



MINUTES

November 11, 2010

PRESENT: Franklin Wong, Chair; Jill Alibrandi, John Hall, Elisa Pollino, Rich Reiter.

ALSO PRESENT: Patricia Sesto, Director of Environmental Affairs; Liz Larkin, Recording Secretary; Kate Throckmorton, Environmental Landscape Solutions; Don Strait, Land Design Studios; Karen Gracie, Wakefield Drive; Mr. Johnson, neighbor to Rolling Hills Country Club

I. CALL TO ORDER

Mr. Wong called the meeting to order at 7:33 p.m.

II. PUBLIC HEARINGS

A. WET#1986(S) – DRISCOLL – 149 Wolfpit Road – additions and replacement of septic system within 100 ft. of a pond (cont.).

The Driscoll's submitted written request to continue the Public Hearing until December 9, 2010 and have granted the Commission 65 additional days of consideration.

Mr. Wong **MOVED** to extend this application, Mr. Hall **SECONDED** and it **CARRIED** 5-0-0.

B. WET#1995(S) – MATHEWS – 560 Belden Hill Road – proposed dredging of pond within 100 ft. of a watershed.

Ms. Sesto read the documents into the record. All commissioners present indicated they visited the site.

Ms. Throckmorton reviewed the revised plan, describing the property as being mostly wooded with an existing pond. Raccoon Brook runs through the pond, eventually joining the Norwalk River.

Ms. Throckmorton reported the pond is currently 18 in. to 3 ft. in depth and has been there for some time. The proposal includes creating a varied environment by filling a portion of the pond with the dredge spoils; resulting in a smaller, deeper pond.

Ms. Throckmorton confirmed the trees will be protected during site work. She described how a line of boulders will form the new stream channel. These boulders will be low and angled in the water profile to help animals and amphibians access and egress. Stream flows pumped around the work area will discharge to a dirt bag to control sediment. A sediment forebay will remain in the area just upstream of the bridge that will have been modified to facilitate dewatering. The spoils will be contained behind boulders for support so the spoils do not slide back in.

Ms. Throckmorton handed out a written response to the Conservation Commission comments including a revised plan entitled “Wetland Buffer Mitigation Plan” noting the adjustment to the edge of the lawn, addition of groundcovers and grass details. Her response included an explanation of onsite deposition for the dredged material. The area will be reseeded with a meadow mix and allowed to vegetate as a wet meadow.

Ms. Throckmorton described the stream bed detail as being much like the upstream channel with approximately 4 ft. bottom width and slopes that are supported by boulders sloped no greater than 1:2. The ground cover adjacent to the current pond edge will remain and the existing large trees will help keep the water cool.

Ms. Throckmorton described the need for a boulder line, which is typically considered an impairment. The boulders are needed to contain the freshly placed spoils. Ms. Sesto inquired about coir logs as these may be a better option than boulders. Ms. Throckmorton will consider this option with the homeowner along with a secondary shelf. Ms. Throckmorton expressed concern about these logs holding the spoils but understands the concerns of the rocks. She confirmed that any boulders would be angled and will not impair the watercourse.

Mr. Hall further inquired about the purpose of the proposal and the pond’s source of water. Ms. Throckmorton confirmed that they are attempting to restore the pond and create a wetland. The pond was man-made and has filled in through time. The deeper water will be more aesthetically pleasing, more diverse, and the water will be cooler. The pond is a feed from stream supported by groundwater and overland flow from the Old Belden Hill watershed. Mr. Hall asked what happens when the pond dries up. Mr. Throckmorton predicts that if the pond is deeper, it will provide a longer period of water. Mr. Hall countered that it has been his experience that it will not remain wet simply because it is deeper.

Mr. Wong asked Ms. Throckmorton to consider removing the spoils off-site. Ms. Throckmorton confirmed that there are logistical and cost benefits to retaining the spoils on-site. Mr. Wong voiced concern about how narrow the channel seems. Ms. Throckmorton reiterated that the channel would mimic the natural stream above the pond. Mr. Wong countered that this would change the flow characteristics. Ms. Throckmorton reported the plunge pool would slow the flows and the dam would maintain discharge of flows at current conditions. Ms. Sesto added the stream bed is being reconstructed where it was before the pond was originally built.

Ms. Sesto confirmed that the plan supports the Norwalk River Watershed Initiative of removing ponds. One issue that would need to be considered before dredging a pond would be the displacement of water-dependent species.

Mr. Reiter confirmed that ponds are not good for the receiving watercourses they drain to and asked why we would consider making this pond deeper rather than just eliminating it. Ms.

Throckmorton reported that this is an excellent pond that has a larger buffer to the watercourse. They are reducing the surface area of the pond.

Mr. Hall suggested that they are increasing the volume of the pond and noted concerns about pathogen retention. Ms. Throckmorton explained the retention process that happens with soil and roots. The pollutants get reduced in the soil after settling.

Ms. Sesto noted concern that the filled area would not be considered a wetland as the fill seems too deep. She explained the need for a transition from marshy edge to non-wetland hydrology. Ms. Throckmorton countered that the area is proposed with meadow vegetation that her client is committed to maintaining as such. Ms. Sesto added that 2 years from now the site could have different owners who may want to cut it. She reiterated her concern that the fill is too deep to support wetland hydrology.

Mr. Wong raised concern about water flowing over the filled area. Ms. Throckmorton confirmed that this is why the rocks are placed there. Ms. Sesto requested spot elevations from Ms. Throckmorton to further depict the intended contours of the filled area.

Ms. Pollino requested details on the impact of the property below and Ms. Throckmorton confirmed this work will not change the flow patterns in or out of the property. The existing water will be pumped out during the work and the dam is in good repair.

Mr. Hall requested the fallen tree that is hanging over the dam be removed so it does not affect the flow. Ms. Throckmorton agreed that this can be removed and placed in the nearby woods.

Karen Gracie, neighbor to the Mathews, reported her property is on the southeast side of the subject property. She explained how the water from Belden Hill comes down and flows across their driveway. She is concerned that any additional changes will make her situation worse. Ms. Throckmorton confirmed they will not change the edges, the vegetation, or any downstream or watershed inflow. The only change will be deeper, cleaner water.

Craig Johnson stated depositing spoils in the pond eliminates wetlands which over time will erode back into the pond. He asked how much more money it would cost to remove the spoils completely from the site.

Mr. Hall confirmed that the act of depositing spoils is not intended to eliminate the wetlands; it is just changing the type of wetland.

Mr. Reiter asked Ms. Throckmorton about timing of the project. She responded work would commence as soon as the permit is issued.

Mr. Wong asked for further questions from the public. With no questions from the public or commissioners, the public hearing was continued for the December 9, 2010 meeting to allow the applicant to investigate the applicability of coir logs in lieu of boulders and provide elevations in the area of proposed fill.

C. WET#1999(S) – ROLLING HILLS COUNTRY CLUB – 333 Hurlbutt Street – dredge pond and site improvements.

All of the present Commissioners confirmed they visited the site and Ms. Sesto read the list of documents into the record.

Mr. McChord explained the site as being 157 acres. They would like to dredge four ponds on-site to meet irrigation needs. The pond at Hole #6 is the only one that does not receive drainage from the Club House and parking area. Hole #3 has 2 lower ponds which they would like to dredge this winter.

Mr. McChord explained that when the ponds are low, they are augmented by on-site wells. They are adding depth and volume to relieve the wells. They will have a stockpile and storage area near Hole #17 and #18 where the fill will be recycled. There is a gully outside of Regulated Areas they may want to fill as well.

Ms. Sesto inquired about the trees and access in the area. Mr. McChord confirmed there are not a lot of trees and there will be access via cart paths.

Mr. McChord provided details on the Hole #6 plan as being a small system that flows to the west in a pipe to the pond. They will manage these flows to bypass the pond.

Mr. Holt reported on the algae issue. He explained that they will have a well pump lower the water elevation. The existing wood bridge is to be replaced with a stone bridge. They wish to dredge a sediment forebay for easy maintenance. The environment would benefit by reducing sediment dispersal and well use.

Mr. Hall raised concerns regarding overland flows entering the ponds. The manicured grass, and fertilization, and asked how the dredging affects the functionality of the wetland. Mr. McChord confirmed that the functionality would not change, the work they propose is internal. He also noted when the club house addition was built, they installed catch basins and detention facilities. Ms. Sesto asked when the catch basins are cleaned and the Golf Course Superintendent, Glenn Perry confirmed it was cleaned during construction which was 18 months ago.

Ms. Sesto asked that they incorporate a 10 foot buffer of rough growth around the pond edges to curb the algae problems. Mr. Hall confirmed that this is a more natural boundary. Mr. Perry stated that he would add 8 in. tall rough around each pond, excluding the ponds at Hole #6 and the western edge of Hole #3. He further confirmed that they do not use fertilizer within 20 ft. of any pond as they are looking to become Audubon Certified.

Mr. Johnson, neighbor to the country club, stated concerns regarding the objectives to save the wells. He asked if the well use will be diminished, or just deepened. Mr. McChord confirmed that they are not planning on filling the ponds, and that golf course ponds are typically lower than most.

Hearing no further comments or questions, Mr. Wong closed the Public Hearing.

III. APPLICATIONS READY TO BE REVIEWED

A. WET#2001(I) – DELATTRE – 5 Powder Horn Hill Road – “corrective action” to

delineate the limits of the lawn and enlarge wetland buffer planting.

All of the present Commissioners confirmed they visited the site and Ms. Sesto read the list of documents into the record.

Ms. Sesto noted that the property received a permit previously to restore an area wrongfully converted to lawn. The property is non-compliant with this permit and the original permit associated with the house construction. The application seeks to remedy the violation in a way that is sustainable with the residential use.

Mr. Strait confirmed that there is an issue with the lawn area and referred to the previous permits. He provided a new plan. He stated that the property owner spent money and time on landscaping not knowing they were doing anything inconsistent with past permits. They propose to enhance plantings within an area previously allowed to be lawn in exchange for keeping the non-compliant lawn adjacent to the house. The area to be enhanced is closer to the pond and thus more valuable. The area is overgrown so they would like to clean it out and add 20 shrub and ornamental plantings which will be 3 – 4 ft. each. They will delineate area with 5 x 5 in. posts in the ground to make sure the lawn will not be touched by any future owners.

Ms. Sesto confirmed that the original permit allowed an existing 140 ft wide swath of grass to remain; the buffer off a wetland was only 50 feet at the time. She concurred that the logic of the current application is defensible.

Mr. Hall asked for a delineation of the lawn on the new plan as there is nothing in place preventing it from being mowed. Mr. Wong asked if the meadow down by the pond would be preferred. Ms. Sesto confirmed that this would be preferred over a lawn.

Ms. Sesto reported that the applicants have outstanding bonds and we are not clear which previous application would be applicable because of all the activity on the property. She suggested releasing all old bonds and getting a new one in place for this application. A discussion ensued regarding the timing of plantings and bond release.

Ms. Alibrandi MOVED to APPROVE wet#2001 with the General and normal Special Conditions, and the additional Special Condition to release all open bonds and accept a new bond, and the project shall be completed by May 15, 2011, Mr. Hall SECONDED and it CARRIED 6-0-0.

B. WET#1983(I) – BROWN – 544 Nod Hill Road – “corrective action” to extend lawn and additional plantings (cont.).

Ms. Sesto reported that she and Jennifer Zbell, assistant sanitarian, met with Mrs. Brown at the home to walk the site. She measured the area of lawn in question. The crescent is 30 ft. deep and 50 ft. across, using the two mature trees at benchmarks. Ms. Zbell determined the extent of fill and lawn exceeded what was necessary to support the leaching fields.

Mr. Brown described an existing planting bed that he would rework and expand to consume the crescent delineated by Ms. Sesto. There is no plan to remove fill.

Ms. Alibrandi told the applicant he would be required to remove the fill around the tree bases.

Mr. Brown stated that he would not remove the fill and the commission is “crazy” for asking him to do this when 12 years ago, a previous commission member told him to go to Young’s and he spent \$3,000 on the work. Ms. Sesto interjected that recommendations of specific companies are not made. Mr. Brown continued by stating if the commission wants the fill removed, the commission can pay for it. Ms. Alibrandi countered that what was approved on the previous application is not what is there today. Ms. Sesto added that the commission is not questioning the plantings from Young’s, the question is the placement of fill. Mr. Brown stated that there was a plan drawn and everyone was simply going along with the plan. Mr. Hall asked how this issue was brought up and Ms. Sesto confirmed that the problem was discovered when she conducted an inspection to close out a 12 year old bond.

Mr. Hall told Mr. Brown that the commission is attempting to enforce the plan and have him undo what he did. Mr. Brown stated that the trees were not filled and asked if he was expected to dig around the tree. Mr. Hall asked how much fill there is and suggested he use a simple shovel if it’s not very much. Mr. Brown noted that it is one tree with a little bit of build up. Mr. Hall stated that he should remove the fill in the “bump out” as well. He went further to note that if it is not much as the applicant states, it should not be a problem for him to complete. The removal of fill in this area, even if deep, is not that difficult to remove with a machine, per Mr. Hall. Mr. Brown stated that he does not want to pay anything as this is not his fault and it was a septic issue. Mr. Hall confirmed that he is the homeowner, and therefore responsible for the corrective action. Mr. Brown walked out of the meeting at this time.

Ms. Alibrandi stated that we need to be consistent with all applications and cannot make exceptions in this case. She remembers seeing at least 1 ft. of fill on several of the trees bases. Ms. Sesto added that it may be more because the slope goes down. She will issue a Cease and Desist Order and if the applicant is unresponsive, town council will take over.

Mr. Hall asked Ms. Sesto if the Cease and Desist Order would tell him what he needs to do to become compliant. Ms. Sesto confirmed that it would and that we would need this correspondence for a potential lawsuit. Mr. Wong inquired if the commission should approve the application with Special Conditions requiring the fill to be removed. Ms. Sesto offered that this was likely not prudent, Mr. Brown has clearly indicated he does not intend to remove the fill. There is no reason to believe he wouldn’t just dismiss the Special Condition. Mr. Wong stated such a Special Condition would lead to just “shuffling paper” and consequently losing valuable time.

Mr. Hall MOVED to DENY wet#1983 based on the applicants failure to adequately correct the permit violation by refusing to remove fill from the wetland and buffer, Mr. Wong SECONDED and it CARRIED 6-0-0.

C. WET#1977 (S) – TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF S.W. CT – 10 Westport Road – add surface parking spaces, some of which are in a regulated buffer (cont.)

Ms. Pollino and Mr. Reiter are recused from this application.

Ms. Alibrandi stated that she has issues with the slope and the impact to the watercourse and she is not sure why multi-level parking was not seriously considered. Mr. Wong added that there are significant impacts with the removal of the lower portion of woodlands upslope of the stream.

He added that there seemed to be reasonable alternatives that would be approved but the applicant would not consider them. These alternatives would lessen the potential impact particularly for the stream that runs under the building.

Mr. Hall summarized his contemplation of this application as there has been a lot of information submitted to date. He noted that some of the information provided has been contradictory and it seems to be a “test”. One of their experts stated that phase 2 has a “lesser” impact on the resources which means that there is in fact an impact for phase 1, which they were denying. They have also stated there would be no impact due to engineering in place. The applicant has labeled the most convenient parking for the tenants as phase 1, but the convenience is not sufficient to overcome the impact to the wetlands. He added that the commission is receptive and appreciates the difficulty to lease with inadequate parking. Mr. Wong added that the applicant has not satisfactorily demonstrated the need for the additional parking.

Mr. Hall added that this commission cannot think about leasing feasibility. When you have a location of parking in a regulated upland area and there is fairly extensive mitigation to reduce impact on wetlands, the commission has to consider that it is a lesser impact to simply avoid the activity. The techniques for mitigation are not 100%. There could be a failure to maintain the filtration or a change of ownership that doesn't keep up with the necessary maintenance. Ms. Sesto added that the task of the commission per the State is to first avoid impacts, then minimize them, and lastly mitigate what impacts couldn't be prevented.

Mr. Wong stated that there is sufficient literature regarding woodlands in upland areas and how they affects wetlands. He does not think it is imperative that the applicant clear 2 acres of woods when there are other areas which would have less impact. Mr. Hall stated, per Ms. Throckmorton's testimony, no matter where they put parking, they will need to clear some trees. Ms. Alibrandi added that this is one of the healthiest buffers so she is hesitant to allow clearing. Mr. Hall suggested that there are other less sensitive areas to put the lot.

Ms. Sesto provided specific details on the watercourse, notably that 230 linear ft. of the watercourse has been compromised already, as well as other buffer areas that have been compromised, so the balance is off. Mr. Hall added that this would be perceived as mistakes in the current regulations.

Ms. Sesto spoke of the 2nd phase of the parking construction. She noted conflicting testimony on the future use of the Hansen House. This, for her, has undermined the justification of what is needed since phase II seems to be for an anticipated use of the Hanson House. Mr. Hall agreed. The building has been vacant for 10 years and it is not clear how there is a physical need based on lack of use.

Ms. Alibrandi brought up the possibility of approving phase 2 and not phase 1. This was discussed as being a reasonable and feasible alternative. Ms. Sesto added that phase 2 has a stand-alone stormwater management system.

Ms. Sesto suggested that the 7 handicapped spaces in the phase 1 proposal be approved, as long as they are placed outside the regulated area.

She read the applicable excerpt from the regulations regarding clearing outside of the 100 ft. buffer, but on a slope. The 100 ft. regulated area is extended when there is a steep slope. There

is a connection between increasing impervious coverage and losing 2 acres of healthy vegetation adjacent to a watercourse; infiltration and cooling is lost and can have stormwater quantity and quality issues. As the buffer is already at risk due to the location of the building, this puts more importance on what is left.

Mr. Hall MOVED to direct staff to draft an APPROVAL of Wet#1977 with all general and normal special conditions in addition to the Special Conditions that Phase I is not considered part of the approval except for the 7 handicapped spaces. Phase 1 is not approved as it was determined by the commission that the eastern lot adjacent to the watercourse is likely to have a detrimental effect of the wetlands and watercourse. Mr. Wong SECONDED and CARRIED 4-0-0.

D. WET#1985(S) – VOLLMER – 137 Olmstead Hill Road – proposed 4-lot subdivision with regulated activities within 100 ft. of a watercourse.

Commissioners Reiter and Pollino were reseated.

Special Conditions were sent to the commission members via email prior the meeting.

Mr. Wong MOVED to APPROVE the resolution of approval for WET#1985 as drafted, SECONDED by Mr. Hall and it CARRIED 6-0-0.

E. WET#1993(I) – SMITH – 26 Lovers Lane – addition to existing home to include a deck 77 ft. from a watercourse (cont.).

Ms. Sesto reported that Mr. Smith received the approval to connect to the sewer on the left side of the property, opposite from the construction. Mr. Wong inquired whether he was required to connect and Ms. Sesto confirmed that the applicant requested it, but that it is not required.

A discussion ensued regarding the house and property as the home is set on a rocky ledge with a steep slope to a regulated watercourse. The applicant will increase the impermeable area so it was questioned why this is considered an intermediate activity, rather than significant. Ms. Sesto confirmed that there is no grading required and the footprint of the house is not increasing by a lot. In addition, the home is far above the watercourse and there is no tree removal.

Mr. Wong MOVED to approve with General and normal Special Conditions, Ms. Alibrandi SECONDED and it CARRIED 6-0-0.

F. WET#1999(S) – ROLLING HILLS COUNTRY CLUB – 333 Hurlbutt Street – dredge ponds and site improvements.

Mr. Wong suggested that the applicant provide a map including the 10 ft wide buffers to ensure the plan is clear.

Mr. Reiter questioned why we would approve sustaining a pond when it seems like we are attempting to get rid of ponds. Ms. Sesto confirmed that the ponds are for irrigation. Mr. Reiter countered that the commission should not consider economic need for applications. Ms. Sesto confirmed that this situation is different as we cannot take away the irrigation for a golf course unless there is a feasible and prudent alternative.

Mr. Wong brought up the issue of retaining compromised water. He is concerned that it will recirculate and create natural runoff which is difficult to mitigate. Ms. Sesto confirmed that healthier buffers make ponds better.

Mr. Wong made a MOTION to approve WET#1999 with the General Conditions, normal Special Conditions, and the following additional Special Conditions, including a 10 ft. buffer with 8 in. tall grass excluding Hole #6 and the western edge of Hole #3, Mr. Hall SECONDED and the motion CARRIED 6-0-0.

IV. APPLICATIONS TO BE ACCEPTED

A. WET#2002(I) – RAGAZZINI – 6 Abbott Lane – replace failed culvert within 100 ft. of wetlands.

Mr. Hall made a MOTION to ACCEPT the application, SECONDED by Ms. Alibrandi, and CARRIED 6-0-0.

V. APPROVED MINOR ACTIVITIES - None

VI. CORRESPONDENCE - None

VII. OTHER APPROPRIATE BUSINESS

A. WET#1996(I) – BRUNO – 12 Ivy Lane – demolish flat-roofed 2-car garage and replace with 3-car gable-roofed garage within 20 ft. of wetlands.

Ms. Sesto handed out revised plans from what was approved by the commission during the last session. The applicant marked in what changes he would like to make. In assessing the larger footprint, Ms. Sesto was not comfortable signing off on it; she was concerned it was inconsistent with the commission's approval.

The commission compared the approved plan with the plan Mr. Bruno is pursuing, reviewing the rationale that led them to approve the original alternative. After discussion regarding the consistencies and inconsistencies, the commission determined the revised plan did not conform to the permit.

VIII. APPROVAL OF MINUTES –

Ms. Sesto asked if the commission could wait to approve the minutes as there were some omissions in the copy that was provided previous to the meeting.

IX. ADJOURN

Mr. Wong MOVED to ADJOURN at 10:31 p.m., SECONDED by Mr. Reiter, and CARRIED 6-0-0.

Respectfully Submitted,
Liz Larkin
Recording Secretary