

**NORWALK CONSERVATION COMMISSION MINUTES**

**FEBRUARY 28, 2005**

ATTENDANCE: Chris Handrinis; Elizabeth Ackerman; Susan Llorca; Matt Caputo; Anne Cagnina; Marny Smith; Andrew Kydes; Ed Holowinko.

STAFF: Alexis Cherichetti, Senior Environmental Officer

OTHERS: Don Strait, Grumman Engineering; Attorney Liz Suchy; Attorney Frank Zullo; Clay Fowler, Spinnaker Cos.; Candace Schafer; Judy Slayback; Rob Wood, Leggette, Brashears & Graham; Mark Beroz, MD Soil Mapping; Terrence Gallagher, Tighe & Bond; Karen Seisler, Human Services Council, City of Norwalk; Laurel Lindstrom, ENNA; Alicia Mozian, Conservation Director, Town of Westport; Nicholas Overall, ENNA; David Ogilvy; Carol Ann Curry; Diane Lauricella; Matthew Mandel, Representative, Westport RTM.

CALL TO ORDER

The meeting was called to order at 6:10 p.m.

ROLL CALL

Ms. Cherichetti called the roll.

REFERRALS

Zoning Commission - #10-05R/#20-05SP – 8 Norden Place – Norden Place LLC – Proposed Regulation Amendment to Section 118-117 (Restricted Industrial Zone) of the Zoning Regulations to allow multi-family housing by special permit.

Ms. Cherichetti stated she had written a memo to the Conservation Commission dated February 7th asking for comments to be included in their report to the Zoning Commission, and had received some input. She said she is still trying to figure out what the Commission's consensus is, but she has begun to draft a preliminary letter, which she distributed to the Commission and read into the record. Ms. Cagnina said they could discuss this item later in the meeting.

**\*\* MS. LLORCA MOTIONED TO TABLE DISCUSSION OF THIS ITEM UNTIL LATER IN THE AGENDA, TO BE TAKEN UP AFTER THE PUBLIC HEARING.**

**\*\* MS. ACKERMAN SECONDED.**

**\*\* MOTION PASSED UNANIMOUSLY.**

RECEIPT/DISCUSSION

#S03-245 - 33-35 Glenwood Avenue – Demolition of existing and construction of two 3-unit residential buildings with associated parking and stormwater drainage, in and adjacent to a watercourse.

Ms. Cherichetti distributed maps of the property and said it was a relatively straightforward plan.

Mr. Don Strait, landscape architect with Grumman Engineering, gave a presentation on the proposed application. He said the project included two lots, each approximately 10,000 square feet. The applicant is proposing to construct six townhouse units with garages underneath and a single driveway with drainage along the side.

Ms. Smith asked about where the pipe bends. Mr. Strait said the bend is where the catch basin is located. Ms. Cagnina asked if the water ponds seasonally or year round. Mr. Strait said the water ponding is seasonal and the area might look bad in the summer if it dries out. Ms. Cagnina asked if the access from the residential units above the garage would fall into the culvert. Mr. Strait said it would have to go around it, as the culvert is only 18 inches. Ms. Cherichetti said that from riprap to riprap the area is only about four feet and the lawn area close to ten feet.

Ms. Cagnina said she didn't have any problem with the Alternate A ending at the existing garage. Ms. Ackerman asked if this was a created wetland and Mr. Strait said it was. Ms. Cherichetti said there were no wetlands on the property, the watercourse is almost a pipe, stone-lined, no filtering or storage capability, and only conveys the storm drainage. Mr. Handrinos asked about the location of the watercourse on the other lots on the street.

After discussion, it was determined by general agreement to defer decision on this item to the next meeting.

No action was taken on this item.

#### DISCUSSION/DECISION I

Mr. Kydes, Ms. Ackerman and Ms. Smith recused themselves from this discussion at 6:38 p.m.

a) #S05-235 – 12 Allen Road – Canevari – Construction of a new single-family residence in and adjacent to a wetland and watercourse.

**\*\* MR. CAPUTO MOTIONED TO DENY THE APPLICATION.**

**RESOLVED,**

**THAT CONSERVATION APPLICATION #S05-235, FOR THE CONSTRUCTION OF A SINGLE FAMILY RESIDENCE IN AND ADJACENT TO A WETLAND AND WATERCOURSE, BE DENIED TO FREDERICK CANEVARI FOR PROPERTY AT**

12 ALLEN ROAD, NORWALK, CT [DISTRICT 5, BLOCK 14, TAX LOT 103] FOR THE FOLLOWING REASONS:

1. THE COMMISSION FOUND THAT THE PROPOSED DEVELOPMENT, WHICH WOULD ENCROACH INTO THE WETLAND AREA, WOULD RESULT IN THE PERMANENT LOSS OF WETLAND AREA, AS WELL AS ANY VIABLE WETLAND BUFFER, AND THAT SUCH ACTIVITY WOULD GREATLY DEMINISH ANY FUTURE ABILITY TO ENHANCE OR RESTORE THE WETLAND.

2. THE COMMISSION FOUND THAT THE APPLICANT SUBMITTED INACCURATE AND MISLEADING INFORMATION REGARDING THE PARCEL ('LOT A-1') ON WHICH DEVELOPMENT IS PROPOSED. BASED ON INFORMATION SUBMITTED BY THE APPLICANT AND MAPS FILED ON THE LAND RECORDS, THIS SMALL, ODD-SHAPED PARCEL IS NOT A SEPARATE PARCEL, AS PRESENTED, BUT IS PART OF 'LOT A' SHOWN ON Map #12137 ON THE NORWALK LAND RECORDS.

3. THE COMMISSION FOUND THAT FEASIBLE AND PRUDENT ALTERNATIVES TO THE PROPOSED ACTIVITIES DO EXIST AND WOULD HAVE LESS ENVIRONMENTAL IMPACT TO THE WETLAND AND WATERCOURSE. THE COMMISSION FOUND THAT THE INACCURATE AND MISLEADING PRESENTATION OF THE PARCEL LIMITED MITIGATION ACTIVITIES TO THE AREAS CLOSEST TO BETTS POND BROOK. THE COMMISSION ALSO NOTED THAT THE SMALLER FOOTPRINT, WHICH WOULD KEEP THE CONSTRUCTION-RELATED DISTURBANCE AND LONG-TERM LAWN AREA OUTSIDE OF THE WETLAND AREA, REMAINS AN ALTERNATIVE.

4. THE COMMISSION FOUND THE PROPOSED MITIGATION MEASURES WOULD NOT OUTWEIGH THE IMPACTS TO THE WETLANDS AND WATERCOURSE. SOME OF THE MITIGATION MEASURES PROPOSED WERE EITHER UNENFORCEABLE, SUCH AS THE ORGANIC LAWN MAINTENANCE PLAN OR THE 'REVERT TO MEADOW' LAND USE ON LAND PRESENTED TO BE ON A SEPARATE PARCEL, OR THE MEASURES PROVIDED LITTLE OR NO BENEFIT, SUCH AS THE INSTALLATION OF UNDERGROUND STORM WATER RETENTION GALLERIES IN HIGHLY PERMEABLE SOILS. FURTHER, THE PROPOSED PLANTING PLAN DID NOT PROVIDE SUFFICIENT MITIGATION TO COUNTER THE DISRUPTION AND DIMINUTION OF THE WETLAND AND WATERCOURSE FUNCTIONS OF WILDLIFE HABITAT, NUTRIENT AND POLLUTANT ATTENUATION, SEDIMENT TRAPPING, AND STORMWATER WATER VELOCITY ATTENUATION.

Mr. Caputo said he has problems with this application and felt that the neighbors' comments were valid. It was an illegal lot, there would be disturbance in the wetland, and the presentations indicated significant wetlands.

**\*\* MS. LLORCA SECONDED.**

**\*\* MOTION PASSED WITH ONE ABSTENTION (MR. HANDRINOS).**

b) #S05-243 – 5 Blue Mountain Road – LaRusso – Corrective action grading, filling and construction adjacent to a wetland and watercourse.

Ms. Cherichetti stated that at the receipt of this application at the last meeting on February 14, 2006, there were no major concerns regarding the proposed restoration work voiced. Ms. Cherichetti explained the application.

**\*\* MR. KYDES MOTIONED TO APPROVE THE APPLICATION.**

**RESOLVED,**

**THAT CONSERVATION APPLICATION #S05-243, TO PERFORM CORRECTIVE ACTION RESTORATION ADJACENT TO A WETLAND AND WATERCOURSE AND TO CONSTRUCT A REAR DECK ADJACENT TO A WETLAND AND WATERCOURSE BE GRANTED TO JOHN LARUSSO FOR PROPERTY AT 5 BLUE MOUNTAIN ROAD, NORWALK, CT [DISTRICT 5, BLOCK 13, TAX LOT 75] WITH THE FOLLOWING CONDITIONS:**

**1. A \$2,400.00 PERFORMANCE BOND IS TO BE POSTED PRIOR TO COMMENCEMENT OF ANY ON-SITE PERMIT RELATED ACTIVITY. THE PORTION OF THE BOND HELD FOR PLANTING (\$1,500.00) SHALL BECOME ELIGIBLE FOR RELEASE FOLLOWING AT LEAST TWO (2) FULL GROWING SEASONS, AFTER THE SEASON OF INITIAL PLANTING. A GROWING SEASON EXTENDS FROM MAY 15 THROUGH OCTOBER 15 OF ANY GIVEN YEAR. OTHER PORTIONS OF THE BOND ARE ELIGIBLE FOR RELEASE AS THE WORK IS COMPLETED AND THE SITE IS STABILIZED. ALL SPECIAL CONDITIONS OF THE PERMIT MUST BE SATISFIED PRIOR TO RELEASE OF THE BOND.**

**2. PRIOR TO COMMENCEMENT OF ANY ON-SITE PERMIT RELATED ACTIVITY, THE APPLICANT SHALL PROVIDE PHOTO DOCUMENTATION OF THE SITE AND CROSS-REFERENCE THE PHOTOGRAPHS ON A SITE PLAN. PHOTOGRAPHS SHOULD REPRESENT WIDE-ANGLE VIEWS.**

**3. STAKED HAY BALES OR SILT FENCE SHALL BE INSTALLED IN THE LOCATION INDICATED ON THE PLAN ENTITLED, "ENVIRONMENTAL PLANTING PLAN," DATED JANUARY 20, 2006, BY ENVIRONMENTAL LAND SOLUTIONS, LLC. THE SEDIMENTATION AND EROSION CONTROL MUST BE PROPERLY INSTALLED, AND THEN CHECKED BY THE CONSERVATION STAFF, PRIOR TO THE COMMENCEMENT OF ANY WORK ON SITE.**

**4. ALL PREVIOUSLY DEPOSITED FILL SHALL BE PULLED BACK AS INDICATED ON THE RESTORATION PLAN OR TO A LOCATION AT LEAST**

FIFTEEN (15) FEET FROM ANY WETLAND LINE, WHICH EVER IS A GREATER DISTANCE FROM THE WETLAND.

5. THE LIMIT OF LAWN MAY EXTEND TO THE LOCATIONS INDICATED ON THE RESTORATION PLAN, BUT MAY NOT BE ESTABLISHED LESS THAN TWENTY (20) FEET FROM THE WETLAND LINE.

6. THE WETLAND RESTORATION PLANTING, SITE STABILIZATION AND GRADING AS DETAILED IN THE PLAN ENTITLED, "ENVIRONMENTAL PLANTING PLAN," BY ENVIRONMENTAL LAND SOLUTIONS, LLC." SHALL BE FULLY SUPPLEMENTED WITHIN SIX MONTHS OF ISSUANCE OF THIS PERMIT.

7. THOUGH THIS PERMIT EXPIRES IIN 5 YEARS, ALL CONSTRUCTION PORTIONS OF THE PROPOSED PLAN MUST BE COMPLETED WITHIN ONE (1) YEAR OF COMMENCEMENT OF CONSTRUCTION WORK.

8. ANY CHANGE TO THE OVERALL PLAN, AS DEPICTED IN THE SUBMITTED PLANS AND NARRATIVES, INCLUDING THE PLAN ENTITLED, "ENVIRONMENTAL PLANTING PLAN" BY ENVIRONMENTAL LAND SOLUTIONS, LLC," WILL REQUIRE A RETURN TO THE CONSERVATION COMISSION FOR REVIEW.

\*\* MR. CAPUTO SECONDED.

\*\* MOTION PASSED WITH TWO ABSTENTIONS (MR. HANDRINOS, MS. CAGNINA)

PUBLIC HEARING (to begin at 7:00 p.m.)

Ms. Cherichetti called the roll.

a) #S05-239 – 8 Norden Place – Norden Place, LLC – Construction of a multi-unit (316 unit) residential complex with associated stormwater drainage, grading and landscaping in and adjacent to wetlands and watercourses.

Ms. Cagnina described the procedure for the public hearing portion of the meeting and indicated the sign-up sheets for those in attendance who wished to speak after the applicant's presentations.

Ms. Cagnina announced the receipt of a letter informing her of a conversation between two Conservation Commissioners and a resident attending a previous public meeting. Those Commissioners were questioned by Ms. Cagnina regarding their conversations. Ms. Smith described a brief conversation regarding the walk over the Norden property and the sighting of bluebirds. Ms. Ackerman said she held a brief conversation with Ms. Curry about the walk over the Norden property and that the pending application was not discussed. Ms. Cagnina asked Attorney Suchy if she was asking that these two

Commissioners be recused. Attorney Suchy said there was no need to recuse the Commissioners.

Ms. Suchy delivered the certified mail receipts to Ms. Cagnina.

Ms. Cherichetti read the legal notice of the hearing into the record.

Attorney Suchy of Tierney, Zullo, Flaherty & Murphy, representing the applicant, gave a long and detailed overall presentation of the project and introduced the other members of the project team who would be giving presentations this evening.

Ms. Candace Schafer distributed copies of the revised architectural drawings to the Commissioners and gave a presentation on the architectural components of the project. Ms. Cherichetti asked Ms. Schafer to point out what has changed in the drawings, particularly in the landscape plan.

Mr. Mark Beroz, soil scientist with MD Soil Mapping of Durham, CT gave a lengthy presentation on fieldwork done in April 2004 at the Norden property. He described wetland 7 as an organic mucky soil up to 51 inches in depth, underlain by sand. There were original mineral soil wetlands in three locations, and these were the only non-disturbed wetland area in the entire parcel. Most of the other areas have been significantly disturbed and other areas have been filled. Mr. Beroz discussed the upgrades that had been made to the property over time. The Commissioners questioned Mr. Beroz about taking soil samples by spade and auger. Mr. Beroz said that the natural soils are all mixed up, some pushed around, and all soils have been graded therefore he can't dig down to any natural soils.

Ms. Judy Slayback of Environmental Land Solutions, LLC gave a long discourse on the wetlands areas, the landscaping evaluations and the determination and creation of wetlands. Ms. Suchy asked Ms. Slayback to describe how the wetlands on the property function now, versus how they will function after the construction. Ms. Slayback said they will function the same, but the invasive species that are there now will be removed and the sediment cleaned up. She said the water quality would be improved by both natural and mechanical means after the construction. The project has been engineered and designed so that a more stringent criterion is followed to clean the water. Ms. Suchy asked Ms. Slayback if any activity has been proposed for the three acres in Westport. Ms. Slayback said no, there has not been and will not be. She stated the entire project would be within the limits of the City of Norwalk and not involve the Town of Westport at all. Mr. Caputo asked if each wetland in the project would be improved after the project's completion. He said it was a big project, the Commissioners have a lot of questions, and it would be helpful to have an explanation of the impacts at each individual wetland area.

Ms. Slayback continued by stating that wetland #7 was an herbaceous and wooded swamp. The area near the railroad has phragmites. The rest of the area has trees, shrubs and associated wildlife; pooled water; and functions as a stormwater storage area, as the railroad forms a berm or dyke and the water pools. There are pipes that go under the

railroad bed but they meter the water out very slowly. She stated the wetlands are in various stages of degradation and the ultimate result of the project will be overall improvement and upgrading of the wetlands.

Mr. Terrence Gallagher of Tighe & Bond gave a long presentation on the wetlands areas and the impacts on the wetlands by the construction, as well as a long presentation on the hydraulic aspects of the wetlands areas.

Mr. Rob Good, hydrologist, Leggett, Brashears & Graham, presented information and closed the applicant's presentations with a discussion of the wetlands and remediation of the environmental conditions of the site.

The Commission called for a five-minute recess at 9:30 p.m. before proceeding with the response from the public.

The Commission resumed the meeting at 9:46 p.m.

Ms. Karen Seisler (sp), Human Services Council, City of Norwalk, spoke in favor of the project, particularly the affordable housing component. She said her office receives calls every day from people seeking affordable housing in order to remain in the community. She also receives calls from employers looking for ways to keep their employees in the community. Ms. Seisler said the availability of affordable housing would be an asset to the City.

Ms. Cagnina reminded the public that the Commission is limited to wetlands issues and, as such, they cannot address housing issues. She asked that comments be kept to the environmental aspects of the project.

Ms. Cherichetti read into the record a letter in favor of the project sent by Mr. Ed Musante, President, Greater Norwalk Chamber of Commerce. She read into the record a letter opposing the project from a Mr. Winter.

Ms. Laurel Lindstrom, Eastern Norwalk Neighborhood Association (ENNA), spoke against the project on behalf of the quality of life and the environment of the area. She pointed out that there was no housing permitted on the site now, and they would be starting from a clean slate. Recently regulations changed to increase the setbacks, but this project is being built in wetlands areas. She cited a wetlands report discussing the impact of the project on wildlife and questioned the setbacks from the two watercourses she saw when she accompanied the Commissioners on the walk-through of the property. Ms. Lindstrom said that open space and air quality go together. She noted the Commission is compiling a list of open space areas in the City and said that this area is a buffer for air quality from I-95 and is the only one they have as the area is being built up from Route 1 right up to the water. Noise pollution, as well as air pollution, could be a problem. She suggested the Commission review the points the Town of Westport has made about the project's impact. She also suggested that a public area or "set-aside" be included, because

the public does walk on the property even though it is private property. She also suggested eliminating one high-rise entirely and reducing the density of the entire project.

Ms. Alicia Mozian, Conservation Director, Town of Westport, spoke about how water comes through this property, down into Westport, into the Saugatuck River and into Long Island Sound. She was concerned about the water quality and protecting the water quality and resources. Increasing the buffer distance is suggested to protect the water quality. She presented a report entitled "Nitrogen in the Air" to Ms. Cherichetti. Ms. Mozian mentioned roof and road runoff and its impact, as well as her concerns about exposed soils if vegetation is stripped and construction doesn't begin for months or years since the applicant says the project is going to be done in phases and had worries about walls impacting the water flow during the construction period. She said cleaning of catch basins, traps and sumps before and during construction, and maintenance afterwards, is essential, and should be supervised. Ms. Mozian suggested there be baseline water testing now, and a follow-up testing three years after the project is completed.

Mr. Nicholas Overall, a landscape architect and advisory member of the ENNA asked the Commission to seriously consider the GZA recommendations. One of his concerns was that there seemed to be no modifications or amendments to the already existing drains under the railroad bed. He said he was not totally opposed to the development but suggested the Commission give the GZA report a thorough review.

Mr. David Ogilvy, resident of Westport and owner of property that abuts the proposed development area, read a letter into the record and submitted it to Ms. Cherichetti. His letter discussed the standing and pooling water in Hiawatha Lane that comes from the Norden area. He recommended that the project not alter the wetlands at all and suggested altering the project instead.

Ms. Carol Ann Curry, resident of Westport, was concerned about the increase of ponding in the wetland areas and said the buildup of impervious areas will increase the runoff and ponding in the areas of Westport that back up to the wetlands. She suggested that the scope of the project be reduced to lessen the threat specifically to wetland parcel #7 and its impact overall to the wetland neighbors in Westport.

Ms. Diane Lauricella, advisor to the ENNA and an East Norwalk resident, reiterated her support of the previous speakers. She was happy the Commission has hired an expert to assist them with their deliberations on this project and cited points in GZA's February 22nd report, and other reports. She was glad efforts will be made to remove the invasives, add walking and bike trails, add trees and shrubs, but asked if this was enough. She said stormwater will be treated, but to what degree and how will it be done? Parking under the buildings was a good idea, but not enough. She was not opposed to the application, but to the degree it would impact the site. She would have liked to see an alternative plan created with as much planning as the final plan has been. The village concept is interesting, but can be altered. Ms. Lauricella suggested that the applicant include alternatives to the retaining wall or an alternative plan for the site that includes fewer units. In closing, she asked for an inclusion of bat houses along with the proposed



birdhouses, as bats feed on insects such as mosquitoes that are likely to breed in the wetlands areas. She also recommended a site monitor be added to the project.

Mr. Matthew Mandel, Representative, Westport RTM and Director of the Parks & Wetlands Preservation Fund, was the final speaker. He discussed how the towns of Easton, Hamden and Fairfield have all denied large developments such as the proposed one that would impact wetlands and the environment.

Ms. Cherichetti read into the record a letter of opposition to the project from Mr. David Tooley and Mrs. Vicky Tooley of Hayes Avenue.

Ms. Cagnina called for a five-minute recess at 11:05 p.m.

The meeting resumed at 11:12 p.m.

The Commissioners debated amongst themselves about how to proceed with the meeting, given the lateness of the hour, and it was agreed to continue with the meeting despite the time.

Attorney Suchy requested that the meeting be continued in order for the applicant to review the GZA report, which it had only received two days prior to tonight's public hearing. Attorney Suchy stated that the applicant wanted to rebut the public comment as well as rebut the GZA report. A brief discussion followed as to what date would be acceptable to everyone in order to continue the meeting.

**\*\* MR. KYDES MOTIONED TO CONTINUE THE PUBLIC HEARING.  
\*\* MS. SMITH SECONDED.  
\*\* MOTION PASSED WITH ONE ABSTENTION (MR. HOLOWINKO).**

Mr. Clay Fowler, a principal of Spinnaker Cos., said that the GZA report has interesting information and they need to have time to review it in light of what has been expressed, and thinks they should take into consideration what the public has said. He asked that the public hearing remain open to another night in order for the applicant to continue with the rebuttal.

Mr. Zullo said that in rebuttal they might decide to revise the plans after reviewing tonight's comments and the GZA report. As it was difficult for all involved to determine an acceptable date to hold the continuation of the public hearing that worked for everyone, it was decided by the Commission to keep the public hearing open with permission granted until the second Tuesday of April, if needed.

**\*\* MR. KYDES MOTIONED TO KEEP THE PUBLIC HEARING OPEN FOR #S05-239 8 NORDEN PLACE LLC TO MARCH 28, 2006 AT 7:00 P.M. AT A LOCATION TO BE DETERMINED.  
\*\* MS. SMITH SECONDED.  
\*\* MOTION PASSED WITH ONE ABSTENTION (MR. HOLOWINKO).**

ADJOURNMENT

\*\* MS. SMITH MOTIONED TO ADJOURN THE MEETING.

\*\* MR. CAPUTO SECONDED.

\*\* MOTION PASSED UNANIMOUSLY.

The meeting was adjourned at 11:30 p.m.

Respectfully submitted,

Linda J. Hayes

Telesco Secretarial Services

