

NORWALK CONSERVATION COMMISSION MINUTES

NOVEMBER 25, 2003

ATTENDANCE: Matt Caputo, Chairman; Andrew Kydes; Marny Smith; Anne Cagnina; Ed Holowinko, Alternate; Beth Ackerman, Alternate (departed at 8:30 p.m.); Karen Destefanis (arrived at 6:20 p.m.); Larry Losio (arrived at 6:25 p.m.); Jane Corcillo (arrived at 6:25 p.m.).

STAFF: Alexis Cherichetti, Senior Environmental Officer; Erin Leonard, Conservation Staff.

OTHERS: Kevin Geignetter; Judy Slayback, Environmental Analyst; Chris Schumacher, Project Manager with Beiersdorf; David Waters, Esq., Lepofsky, Lepofsky & Lang; John Anderson, Environmental Planner; Joe Breault, Jr., Sedona Group; Mr. & Mrs. Dan Hughes (Vicki); Steve McAllister, McCord Engineering.

Chairman Caputo called the meeting to order at 6:05 p.m.

RECEIPT & DISCUSSION

332 Chestnut Hill Road – Geignetter - #S03-174: “Corrective Action” deposition of fill adjacent to a wetland.

Ms. Cherichetti said that most of the work the applicant was supposed to do, as directed by the Notice of Violation, has been completed, such as installation of a silt fence, and placement of grass or hay. She said that there is still a large pile of fill at the rear of the property which was pulled uphill to be 40' from the wetland and watercourse area. Mr. Geignetter, the applicant, said that he intends to extend the bottom of his steep driveway so that during inclement weather, cars will be able to come to a stop. Fill that exists in the backyard, currently close to the house, will be used to level off the area at the end of the driveway so that it won't be such a steep slope. The remaining fill will be used to level out the backyard. Ms. Smith said that she was concerned that if some type of retaining wall wasn't placed in the backyard that the soil would continue to erode downhill and be too close to the wetland. She suggested that the applicant plant one or more large pine trees to act as a buffer and said that a more specific planting plan should be furnished for the Commission's review. She asked that Mr. Geignetter work closely with Ms. Cherichetti on this. Chairman Caputo said that he also wanted to see a

revised plan that kept fill far enough away from the wetlands. The applicant said that he would plant whatever the commissioners require because he wants to move the project along.

360 Dr. Martin Luther King Blvd. – Beiersdorf Inc. - #S03-175: Construction of a 51,000 sq.ft. commercial addition with associated expansion of parking lot adjacent to a wetland.

Ms. Cherichetti said that the application is self-explanatory and that Attorney Flaherty was present to answer questions and explain the situation further.

Attorney Thomas Flaherty, representing the applicant, said that joining him to provide information and answers to the commissioners were Judy Slayback, Drew Kordas and Chris Schumacher. He said that the project does not present any significant impact on the wetland area. About 25 years ago, Beiersdorf, an employer of about 250-300 people, moved into Norwalk, and a portion of Martin Luther King Boulevard was rezoned for them. He said that their property is comprised of 18 acres in total, four of which are located in the wetland area on the southerly side of the property. Attorney Flaherty said that Beiersdorf wants to expand its manufacturing operations, and to do so proposes a 51,000 sq.ft. addition to the front of their existing 264,000 sq.ft. building. The addition would be three stories and accordingly, additional parking spaces would be required. Beiersdorf will add a total of 78 parking spaces, which when completed, will be about 50 feet away from the wetland area. Attorney Flaherty said that the applicant is proposing the planting of 23 native shrubs in a disturbed area between the existing wetland and the new parking lot as mitigation. Drainage from the new asphalt areas will be collected and conveyed into an oil/grit separator prior to discharge into the existing storm water drainage system. He said that the application was a good one and did not require a public hearing.

Ms. Slayback said that wetlands occupy four acres on the southerly side of the site and across the street. The property is also located in a coastal area and in the 100-year flood plain. The proposed development is outside the wetland area. She said that years ago there was an old berm and now this stone structure functions as a berm so that water is released slowly. The current water runoff is untreated.

Ms. Smith said that Beiersdorf received an award for being a good custodian of the wetlands. She asked about the parking area, and wondered if blasting would be required for construction of the parking area. Ms. Slayback said that there would be some blasting in the rear of the property; Mr. Schumacher said that rather than blasting, the rock ledge would be hoe-

rammed out. Ms. Slayback said that wetland flags were placed a while ago by a certified soil scientist.

Ms. Ackerman said that she was concerned about the increased asphalt needed for the new parking area. Mr. Schumacher said that impervious material would be increased in Phase I and Phase II of the project.

Ms. Smith asked about vegetation in the area near the lower parking area. Ms. Slayback said that there are specimen shrubs and trees along MLK Blvd and a contractor will be asked to transplant them. She said that the application contains a landscaping and a mitigation plan.

Attorney Flaherty said that the planting plan is extensive, and the site plan is before Zoning for their approval. He said that a decision is needed from three commissions and hoped that Conservation would make a summary ruling at tonight's meeting.

Ms. Destefanis said that the commissioners agreed that a public hearing would not be required but that they could not make a decision tonight. The matter would be placed on the Commission's December 9 agenda for a ruling.

MODIFICATIONS & EXTENSIONS

35 Glover Avenue – 35 Glover Partners, LLC - #S01-58a: Request for extension of time

Ms. Cherichetti said that the applicant is asking for a permit extension to October 2005. Condition #10 of their original permit required that all work be completed within two years of commencement. She said that construction began only recently.

Attorney Waters, representing the applicant, said that the project entailed a massive amount of construction for two office buildings. At present, approximately one-half of the work has been completed. Chairman Caputo said that he did not have a problem agreeing to the extension. Ms. Destefanis suggested that the original permit should be modified. Deletion of special condition #10 would mean that there is no condition linking expiration of the permit to commencement of the activities, and the permit would expire five years after its issuance.

Chairman Caputo said that alternate members, Holowinko and Ackerman, would not vote.

- ** MS. SMITH MOVED THE CONSERVATION COMMISSION TO APPROVE PERMIT #S01-58A (EXTENSION OF PERMIT #S01-58 TO JUNE 12, 2006) AS OUTLINED, AND PURSUANT TO A DECISION MADE ON DECMEBER 12, 2001, EXCLUDING CONDITION #10 OF PERMIT #S01-58.**
- ** MS. CORCILLO SECONDED THE MOTION.**
- ** MOTION PASSED UNANIMOUSLY.**

DISCUSSION/DECISION

310 Ely Avenue – Sedona Group (310 Ely Avenue, LLC) - #S03-160: Construction of a 10-unit apartment building and parking lot adjacent to a wetland and watercourse.

Ms. Cherichetti said that Staff had no specific comments other than what appeared in their report.

Attorney Waters, representing the applicant, said that the project was approved many years ago, but no activity has taken place since the approval. He said that at that time there was a watercourse on the property but they were not aware of the wetlands. The applicant is proposing a 10-unit structure on the eastern portion of the property with a parking lot on the western portion. The wetland area would be rimmed by a retaining wall. A buffer area would be planted between the wetland and the wall and the entire property would be developed.

Attorney Waters said that the applicant developed two alternative plans, because Staff expressed concerns over the original one. One alternative was to construct a four-unit facility, but this plan was not viable for financial reasons.

Attorney Waters said that the applicant was asked to confirm that there would be no access on the new plan from the parking area to the open space wetland; they agreed. They were asked to submit a maintenance plan for the open space and wetland area; they have done that. It was suggested to the applicant that they construct six or less units, but Attorney Waters said that this also would not work because reducing the number of units would mean that the permit would reduce the height for the number stories. This alternative was not financially viable either, and Attorney Waters said that a proforma cost of construction was available for the commissioners to review.

Mr. Losio asked when the original plan was dated. Attorney Waters responded that it dated back to 1990 but the primary proposal was dated this year. He said that the project could be completed without intrusion into the wetland area but would require parking closer to the meadow area and would require more pavement around the wetland.

Mr. Anderson said that the applicant is proposing construction of a 5,500 sq.ft. wetland. The existing wetland is so degraded that there is a question as to whether or not it can be considered as such. Plant matter in the area is invasive. There is a large amount of accumulated household debris and litter in the wetland area.

Ms. Cherichetti said that Staff agrees with the applicant's assessment of the wetlands, and the commissioners should be aware that construction of a wetland is not always a successful venture. Mr. Anderson said that the wetland was designed so that the water velocity would slow down and be channeled into a low flow channel. This would improve the water quality from what is presently there. Attorney Waters said that as a condition of approval the Commission could require that the applicant adhere to a maintenance plan. The building would most likely be managed by some type of association or management company, and they could be required to follow what the Commission requires.

Ms. Corcillo said that her concern is that years later someone could say the area is not a true wetland. Mr. Anderson said that after time, manmade wetland soils mimic natural wetland soils. Attorney Waters said that there would be a wetland easement.

Mr. Losio said that he had concern about trading existing wetlands for replacement wetlands, but knowing there would be a conservation easement to the City, this became less of a concern. Ms. Cagnina said that the "created" wetland would be isolated and this was good because it would allow for easier maintenance. She asked who inspected wetland properties; Ms. Cherichetti said that it was the responsibility of the environmental officer. A document maintenance plan is followed.

Chairman Caputo asked if the applicant planned to sell the units as condos. Mr. Briault said that they would be condominium units. Attorney Waters said that maintenance plans seems to work well for condominium developments. The conservation easement would be recorded on the condominium documents so that purchasers would be aware.

Mr. Losio asked about the condition of the adjacent C L & P property. Mr. Anderson responded that it was exactly the same; vegetation continued down channel as on this property. Ms. Smith said that she was pleased that the plan showed a larger area for “green” or open space. Attorney Waters agreed, saying that this alternative was superior to the original plan. Ms. Ackerman said that you can see into the property from MLK Blvd and wondered if white pine, fur or spruce trees could be planted to act as a better buffer.

Chairman Caputo said that there could be no further extensions and the item needed to be voted tonight or at the December 9th meeting. Mr. Losio wanted input from the other commissioners. Ms. Smith said that she and others have been to the site, and she personally felt that this proposal is much better than the original plan and was happy to vote its approval. A 10-unit development with constructed wetland is a vast improvement over the initial proposal.

Ms. Cherichetti suggested that the Commission delay its decision to December 9th so that Staff could deliver the approval with conditions to reflect what was discussed by the commissioners.

316 Newtown Avenue – Hughes - #S03-172: Construct new single-family residence and detached garage adjacent to a wetland.

Ms. Cherichetti said that the applicant has submitted an amended proposal regarding alternatives, and Staff would be willing to work on the draft conditions or with the applicant to iron out the issues with the proposed plan. She said that the item was discussed at the Commission’s October 28th meeting, and commissioners expressed their concern that the proposed development covered a large portion on a tight sight. The property is covered by approximately 18% of wetland.

Mr. Hughes explained the alternatives to his original plan – reducing the length of the accessory building by five feet; decreasing the proposed lawn area; putting in a gravel rather than an asphalt driveway and planting a significant number of native shrubs along the proposed limit of disturbance to define the buffer line. He said that everything was clearly explained in his detailed letter of November 17th to the Commission.

Ms. Cherichetti asked if four outside parking spaces were really needed. Mr. Losio asked if the total number of parking spaces could be decreased to six ... four in the garage and two outside.

Mr. Hughes continued his explanation of the final site plan which changed from the original since three dry wells, 6' in diameter and 4' deep, were added to catch water runoff and channel it into an underground recharge system, designed for a 25-year storm capacity.

Mr. McAllister said that the distance from the wetlands to the buffer is 20 feet. He said that the alternative plan proposed offers a great deal of mitigation.

The Commissioners discussed at length the distance between the structures, and their proximity to the wetland area. Mr. McAllister said that natural species plants, six feet on center, would provide a dense buffer. The property was served by City sewers. Chairman Caputo reminded the applicant and his representative that distances from structures to wetlands area is a sensitive issue for the Commission. He suggested to the applicants that they consider asking for an extension to consider other alternatives. Ms. Cagnina said that she felt uncomfortable that there was not enough distance from the wetlands. Mr. Kydes said that the current proposal is better than the original and under the circumstances he didn't think the applicant would be able to provide any other alternatives. Ms. Destefanis and Mr. Kydes said that they agreed with the current proposal. Ms. Smith agreed, saying that she felt the applicant took all appropriate steps to address the Commission's concerns. Ms. Cagnina said that she was not satisfied with the proposal; Chairman Caputo agreed. Mr. Losio said that he was not completely comfortable but was cognizant of the timeframe. Ms. Corcillo felt that there could be a better alternative, possibly by reducing the size of the accessory building. Mr. Holowinko said that he wasn't comfortable because eight seemed an excessive number of parking spaces. If the applicant would be willing to decrease the number of spaces to six and move the accessory building closer to the main house he would feel better.

Mr. Hughes said that he would agree to keep the parking spaces always impervious, and to mitigate the parking. He would agree to shrink the size of the accessory building to provide more of a buffer by five feet off the rear.

**** MS. DESTEFANIS MOVED THE CONSERVATION COMMISSION TO APPROVE APPLICATION #S03-172 FOR WORK DESIGNATED ON PLANS ENTITLED SE-I, DATED 10/15/03, REVISED NOVEMBER 14, 2003 PURSUANT TO THE EIGHT CONDITIONS SPECIFIED IN ALEXIS CHERICHETTI'S MEMORANDUM OF 21 NOVEMBER 2003, AND THAT AN ADDITIONAL FIVE FEET WILL BE TAKEN FROM THE REAR (EASTERN SIDE) OF THE ACCESSORY BUILDING TO PROVIDE A LARGER BUFFER AND**

FURTHER THAT THE LAND DEED REFLECT THAT THE DRIVEWAY WILL REMAIN GRAVEL IN PERPETUITY.

**** MS. SMITH SECONDED THE MOTION.**

**** MOTION PASSED WITH TWO ABSTENTIONS (CHAIRMAN CAPUTO AND MS. CORCILLO).**

24 Southwind Drive – Southwind Equities, LLC - #S03-173: “Corrective Action” construct new single-family residence, rear deck and drainage system in and adjacent to a wetland.

Ms. Cherichetti said that Staff had no comments other than what appeared in their reports. Attorney Waters, representing the applicant, said that former suggestions of the commissioners would be addressed. The applicant provided a revised proposal with number of plantings and a larger wetland area. Mr. Anderson said that the fill was warranted and provided a history of the subdivision. The original parcel of land was swamp area that over time was filled in so that houses could be built on it would not sink. He said that there is no underground detention system, but there is a pipe at grade in the upland area to allow for a functioning wetland. Chairman Caputo asked what the condition of the wetlands were. Mr. Anderson said that because of the nature of the previous development, they are disturbed. The proposal would be an enhancement of what is provided for in the habitat. Mr. McAllister said that the area to the west would be raised about one to one and one-half feet to be level with the house next door. Mr. Anderson said that the water would not be pushed to the neighboring properties. Mr. Losio asked if continually pumping would be required to keep the property dry. Attorney Waters said that it would continue during construction but should not be required after that. He said that the house would not have a basement but would be built on 55-foot pilings. Mr. Holowinko said that the plan looked good; Mr. Losio said that he couldn't envision any other improvements that could be made.

**** MS. CAGNINA MOVED THAT THE CONSERVATION COMMISSION APPROVE APPLICATION #S03-173 PURSUANT TO THE SEVEN CONDITIONS SPECIFIED IN ALEXIS CHERICHETTI'S MEMORANDUM OF 21 NOVEMBER 2003.**

**** MR. KYDES SECONDED THE MOTION.**

Ms. Smith said that the record should state that leaving the lot in its present state is not an option because of the health hazard it presents.

Mr. Kydes said that a vacant lot too often becomes a dumpster for everyone.

- ** MOTION PASSED WITH TWO ABSTENTIONS (CHAIRMAN CAPUTO AND MR. HOLOWINKO).

BOND RELEASES AND/OR REDUCTIONS

41 ½ Soundview Avenue – DiScala - #S02-100: Construction of a new single-family house and associated grading adjacent to a wetland and watercourse.

Ms. Cherichetti said that 22 plantings were required, and upon inspection, four of them had not survived. Since then, there have been ten additional plantings; 18 have remained for one full year. She said that Staff recommends a bond release.

- ** MS. SMITH MOVED THE CONSERVATION COMMISSION TO RELEASE THE BOND ON #S02-100.

- ** MS. CAGNINA SECONDED THE MOTION.

- ** MOTION PASSED WITH ONE ABSTENTION (MR. KYDES).

30 Starlight Drive – Chandler - #S02-98: Construction of aboveground pool and associated landscaping adjacent to a wetland.

Ms. Cherichetti said that a full year has passed and all plantings are still alive. She said that Staff recommends a bond release.

- ** MR. HOLOWINKO MOVED THE CONSERVATION COMMISSION TO RELEASE THE BOND ON #S02-98.

- ** MS. CAGNINA SECONDED THE MOTION.

- ** MOTION PASSED WITH ONE ABSTENTION (MR. KYDES).

1 Indian Spring Road – White Farm Corporation - #S00-35: Installation of sanitary sewer beneath and adjacent to watercourse and wetland.

Ms. Cherichetti said that the owner was required to plant a variety of shrubs, etc. and that a full growing season has not yet passed. The existing \$2,000 bond covers 12 shrubs and establishment of a 5' tall ground buffer, all of which look healthy. She said that Staff recommends a bond release.

- ** MS. SMITH MOVED THE CONSERVATION COMMISSION TO RELEASE THE BOND ON #S00-35.**
- ** MS. CORCILLO SECONDED THE MOTION.**
- ** MOTION PASSED WITH TWO ABSTENTIONS (MR. KYDES, MR. LOSIO).**

22 Range Road – Knapp - #S01-65: Construct addition and rear deck for residence adjacent to wetland and pond.

Ms. Cherichetti said that two of the four required were planted initially, but since then the other two have been planted. She said that Staff recommends a bond release. Chairman Caputo asked that the record reflect his thanks to Mr. Kapp for finishing the plantings.

- ** MS. CORCILLO MOVED THE CONSERVATION COMMISSION TO RELEASE THE BOND ON #S01-65.**
- ** MS. SMITH SECONDED THE MOTION.**
- ** MOTION PASSED WITH ONE ABSTENTION (MR. KYDES).**

ACCEPTANCE OF MINUTES

October 28, 2003 – The following corrections were made:

Page 1, last paragraph: correct the first sentence to read “Mr. Moore said after the Cecil group had identified the goals and objectives the next step was to assess the ...”

Page 2, line 4: add the word “Street” after the word “Knight”

Page 2, line 7: correct the phrase to “expansion of the library.”

Page 2, line 14: add the word “that” after the word “building”

Page 2, last paragraph, line 3: delete the words “purchased of”

Page 3, line 2: change the word “license” to “permit”

Page 3, line 3: delete the word “he”

Page 4, second paragraph, line 13: change the spelling of “Water” to “Waters”

Page 5, second paragraph, line 4: interchange the words “put” and “house”

Page 6, second paragraph: change “McAllister” to “Anderson” in every instance.

Page 6, third paragraph, line 1: change “McAllister” to “Anderson”

Page 7, first paragraph: change “McAllister” to “Anderson” in every instance.

Page 8, change “September 30, 2002” to “September 30, 2003.”

Page 8, last motion, change the word “allowed” to “aloud”

Page 9, second paragraph, line 1: change the spelling of “Gennario” to “Genuario”

Page 14, first paragraph, line 10: change the word “delinquent” to “remaining”

Page 14, line 11: delete the word “the” after the word “would”

** MS. DESTEFANIS MOVED TO APPROVE THE MINUTES OF OCTOBER 28, 2003 AS AMENDED.

** MR. LOSIO SECONDED THE MOTION.

** MOTION PASSED WITH ONE ABSTENTION (MR. KYDES).

COMMENTS OF STAFF

Declaratory Permits and Enforcement Actions

Ms. Cherichetti said that a declaratory permit was issued to the owner on Eastwood Drive for construction of a garage on the side opposite from the existing driveway. They are requested to strip the existing driveway, which is adjacent to a watercourse.

Ms. Cherichetti said that an extension of time covered by the declaratory permit

was granted to 25 Glover Avenue.

Ms. Cherichetti said that a violation warning would be issued to 11 Little Fox Road for discharging pool water into the wetlands.

Regarding 3 Driftwood Lane, Ms. Cherichetti said that she left a message with the owners that she was going to inspect the property. She has not yet done so, but will go

soon.

COMMENTS OF COMMISSIONERS

Mr. Losio suggested that the next regular meeting of the Commission be of longer duration, 6:00 p.m. to 9:00 p.m. This would allow the commissioners to address more items. Mr. Kydes said that he would not be present at the next meeting.

ADJOURNMENT

** MS. CORCILLO MOVED TO ADJOURN.

** MR. KYDES SECONDED THE MOTION.

** MOTION PASSED UNANIMOUSLY.

The meeting was adjourned at 8:55 p.m.

Respectfully submitted,

Carol A. Wiggins for

Telesco Secretarial Services