

**NORWALK CONSERVATION COMMISSION MINUTES**

**MARCH 9, 2004**

ATTENDANCE: Karen Destefanis, Vice Chair; Elizabeth Ackerman, Anne Cagnina, Matt Caputo, Jane Corcillo, Susan Llorca (arrived at 6:20 p.m.); D. Seeley Hubbard (arrived at 6:25 p.m.); Ed Holowinko

STAFF: Alexis Cherichetti, Senior Environmental Officer

Ms. Destefanis called the meeting to order at 6:13 p.m.

**RECEIPT/DECISION**

12, 14 AND 16 Stephen Mather Road – Post/Pfeil - #S03-179 - Construction of a common driveway adjacent to a wetland.

Ms. Cherichetti reviewed the staff report and said this property was already subdivided, but the subdivision placed the access in a lot where it is no longer desirable, so the owner would like the location of the common driveway changed; but doing so, would cause it to be close to a small wetland pocket.

The representative for the applicant approached to review some background information; she showed the actual approved subdivision that was done in 1986 for a 12-acre parcel with an existing house that had subsequent improvements with accessways on Brookside Avenue and West Norwalk Road. She said as the property now exists, the back area is maintained as a meadow and the area denoted in green were wetlands, the wetlands reflect old agricultural uses and the property slopes down in a collection where swells are and channel water in the direction she indicated. She went on to say that in a previous application submitted in the 1980's, there was some discussion about an intermittent watercourse, but it was taken off the application and through research, it couldn't be found, so it was taken off the map.

She spoke about the paper accessways that went out to West Norwalk Road and Brookside Avenue in 1997, and she pointed to the accessways of the proposed area that was to serve as a third lot, she stated that this was denied without prejudice due to the lack of alternatives offered. She said the owner still desires to relocate the driveway and in the current proposal, they would have four (4) new lots and the proposed driveway is a 16 ft. common drive that comes in to share lots #1 and 2; it would be 50 ft. away from the wetland, with this driveway, they would work with the grades so there is no need for fill and they would go through a wooded area near the wetland, where they would plant new native shade trees and intermittent flowering trees and shrubs. They would also have a system to aid in filtration of storm water, so with the mitigation measures, there would be no impact to the wetland as it is today.

Ms. Cagnina asked about the exact function of the basin and if it would be left or taken out. The representative said the basin served as a catch basin and there was no indication it would be taken out, because if it was taken out, it would cause some disturbance to the area.

Ms. Cagnina asked if it was better for the storm water to be retained then. The representative said it's in a sheet flow occurrence and it's better to leave it where it is, again, it would cause too much disturbance to take it out and follow up to put it back.

Mr. Holowinko asked if the original subdivision was 20 ft. from the right-of-way to West Norwalk Road. The representative said it was only 20 ft. wide and it was narrow, it's only a small pocket that will have to be crossed, it's fairly long and the grade change would be too involved to undertake, so it will stay. She noted it's not used currently and it's a paper accessway only.

Mr. Holowinko asked if there was any consideration to having a conservation easement. The representative said it might help to prevent future spreading of the lawn, but it wasn't being considered at this time. Ms. Cherichetti questioned if there was legal access and she observed on the plan, that it's only an extra spur.

Mr. Caputo asked if they were talking about a conservation easement for the 20 ft. accessway. The representative said yes, it was a good idea so it doesn't get developed in the future. She further explained who had the authority to sign off on the easement.

Mr. Caputo asked who owned the 20ft. accessway out to West Norwalk Road. The representative said she assumed the applicant's siblings did and she pointed out which portion was owned by which person. Ms. Cherichetti pointed out that the driftway predates zoning; and she stressed that it's an old driftway and probably has been there a very long time. She added it would be difficult to apply a condition for the driftway and it really wasn't applicable to this application anyway and she didn't feel it would be used due to the condition of the surface.

Ms. Destefanis stated the commission would make a decision on this matter in two weeks.

#### DISCUSSION/DECISION

6 Bonnybrook Trail – Tarala - #S03-178 – Construction of a retaining wall, dredging of sediments and associated landscaping in a pond.

Ms. Cherichetti explained that if there were any members present tonight that weren't at the last meeting, they could not vote, unless the tapes were listened to. It was noted that only four members were present that were in attendance at the last meeting. She said that those four members could have a discussion on this matter or they could chose to postpone the decision.

Ms. Cherichetti reviewed the last meeting discussion and said that John Anderson submitted his report and she altered the draft resolution and some conditions to reflect Mr. Anderson's suggestions as outlined.

\*\* MS. CAGNINA MOVED TO APPROVE 6 BONNYBROOK TRAIL – TARALA - #S03-178 WITH THE SEVEN (7) CONDITONS AS STATED IN THE MEMO DATED FEBRUARY 26, 2004 TO THE CONSERVATION COMMISSON TO ALEXIS CHERICHETTI

\*\* MR. SEELEY-HUBBARD SECONDED

\*\* MOTION PASSED WITH FOUR VOTES IN FAVOR AND THREE ABSTENTIONS (COMMISSIONERS CAPUTO, CORCILLO and DESTEFANIS)

#### REFERRALS

CT Siting Council Location Approval – South Norwalk Electric and Water (SNEW) - Re-powering existing station and installation of temporary generator

Ms. Cherichetti said she spoke to legal counsel and he advised there was no need to discuss this matter, and suggested it be deferred for a ruling, but she explained it's a new substation that was seen by the commission in December 2003; it was for a utilities location application that goes to the CT Siting Counsel who has exclusive jurisdiction, and although it gives provisions to the Inland Wetland Agency, there are no inlands or watercourses on the property, so they can't comment on what doesn't apply. She said she would write a letter stating there are no inlands wetlands or watercourses. She further offered that maps were available for anyone wishing to view the property with the existing conditions and what it will look like when it's done.

#### BOND RELEASES & /OR REDUCTIONS

#726.S99 – 10 Riverwalk Lane - Release of bond for construction of a single-family residence within 100-year flood plain, adjacent to wetland, floodway and Five Mile River.

Ms. Cherichetti said a permit was required for the plan that has been in for four years so staff requested the applicant to submit a request for release of the bond.

\*\* MR. CAPUTO MOVED TO APPROVE THE RELEASE OF THE BOND FOR #726.S99 – 10 RIVERWALK LANE

\*\* MS. CORCILLO SECONDED

\*\* MOTION PASSED UNANIMOUSLY

#615.S97 – 138 North Taylor Avenue - Release of bond for construction of a house adjacent to a wetland

Ms. Cherichetti said it was the same situation as above, staff asked the applicant to submit a request for the release of the bond, so she recommended it be approved.

\*\* MS. CAGNINA MOVED TO APPROVE THE RELEASE OF THE BOND FOR #615.S97 – 138 NORTH TAYLOR AVENUE

\*\* MS. ACKERMAN SECONDED

\*\* MOTION PASSED WITH SEVEN VOTES IN FAVOR AND ONE ABSTENTION (COMMISSONER CAPUTO)

#619.S97 – 15 Weatherly Lane - Release of bond for construction of a single family residence adjacent to detention pond.

Ms. Cherichetti said it was the same situation as above, staff asked the applicant to submit a request for the release of the bond, so she recommended it be approved.

\*\* MS. DESTEFANIS MOVED TO APPROVE THE RELEASE OF THE BOND FOR #619.S97 – 15 WEATHERLY LANE

\*\* MS. CORCILLO SECONDED

\*\* MOTION PASSED WITH SEVEN VOTES IN FAVOR AND ONE ABSTENTION (COMMISSONER HOLOWINKO)

ACCEPTANCE OF MINUTES

January 13, 2004

Correction

Page 1; under Attendance, delete Alternate after Beth Ackerman's name

\*\* MR. HOLOWINKO MADE A MOTION TO ACCEPT THE MINUTES AS CORRECTED

\*\* MS. LLORCA SECONDED

\*\* MOTION PASSED WITH SIX VOTES IN FAVOR and TWO ABSTENTIONS (COMMISSIONERS CAPUTO and HUBBARD)

February 10, 2004

## Corrections

Page 1; under Attendance, delete Alternate after Beth Ackerman's name

Page 2; 4<sup>th</sup> paragraph from the bottom, 9<sup>th</sup> line down, where it reads, She said the plant she presented was broad in scope should read, She said the plan she presented was extensive in scope

Page 2; 3<sup>rd</sup> paragraph from the bottom, where it reads, plan that more specifically should read, plan that generally

Page 2; 2<sup>nd</sup> paragraph from the bottom, 2<sup>nd</sup> line where it reads, silt can effect should read, silt can affect

Page 5; 2<sup>nd</sup> paragraph from the top; 3<sup>rd</sup> line down, where it reads, mitigation plans should read, mitigation plantings

\*\* MS. CORCILLO MADE A MOTION TO ACCEPT THE MINUTES AS CORRECTED

\*\* MS. CAGNINA SECONDED

\*\* MOTION PASSED WITH SIX VOTES IN FAVOR and TWO ABSTENTIONS (COMMISSIONERS CAPUTO and HUBBARD)

February 24, 2004

## Corrections

Page 1 through 5, where it reads Don Sprite, should read Don Strait

Page 1; last motion on the page, 1<sup>st</sup> line where it reads, RELESE should be spelled RELEASE

Page 2; 1<sup>st</sup> sentence should read, Ms. Cherichetti said that the goals of the document were to protect the natural resources and management, outdoor recreation and the promotion of community character and the quality of life.

Page 3; 3<sup>rd</sup> paragraph, 2<sup>nd</sup> line should read, that probably in late March. Mr. Caputo asked if everything could be incorporated

Page 4; 2<sup>nd</sup> paragraph, 3<sup>rd</sup> line down, where it reads, and different wildlife mechanisms for should be deleted

Page 4; 3<sup>rd</sup> paragraph, 1<sup>st</sup> sentence where it reads submerge should read submerged

Page 4; 6<sup>th</sup> paragraph, where it reads, to reinforce the strength should read, to reinforce the shape of the island.

Page 4; 7<sup>th</sup> paragraph, the last sentence should be deleted

\*\* MR. CAPUTO MADE A MOTION TO ACCEPT THE MINUTES AS CORRECTED

*The motion was withdrawn for more corrections (as indicated above).*

\*\* MR. CAPUTO MADE A MOTION TO ACCEPT THE MINUTES AS CORRECTED

\*\* MS. CAGNINA SECONDED

\*\* MOTION PASSED WITH FIVE VOTES IN FAVOR AND THREE ABSTENTIONS (COMMISSIONERS DESTEFANIS, HOLOWINKO and CORCILLO)

#### COMMENTS OF STAFF

##### Declaratory Permits and Enforcement Actions

Ms. Cherichetti said they needed to discuss a violation that involved 4 Singing Woods Road. The violation was issued on January 5, 2004 and the owner was given the order to stop all work and submit a corrective action plan by January 20, 2004, but this hasn't been done to date, so she strongly recommended a Cease & Desist be issued or that she talk to Attorney Simon Sumberg about considering skipping the Cease & Desist process and going straight to court on this matter due to the scope of the violation.

Mr. Hubbard asked if there had been any activity since the violation. Ms. Cherichetti said no. The contractor had indicated that a soil scientist had examined the property, but needed a backhoe to perform the delineation of wetland.

Mr. Seeley-Hubbard asked the nature of the violation. Ms. Cherichetti said it consisted of fill in a standing-water swamp of about an acre.

Ms. Cherichetti said they needed to discuss what directives they wanted to set if they wished to go with the Cease & Desist order. Ms. Cherichetti said the applicant was served with the notice of violation. Mr. Caputo asked if it was sent certified mail requiring the green card to be returned. Ms. Cherichetti said yes and the owner appeared to sign it.

Mr. Hubbard asked where the fill came from. Ms. Cherichetti said there had been a long history of fill on the property, and recently, the rate of it increased dramatically and someone called in the violation, that's how it came to her attention. Ms. Cherichetti indicated on the map who owned what portions of the property and she said she didn't

think any of the dumped material was created by Stafford Higgins Industries, but the person that runs that business owns the property.

Ms Ackerman stated that it stood to reason, that they should follow the Cease & Desist procedure to avoid the risk of not following the proper steps; she asked if the Cease & Desist order could be hand delivered. Ms. Cherichetti said it needed to be served via certified mail, she noted it could possibly be issued on Wednesday and a show cause hearing could be held at next week's meeting.

*There was some open discussion of whether a Cease & Desist should be issued and the possible repercussions if they skip that step. The aerial maps were reviewed by all to see what was there currently.*

Ms. Cherichetti circulated a 1990 aerial map to point out the property in question that was denoted in green in relation to the wetland area that she said was near a stone wall with a portion that is buried that is close to standing water.

Mr. Caputo suggested part of the Cease & Desist could be for experts to determine the steps that needed to be taken to correct the situation. Ms. Ackerman agreed and she said that perhaps a wetland scientist could make an assessment of the situation.

Ms. Destefanis asked if they should issue the Cease & Desist then. Ms. Cherichetti said they still needed some directives to do so and she suggested they take the approach of setting forth exactly what the owner must do. She further stated that a soil scientist might be hired by the city to aid in the process.

Mr. Caputo asked if there would be any problem with access to the site. Ms. Cherichetti said she would have to check with the owner. Mr. Caputo questioned what would happen if the owner said no. Mr. Seeley-Hubbard said the owner should be informed that a professional would be hired to determine the scope of the work. Ms. Cherichetti agreed.

Ms. Cherichetti said she could issue the Cease & Desist with a variety of directives such as:

1. stopping all work
2. the owner must submit a corrective action application for a permit

Mr. Hubbard added another directive should be:

3. they should restore the property to the way it was prior and if necessary, they should submit a plan or proposal to the commission.

Ms. Destefanis suggested they stipulate what portion of acreage the owner must remediate.

Mr. Caputo asked if a Special Meeting could be held with legal counsel present to discuss the matter further. Ms. Cherichetti said they could do that. Mr. Hubbard said they would need to go into Executive Session. Ms. Cherichetti said she would try to schedule something with Attorney Sumberg and then she would contact those members who would be able to attend the Special Meeting.

It was decided the commission members would meet at City Hall when the date was determined to meet and then they would proceed to view the site and discuss after.

Draft regulations changes

Ms. Cherichetti reviewed and explained her highlighted notations on the copies distributed.

Mr. Hubbard said the changes were pretty straightforward. Ms. Cherichetti said Attorney Sumberg looked them over and he didn't have any comments, so she said if everyone agreed, they could schedule a public hearing.

Ms. Cagnina had a question on enforcements and she read a portion of the draft as it applied to this. Ms. Cherichetti responded to what she read and said if it was denied, they could get a court order.

After some discussion, it was determined the Proposed Regulations changes public hearing would be scheduled for April 27, 2004 at 7:00 p.m. Ms. Destefanis said she preferred it be held in May because she would be out of town, but after some discussion, it was found that three other people wouldn't be able to attend in May, so they decided to schedule it in April.

#### COMMENTS OF COMMISSIONERS

Open Space Plan Guidelines

Ms. Corcillo mentioned that Ms. Cherichetti did a great job of inserting the transitional sections.

Ms. Cherichetti said there was some question under the "Specific Goals & Actions" section; she said originally they were to have a series of public forums to elicit public feedback and they discussed introducing the registry as a tool to complete the inventory of open space, also, the public forum would be to introduce the general concepts. She further emphasized as it stood now, it could be applied to any municipality along Long Island Sound and the subcommittee had a question of specific guidelines and actions and if they want to include them now or at some point in time to give the public something to comment on specifically, but they don't have that now.

Ms. Cagnina said it would be good to have specifics to offer for public information. Ms. Corcillo questioned what the most important item the public should be informed of initially. Ms. Destefanis said probably the registry.

Ms. Ackerman suggested having a specific first step goal. Ms. Cagnina asked if she meant that should be something more specific than what was already outlined.

Ms. Corcillo explained the idea of the registry was to lay down a first step as ground work; she asked if they should develop the registry and then devise specific goals. Ms. Cherichetti said then maybe they should go to a future public forum and introduce the registry as an inventory and then parts of the guidelines should describe in detail how the commission would use the information that was gathered in the registry process. It was noted the public forum should be inclusive of steps #1-4 and that they should hold off on steps #5 & 6.

*There was open discussion of whether step #6 should be included now or at all.*

Ms. Cherichetti felt that in an open space plan, an important part of it is to determine how it might be persevered and acquisition was not necessarily the way to go, so she felt it was key to get as much information out to the public as possible. Ms. Destefanis agreed especially since most people were not aware of how the process works.

Ms. Corcillo reviewed page 1 and she read the paragraph covering Policies & Actions. Ms. Cherichetti gave an example of why section 5 was key, as it might relate to acquisition of property.

*There was further open discussion and comments regarding this topic.*

Ms. Ackerman felt some sections were too confusing now. Ms. Corcillo said it needed to be precise and should be tweaked before presenting it to the public.

Ms. Destefanis asked what the exact goals were. Ms. Corcillo said the short term goal was:

- to get the public interested to participate in the nomination process

the long term goal is:

- when they have a complete registry, they should come back to the city administration and present open space with ideas on how to preserve it.

Mr. Hubbard commented that the more information presented, the more the public would turn out.

Ms. Ackerman asked if they could approach it by presenting say Phase I goals first followed by Phase II etc. Ms. Cherichetti said this might give people the idea that the

matter would be revisited time and time again and this may not necessarily happen, so that's why the steps need to be flushed out more, but she also felt they could restate the four main goals and leave room to say during the public forum process, that the commission would be interested in the public's comments. And with that, she thought they could include all the steps now, with room for them to be amended later if necessary. Ms. Corcillo said then they needed to flesh out section #5.

Mr. Caputo stated it might be difficult to get people to come out, so he thought it would be best to present as much of the entire package initially, so they could see where it's going, he said this especially applied to people who need specifics, this way all the pieces mesh together.

Mr. Caputo further expressed why people may be more interested to have all the information presented at once, and he felt they would elicit more participation, in that, some may come out with an interest in different open space locations they have in mind, therefore, this would draw more people initially; some of the other commissioners acknowledged they agreed with this statement.

Ms. Cherichetti said to keep in mind; they need to discuss specific goals not specific properties.

She noted a public hearing date would rescheduled.

*Ms. Cherichetti took a poll of who would be available next week to meet.*

#### ADJOURNMENT

**\*\* MR. CAPUTO MADE A MOTION TO ADJOURN**

**\*\* MS. CORCILLO SECONDED**

**\*\* MOTION PASSED UNANIMOUSLY**

The meeting was adjourned at 8:24 p.m.

Respectfully submitted by,

Diane Graham

Telesco Secretarial Services