonight. Reference was made to a State Statue relative to the destruction of wetlands. He said that the chairman of the conservation Commission should disqualify himself from this application for a statement he made about the citizen group at a meeting.

Mr. Ettore Namias, Deepwood Drive said the project is not in the best interest of the Town.

Mr. Tony Testa, 1723 Main Street noted that at the January 19, 2010 meeting of the Conservation Commission, a motion was passed to request the services of CERT in a speedy manner. Contact should be made to the agency by the end of the week. He noted the Town officials who could make a request for its services.

Mr. Brian Skibo, 63 Stoddard Avenue said that an independent study should be done relative to the impact of blasting (activities).

Ms. Allyson Clarke, said when I look at this mountain in its natural state, it is hard to look at the picture (plan before the Commission) and the resulting impacts. The General Assembly in the 1960's recognized Cedar Mountain as a valuable natural resource. The Town in 2005 purchased the Eddy Farm because it was determined to be a valuable natural resource. This project is similar in nature. The wetland would be filled in to build two (2) houses.

Ms. Ellen Thibeault, 101 Hartford Avenue entered general remarks into the record.

Ms. Gail Budacjko, 21 Isabelle Terrace entered general remarks into the record.

Mr. David Tatem, 29 Camp Avenue said all wetlands should left in its natural state. Construction of two (2) homes does not justify the filling of a wetland. Wetlands would be below the area of activity and subject to contamination by fertilizers, pesticides and car washes. Anything written into a deed would not be enforceable. Two (2) containment ponds would outlet into a wetland. CERT should be contacted immediately. The 20/20 Plan calls for the protection of Cedar Mountain.

Mr. Bruce Winchell, 48 Tinsmithxing, Wethersfield said that a study should be done to determine the effects of blasting in the area. Wethersfield would receive storm water from the site along with its contaminants.

Ms. Tracy Lawlor, 37 Sunset Road stressed the importance of preserving open space.

Mr. Jeff Downs, 27 Sawmillxing, Wethersfield said a blasting study of the site has not been done. The resulting disturbances on the basalt rock would disturb the aquifers under it. He noted that a representative from the Town of Wethersfield was present at the meeting.

Ms. Elizabeth Tessitore, 46 Brace Road reinforced the need to do a study to evaluate the effects of blasting on the site.

Mr. Alan Paskewich, 100 Cambria Avenue said taking into account that (the use of) pesticides and car washes would occur. He requested all computations for all hydraulic connections to systems that outlets into wetlands and provide computations of sheet flows emanating on site for review by Town staff or anyone authorized by the Town.

Mr. Michael Aparo, 82 School Housexing said there was a concern about flow from the site flowing through the property in Wethersfield. He also reinforced remarks by other speakers.

Mr. Conrad Cormier, 5 Sawmillxing said that for the size of the project, a large screen (power point presentation) could have been used to present the plans instead of going back and forth with plans that were hard to see (from the audience).

Ms. Jacqueline Ginelewicz, 40 School Housexing, Wethersfield entered general remarks into the record.

XXXXXXXXXXXXXXXXXX, 54 Tinsmithxing, Wethersfield said the Town should hire an independent blasting expert.

Ms. Denise Morgan, 110 Srawberry Lane entered general remarks into the record.

Ms. Myra Cohen, 42 Jeffrey Lane inquired if the Town of Wethersfield was informed of the application? She noted that this Commission also wears the hat of the Conservation Commission for the Town and read into the record the mission statement contained in the Town Charter. Any comments you may have should be provided to the Town Council and TPZ regarding the importance of the value to the Newington people to preserve and maintain

as nature intended it should not be influenced by what or not.....to do so (..... {means not discernable}).

Ms. Rose Lyons, 46 Elton Drive reinforced a statement made by a previous speaker that the size of the project and number of people present, a power point presentation would probably been more appropriate.

Mr. Ryan Jordan, 22 Burwood, Wethersfield entered general remarks into the record.

Attorney Regan noted that the Drew Report was not required as part of the application, but an additional report required by the Commission. Much of the remarks made by the public during public participation were not applicable to the application. The only wetland impact would be the removal of the 1700 square foot wetland.

Motion made by Alternate Harlow to keep the public hearing open and carry it over to the June meeting and was seconded by Commissioner Igielski. There was no discussion. Vote was 7 yes, 0 no and the motion was carried.

Motion made by Alternate Zelek to bring CERT on board and was seconded by Alternate Harlow. There was no discussion. Vote was 7 yes, 0 no and the motion was carried.

#### ITEM VI A

Application 2011-06, 117 Forest Drive

Ms. Donna Pantano, the applicant, said a request is being to replace an existing retaining wall with a concrete wall.

Mr. Ferraro entered the following remarks into the record:

- A. The rear of the property abuts a wetland.
- B. The existing wall is made of pressure treated wood.
- C. All work would occur in the buffer area.
- D. The existing fence would be removed when the existing wall is removed.

Alternate Zelek asked if a permit was issued for the previous wall? Mr. Ferraro responded that he could find no record of a permit.

Commissioner Igielski asked the following questions:

- A. Would the new wall be the same size as the existing wall? Ms. Patano responded that she did not know.
- B. Would the new wall would be longer? Ms. Patano responded only by a 15 foot wing.

- C. Where is the location of the buffer area? Mr. Ferraro responded at the front of the house.
- D. What is the height of the wall? Ms. Patano responded there is no design at this time
- E. Would the existing stockade fence stay or be removed? Ms. Patano responded it would remain because it is needed for the pool.

Alternate Zelek asked if the wetland would be affected? Ms. Patano responded only the buffer area would be affected.

It was the consensus of the Commission to carry the item over to the June meeting.

#### ITEM VII A

Application 2011-03, Russell Road North of Old Highway, Map Amendment

The Public Hearing remained open.

#### ITEM VII B

Application 2011-02, Russell Road North of Old Highway

The Public Hearing remained open.

#### ITEM VII C

Application 2011-04, 665 New Britain Avenue

Mr. Adam Henry, a geologist with GZA, Glastonbury and representing the applicant (Family Trust) noted that a presentation was made at the April meeting and he was available to answer any questions.

Chairman Pappa asked if the application was complete? Mr. Ferraro 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 2011-04 because the proposed activities would not have a major impact or significant effect on the regulated areas. Motion seconded by Alternate Harlow. There was no discussion. Vote was 7 yes, 0 no and the motion was carried.

Mr. Ferraro passed out a list of suggested conditions for consideration by Commission members. There was a general review by Commission members.

Motion made by Commissioner Igielski to grant a permit by Summary Ruling for Application 2011-04 and subject to conditions. Motion was seconded by Alternate Harlow. There was no discussion. Vote was 7 yes, 0 no and the motion was carried.

NOTE: Refer to audio tape or "Official Notification of Action" for conditions of the permit.

ITEM VII D

Application 2011-05, 549 Cedar Street

Mr. Pat Haskell, AECOM and representing the applicant (Textron) noted that a presentation was made at the April meeting and he was available to answer any questions.

Chairman Pappa asked if the application was complete? Mr. Ferraro 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 2011-05 because the proposed activities would not have a major impact or significant effect on the regulated areas. Motion seconded by Commissioner Forte. There was no discussion. Vote was 7 yes, 0 no and the motion was carried.

Mr. Ferraro passed out a list of suggested conditions for consideration by Commission members. There was a general review by Commission members.

Motion made by Commissioner Igielski to grant a permit by Summary Ruling for Application 2011-05 and subject to conditions. Motion was seconded by Alternate Harlow. There was no discussion. Vote was 7 yes, 0 no and the motion was carried.

NOTE: Refer to audio tape or “Official Notification of Action” for conditions of the permit.

ITEM VIII

PUBLIC PARTICIPATION ON NON-AGENDA ITEMS: NONE

ITEM IX

COMMUNICATIONS AND REPORTS

- A. Mr. Ferraro passed out a copy of the “Habitat” to Commission members.
- B. Commissioner Igielski requested that when the extension of General Permit No. 1 is executed, a copy be sent to each Commission member.

Motion made by Commissioner Forte to adjourn meeting at 10:20 p.m. and was seconded by Alternate Turgeon. There was no discussion. Vote was 7 yes, 0 no and motion was carried.

---

Peter M. Arburr, Recording Secretary

Commission Members  
Tayna Lane, Town Clerk  
Town Manager John Salamone  
Edmund Meehan, Town Planner  
Councilor Myra Cohen  
Chairperson, Town Plan and Zoning

Ben Ancona Jr., Town Attorney  
Anthony Ferraro, Town Engineer  
Lucy Robbins Wells Library (2)

