

NORWALK CONSERVATION COMMISSION MINUTES

MAY 25, 2004

ATTENDANCE: Karen Destefanis, Chair (6:08 p.m.); Matthew Caputo (6:20 p.m.); Susan Llorca (6:08 p.m.); Elizabeth Ackerman; Ed Holowinko; Seeley Hubbard; Andrew Kydes; Marny Smith; Jane Corcillo (6:14 p.m.)

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

Ms. Smith, Acting Chair called the meeting to order at 6:06 p.m. Ms. Cherichetti called the roll.

RECEIPT/DISCUSSION

a) 223 Richards Avenue - #S04-182 – St. John Cemetery/Bridgeport Roman Catholic Diocesan Corp. – Filling, grading associated landscaping to develop a new active cemetery section

Ms. Cherichetti stated that two representatives from St. John Cemetery are present. She said the Commissioners received in their packets the plans for the cemetery. Ms. Cherichetti gave a brief overview. She said that in back of the cemetery is the Five Mile River and there is also a tributary to the River that begins off-site to the north and passes through a portion of the cemetery.

Karen Destefanis and Susan Llorca arrived at 6:08 p.m.

Ms. Cherichetti said that a portion of the tributary was historically piped under some of the existing cemetery and there is also a small open portion, which was also historically altered. She said the area in question is a little over 4 acres. Ms. Cherichetti pointed out the location on the plans to the Commissioners. She said that right now the area is a cleared grass area and the applicant is proposing to rearrange the existing roadways and making a new loop, which will surround another burial area. The proposed activities would come within 25 feet of the banks of the watercourse. The watercourse has an existing 25-foot woodland border around them. The gravesites come up to the 25-foot border. Ms. Cherichetti said that she believes the same would occur between the proposed renovated road and the 25-foot vegetated buffer. Ms. Cherichetti asked the applicant to clarify the amount of fill that would be brought into that area. She said the narrative stated that it would be approximately 5,000 yards.

Mr. Harrington, Development Manager the cemetery confirmed the amount of fill to be brought in. He said the purpose of the soil is to bring the cemetery up above ledge and the water table for of the burial space.

Jane Corcillo arrived at 6:14 p.m.

Mr. Harrigan pointing out on the plans stated that 99 percent of the burial space would be within the group road. Ms. Smith suggested that instead of putting curbs along the edge of the road that the applicant put a swale along side of the road so that the water could runoff into the swale.

Mr. Kydes asked if any part of the area had been under water at any time. Mr. Harrigan said that he has never seen the area under water. The topography of the area was discussed.

Ms. Cherichetti asked Mr. Harrigan if the fill would be brought from offsite. Mr. Harrigan said no. He said they should be able to bring the fill from the back of the cemetery. He said the pond was dredged 3 or 4 years ago and they have enough fill on site from that.

Mr. Caputo arrived at 6:20 p.m.

Ms. Destefanis stated that the Commission could not make a decision tonight and would make a decision at the next meeting on June 8, 2004.

b) 53 Marlin Drive - #S04-183 – Keane – Construction of a new single-family residence adjacent to a wetland and watercourse

Ms. Cherichetti said that the applicant is proposing to construct a new house on a site where a house was previously demolished. She said the Keane's house had some structural issues and wish to rebuild a modular house in approximately the same location. Ms. Cherichetti said that Mr. Keane has requested that the Commission waive the application fee of \$560.

Ms. Smith asked what basis Mr. Keane had for the waiver.

Ms. Cherichetti read a letter from Mr. Keane addressed to the Commission, which stated in effect, that he and his wife have to rent an apartment for \$1,800 a month while the new house is being constructed. He said that he feels that his new house on Marlin Drive will be a substantial public benefit. Mr. Keane stated in the letter that his wife is pregnant and they are trying to finish the house before the baby arrives. Ms. Cherichetti said that the Commission would have to state their reasons for why they are allowing the waiver. She read provisions under Section 68-15, Subsection 8 referring to the application fees of the Norwalk Regulations, which in part stated that the Commission can waive all or part of the application fee if the agency determines that: 1) the activity applied for clearly results in a substantial public benefit to the environment or the public health and safety and the applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the application fee or 2) the amount of the application fee is clearly excessive in relation to the cost to the City for processing and reviewing the application. It was the consensus of the Commission that a waiver is not warranted in this case.

**** MS. SMITH MADE A MOTION TO DENY THE APPLICANT'S REQUEST FOR A WAIVER OF THE APPLICATION FEE.**

**** MOTION WAS SECONDED BY MS. ACKERMAN.**

Mr. Caputo asked that Ms. Smith amend her motion to indicate that the criteria had not been met by the applicant.

**** MS. SMITH AMENDED THE MOTION TO INCLUDE THAT IT IS THE UNANIMOUS OPINION OF THE COMMISSION THAT NONE OF THE REQUIREMENTS FOR A WAIVER WERE MET BY THE APPLICANT.**

**** MR. CAPUTO SECONDED THE MOTION.**

**** MOTION PASSED WITH 6 IN FAVOR, 1 ABSTENTION (MR. KYDES); ALT. HUBBARD AND ALT. LLORCA COULD NOT VOTE.**

Moving on to the application, Ms. Cherichetti stated that the Keanes would appreciate it if, even though they are not present tonight, that the Commissioners would initiate discussion of any questions or concerns and that the staff relay those questions and/or concerns to them.

Mr. Hubbard asked if the house would have the same footprint. Ms. Cherichetti said the house would have approximately the same footprint. She said it is slightly less deep but it is 2 feet wider going east to west. Ms. Cherichetti said the northeast corner of the house foundation would be about a half-foot closer to the wetland line than the existing house. However, the existing second story deck and porch across the back will be removed. One footing went into the wetland line. There will be a much smaller 12 x 12 foot deck in the center and to the west of the proposed building. The new house requires the digging of pilings that will be significantly deeper than the existing pilings so that the house remains a stable structure. Ms. Cherichetti said the pilings would go down 60 to 80 feet. She said there would not be too much earth disturbance with the construction of the house, unlike a new development on a previously undisturbed lot. She said this is approximately over the existing foundation, which was already disturbed and pilings will not result in any additional disturbance. Only light grading will be done around the existing house. She said the construction sequence should be expedited because it will be a modular home.

Ms. Ackerman asked if the applicant would use an existing line for the sewage system. Ms. Cherichetti said yes. Ms. Cherichetti said that the applicant wishes to bring in approximately 20 yards of fill to do grading in the south and west portions of the site. Mr. Hubbard asked if the old house was sinking. Ms. Cherichetti said the old house was significantly structurally challenged. Ms. Corcillo asked about the existing and proposed plantings. Ms. Cherichetti said that the applicant wants to keep his existing plantings. She said that the proposed planting and the location of the planting plan should be discussed further with the applicant. Ms. Smith said that the applicant should get rid of the fragmites and keep the club moss that is growing nicely. Ms. Cherichetti said the applicant knows this. She said that she suggested a linear planting plan closer to the

wetland line toward the house. Ms. Cherichetti said that the applicant has no plans to change the lawn. She said the applicant has no proposed plan for the carport but he would consider focusing on the northwest corner, where the water flow is to make it a more of a natural area. Ms. Cherichetti said she would confirm with Mr. Keane that he has no proposal to expand the lawn area and get him to more clearly delineate the proposed lawn area. Mr. Holowinko suggested a non-pervious driveway and plantings at the back of the house.

c) 157 Perry Avenue/Silvermine School - #S04-184 – City of Norwalk – Fisheries enhancement and streambank restoration in and adjacent to the Silvermine River

Ms. Cherichetti referred the Commissioners to copies of the plans. She said this project has been around for a while and hopefully it will come to fruition this summer. She said the project is funded by federal and state grants. It initially started with the City of Norwalk discussing an existing pedestrian bridge, which crosses the Silvermine River. The abutments for the bridge are being eroded. The project was adopted by the Norwalk River Watershed initiative 4 years ago and for the last 4 years have been spent designing a hydraulic plan that will, in a natural way, change the water flow patterns so that they are not so erosive to the streambank while at the same time provide better fisheries habitat along the Norwalk River. Ms. Cherichetti explained how the crossvane`s and J-hooks would be used.

Ms. Destefanis asked if the work would be done while the kids are out of school. Ms. Cherichetti said the City is now going to be the bid administrator. She said the City is going out to bid next week and the bid package was sent to the DEP yesterday morning. Construction is scheduled to begin in mid-June depending on the amount of bids received. Ms. Destefanis asked how long the project would take. Ms. Cherichetti said that hopefully it would take 112 calendar days or 65 working days so the work would be done during summer vacation. She said it is the goal to be finished by the start of school. She said the concern of the construction crew is the nature of the material on site. She said they do not want the kids to play on it. Ms. Cherichetti said that there would be no school activity during the summer except foreign language classes.

Ms. Ackerman asked about disturbance to the riverbed. Ms. Cherichetti said that there is not much existing silt. Ms. Cherichetti showed photographs of the watercourse and crossveins and J-hooks that were installed in another project. There was further discussion of the site plan. Ms. Cherichetti said that there would not be much major digging above the streambed.

Ms. Destefanis said that a decision could not be made tonight. She said the Commission could have a public hearing at the next meeting if necessary. She asked if the neighbors were aware that this project is coming. Ms. Cherichetti said yes. She said 7 of the property owners will have some work done on their property and that 2 additional owners have given their consent although no work will be done on their property. Mr. Caputo asked if any of the owners own out into the river. Ms. Cherichetti said yes. Mr. Caputo said that the Commission probably should have a public hearing. Ms. Cherichetti said

that she would need to notify the owners and coordinate with abutting property owners. She said that she would notice the abutting owners and have it put in the newspaper.

** MR. CAPUTO MADE A MOTION THAT THE CONSERVATION COMMISSION HAVE A PUBLIC HEARING ON ITEM #S04-184 – 157 PERRY AVENUE/SILVERMINE SCHOOL AT THE NEXT MEETING ON JUNE 8, 2004.

** MS. ACKERMAN SECONDED THE MOTION.

** MOTION PASSED WITH 7 IN FAVOR, 2 ABSTENSIONS (MR. HOLOWINKO AND MS. LLORCA)

d) 8 Oak Hill Avenue - #S04-185 – Livingstone – Install above-ground pool and new wood deck adjacent to wetland

Ms. Cherichetti said that Mr. Livingstone is present. She said the applicant proposes to install an above-ground pool and a rear deck in the rear of the house. She said she did not require the applicant to flag the wetlands. She said historically the yard was filled and the applicant has photographs to show the Commissioners. Ms. Cherichetti said she is not sure where all the wetlands are on the property. She said the proposed area is not a proposed wetland but the area adjacent to it is.

Mr. Livingstone introduced himself to the Commissioners and distributed copies of the property. He explained where the photos were taken from and where existing house is located.

Ms. Smith asked how Mr. Livingstone would handle emptying the pool. Mr. Kydes said that it would not have to be emptied it could be filtered. Mr. Livingstone distributed photos of an above-ground pool similar to the one he is proposing to have installed. He said a fence would be installed around the pool and that it would be professionally done. There was discussion with regard to the installation of the pool. Mr. Livingstone said that there could be possible minor excavation to install footings around the pool. Ms. Cherichetti said there are no land use changes or concerns and no sedimentation or erosion concerns. Ms. Destefanis thanked Mr. Livingstone for coming and said that the earliest the Commission could decide on this item would be at the June 8, 2004 meeting.

MINUTES

a) April 13, 2004 minutes

The following corrections were made:

Ms. Destefanis's name was spelled incorrect throughout minutes.

Ms. Leonard's name should be added under Staff.

Page 1, under Receipt/Discussion, Paragraph 1, Line 5, the word "formerly" should be "formally."

Page 1, under Discussion/Decision, Item a, the dollar sign should be a number sign with a capital "S".

Page 3, under Comments of Staff, "...were issued a notice of violation..." should be "...were issued violation of warnings..."

Page 3, under Comments of Staff, Second Sentence, "She added that there would be an application..." should be "She added that there would be applications..."

Page 4, Paragraph 1, start new paragraph after first sentence beginning with "She said that..."

Page 4, Paragraph 1, Second Sentence, Insert a period after Larkspur. The next sentence should read "However, the sediment from the site discharges into the City's storm water system and the Commission may not want to claim jurisdiction on storm water system discharges."

Page 4, Paragraph 4, NCRS should be NRCS.

Page 4, Paragraph 5, Last Sentence, should be "She said that riprap would be put into the river and the decking of the bridge would be replaced."

Page 4, Paragraph 6, First Sentence, "...doing inspections at the condo now..." should be "...doing inspections at local condo associations now..."

Page 4, Paragraph 7, Omit the "a" at the end of "Indiana."

Page 5, Paragraph 1, First Sentence, "Ms. Corcillo..." should read "Ms. Corcillo said that Ms. Cherichetti gave everyone revised guidelines and open space plan."

Page 5, Paragraph 1, "Ms. Corcillo said that it was important to have a plan to acquire space and to serve..." should be "Ms. Corcillo said that it is important to have a plan to acquire space in order to serve a useful purpose in the City of Norwalk."

Page 5, Paragraph 1, Last Sentence, should be "She said that the natural resources map that is proposed is not the same as the open space inventory."

Page 5, Paragraph 2, First Sentence, should be "Ms. Corcillo said that in order to protect community character and quality of life it was important to get input..." "She said that the plan also relates to properties..." "She said that the plan would encourage the Planning Commission to..."

Page 5, Paragraph 3, "She also said to have a policy..." should be "She also said it is important to have a policy..."

Page 6, Paragraph 1, Delete the word "the" in the first sentence.

Page 6, Paragraph 2, Delete first sentence.

Page 6, Paragraph 5, "Ms. Corcillo said that the other point would be..." should be "Ms. Corcillo said that the plan should be incorporated into the City's plan..."

Page 6, Paragraph 6, Fourth Sentence, should be "She said that if the property owner committed property as open space and applied through the assessor to be assessed on use and committed to not changing that use for two years then the property could be assessed on use and not market value."

Page 7, Paragraph 1, Ms. Corcillo should be "Ms. Smith"

Page 7, Paragraph 2, Ms. Cherichetti should be "Ms. Smith"

Page 7, Paragraph 3, Ms. Cherichetti should be "Ms. Smith"

Page 7, Paragraph 4, Insert "Following consensus of the Commission" before the start of the first sentence.

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

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

**** MOTION PASSED WITH 6 IN FAVOR, 3 ABSTENSIONS (MR. CAPUTO, MS. ACKERMAN AND MR. HUBBARD)**

b) April 27, 2004 minutes

The following corrections were made:

Page 1, Paragraph 1, Fourth Sentence, change the word “suffice” to “sufficient.”

Page 2, Paragraph 7, First Sentence should read “Ms. Cherichetti said the Commission is looking for a medium solution to recommend.”

Page 3, under Discussion/Decision, “steeple top” should be “Steeple Top Road.”

Page 5, under Comments of Staff, “Hopping Lane” should be “Topping Lane.”

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

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

**** MOTION PASSED WITH 6 IN FAVOR, 3 ABSTENSIONS (MR. HUBBARD, MS. DESTEFANIS AND MS. ACKERMAN)**

c) April 29, 2004 minutes – Special Meeting

The following corrections were made:

Ms. Destefanis’s name is spelled incorrectly throughout the minutes.

Page 1, Paragraph 2, “...open watercourse and adjacent wooded on the property...” should be “...open watercourse and adjacent wooded area on the property...”

**** MR. KYDES MADE A MOTION TO ACCEPT THE MINUTES AS AMENDED.**

**** MR. HUBBARD SECONDED THE MOTION.**

**** MOTION PASSED WITH 6 IN FAVOR, 3 ABSTENSIONS (MS. LLORCA, MR. CAPUTO AND MS. ACKERMAN)**

COMMENTS OF STAFF

a) Declaratory Permits and Enforcement Actions

Ms. Cherichetti stated that there was one Notice of Violation issued at 111 Maywood Road. She said there is a very wet area in the northwestern portion of the property and there are many pockets of standing water. She said the owner placed piles of woodchips in the area because it was so wet. Ms. Cherichetti said the Notice of Violation that she issued required the applicant to flag all of the wetlands, submit a corrective action permit for all regulated activities. She said the wetland soils are limited to the eastern side of the property and no wetland soils were located within this area. She said soil samples were taken and the applicant is not performing regulated activity, the area is just very wet. Ms. Cherichetti said that she would retract her Notice of Violation.

Ms. Cherichetti said that there were three Declaratory Permits issued in the last two weeks. One was for 500 Connecticut Avenue (Kohl's store). She said they will be removing 4 dead trees and planting 6 new white pines. There was another permit issued at 7 Topping Lane. They will be installing an inground pool 70 feet from a watercourse. At 17 Fairweather Road, the applicant will be doing a small addition that will be 75 feet from the watercourse.

Ms. Cherichetti said she received a request from Bill Wrenn who is the current President of the Norwalk Land Trust to have the Conservation Commission support the Land Trust bid to receive grant money from the DEP's Open Space Grant Fund for funds to help them purchase the White Barn property. Ms. Cherichetti said that she wanted to know if the Commission would agree to send them a letter stating that the Conservation Commission supports the application of the grant to acquire the White Barn property. The deadline for the application is June 10, 2004. Ms. Smith said this is one of the nicest pieces of open space in the area.

**** MS. SMITH MADE A MOTION THAT MS. CHERICHETTI DRAFT A LETTER IN SUPPORT OF THE NORWALK LAND TRUST'S SUBMISSION TO THE DEP FOR AN APPLICATION FOR OPEN SPACE GRANT FOR THE PURCHASE OF THE WHITE BARN PROPERTY ON NEWTOWN AVENUE AND CRANBURY AVENUE AND SIGNED BY THE COMMISSION MEMBERS OR OFFICER ACTING ON BEHALF OF THE CONSERVATION COMMISSION.**

**** MS. LLORCA SECONDED THE MOTION.**

**** MOTION PASSED UNANIMOUSLY.**

There was discussion with regard to funding and the open space acquisition.

COMMENTS OF COMMISSIONERS

Ms. Destefanis said that she received a letter regarding the Norwalk River Initiative. She said there will be a meeting on June 4, 2004 at 9:30 a.m. at the old Wilton Town Hall, Route 33 and Ridgefield Road, Wilton, Connecticut. She said the last 5 years of the Norwalk Initiative would be discussed, officials from 5 municipalities would be attending and there will be a tour of a portion of the Norwalk River. The Commissioners were asked to see Ms. Cherichetti if they would like to attend.

Ms. Corcillo asked if Ms. Cherichetti had notified other city bodies about the June 9, 2004 hearing. Ms. Cherichetti said that copies are being made of the plan and tomorrow she would draft a short memo to other cities to go along with it. Ms. Smith asked if the Commissioners could get a clean copy before the hearing. Ms. Cherichetti said that she could get the copies out tomorrow. Ms. Smith commended the committee that worked on the plan. Ms. Cherichetti said that she is still working on getting it on the Website.

Ms. Smith said that she signed up to go to the Wetlands Workshop on June 4, 2004 and found that she had already attended. She asked if anyone would like to take her place.

Mr. Hubbard said that he would check his calendar to see if he would be able to attend the workshop.

Ms. Smith said that it has come to her attention that there is a aquifer protection issue and the Zoning Commission has been designated as the agency that is in charge of aquifer protection. She said that the Conservation Commission should be included in this somewhere. Ms. Cherichetti said that the Mayor and Common Council decides which Land Use Board oversees Acquifer protection. Ms. Cherichetti said that she has State regulations and fact sheets that the Commissioners could review. Ms. Cherichetti said that the State regulations only protect public water supply aquifers. Ms. Destefanis said that public water supply aquifers are required to serve a certain number of people.

ADJOURNMENT

- ** MR. CAPUTO MADE A MOTION TO ADJOURN THE MEETING.
- ** MS. SMITH SECONDED THE MOTION.
- ** MOTION PASSED UNANIMOUSLY.

The meeting was adjourned at 8:09 p.m.

Respectfully submitted,

Linda L. Custis
Telesco Secretarial Services.

