

**CITY OF NORWALK
INLAND WETLAND AGENCY
SEPTEMBER 22, 2009**

- PRESENT:** Karen Destefanis; D. Seeley Hubbard; Ed Holowinko; Matthew Caputo; Anne Cagnina; Emily Wilson; Gwen Briggs
- STAFF:** Alexis Cherichetti, Senior Environmental Officer; Yarifalia Bletsas, Environmental Compliance Officer
- OTHERS:** Peter DeLeo; Atty. Liz Suchy; Fred Mascia; Robert Jontos; Kim Morque; Cecelia Lapatelli; Rick Giordano; Kenneth Sosnoski, Jr.; David Park; Carolann Currie; Ivo Nenin; Milena Nenin

CALL TO ORDER

Ms. Destefanis called the meeting to order at 6:00 pm.

ROLL CALL

Ms. Cherichetti took the roll call.

DISCUSSION &/OR DECISION

- a) **#S09-355—282 Flax Hill Road—KRPX Holdings, LLC—Three lot subdivision of land and diversion of a watercourse**

Ms. Cherichetti said that the application was received at the last meeting and that the applicant was presenting more information and photos tonight. She added that there was a narrative from Don Straight in the packets.

Ms. Cherichetti clarified that the item would go to public hearing, because it involved a significant regulated activity. She also said that that staff had received a letter from an abutting property owner.

Mr. Don Straight, a landscape architect, provided further analysis of the drainage plans.

Mr. Peter DeLeo showed the as-built plan of the City drainage improvements, indicating the headwall and the 5-inch pipe that had been installed in 1991.

Mr. Straight also discussed the catch basin, which he described as a large structure.

Ms. Cagnina asked about the property lines. Mr. Straight indicated the property line, as well as the location of the watercourse and catch basin on a map.

Ms. Cagnina expressed concern about the guard rail next to the watercourse. The applicant submitted photos of the watercourse looking north and also indicating the southern part of the property.

Ms. Destefanis asked the applicant to confirm whether he was leaving the City-owned property as it was.

Mr. Straight stated that the guardrail would be moved. He submitted additional photos and explained that the plan involved a channelized ditch that resembled a conduit.

Ms. Cherichetti noted that she is still looking through her files for Conservation discussion of the drainage work that was done in 1991.

**** MR. CAPUTO MADE A MOTION TO SCHEDULE A PUBLIC HEARING FOR THE OCTOBER 13, 2009 MEETING.
** MS. WILSON SECONDED.
** MOTION PASSED UNANIMOUSLY.**

b) #S09-353—5 Driftwood Lane—Allimant—Corrective Action deposition of fill, grading, and removal of vegetation adjacent to a wetland and watercourse [P.H. to commence by 10/27/09]

Ms. Cherichetti said that the applicant was not present tonight. She said that the calculated amount of fill had been reduced somewhat significantly and that the applicant would still need a fill permit from DPW as well as a Significant Regulated Activity Permit from the Agency.

Ms. Cherichetti also said that if the applicant wanted to construct a retaining wall, it would need to be designed by an engineer; however DPW engineers have accepted the applicant's proposal to make a stone wedge at the edge of the slope.

She reiterated that the public hearing date could not be extended.

**** MR. CAPUTO MADE A MOTION TO SCHEDULE A PUBLIC HEARING FOR THE OCTOBER 27, 2009 MEETING.
** MR. HUBBARD SECONDED.
** MOTION PASSED UNANIMOUSLY.**

**** MS. DESTEFANIS MADE A MOTION TO AMEND THE AGENDA TO SKIP TO APPROVAL OF MINUTES AND FOLLOWING ITEMS.
** MR. CAPUTO SECONDED.
** MOTION PASSED UNANIMOUSLY.**

APPROVAL OF MINUTES

a) September 8, 2009 meeting minutes

- ** MR. CAPUTO MADE A MOTION TO APPROVE THE MINUTES.**
- ** MS. WILSON SECONDED.**
- ** MS. BRIGGS ABSTAINED.**
- ** MOTION PASSED UNANIMOUSLY.**

COMMENTS OF STAFF

a) Compliance Summary

Ms. Cherichetti stated that she had forwarded a request to the law department to file an injunction for the violation at 4 Klim Lane.

b) Report of Senior Environmental Officer

COMMENTS OF COMMISSIONERS

a) Report of Commission Chair

- ** MR. CAPUTO MADE A MOTION TO AMEND THE AGENDA TO SKIP TO APPROVAL OF MINUTES AND FOLLOWING ITEMS.**
- ** MS. CAGNINA SECONDED.**
- ** MOTION PASSED UNANIMOUSLY.**

REFERRALS

- a) Zoning Commission--#7-09R/#7-09SP—Norden Place, LLC—8 Norden Place—Proposed amendments to Section 118-711 to permit multifamily and single family dwellings by special permit in Restricted Industrial zone**

The Commissioners discussed the various information that they had received from Ms. Cherichetti and the applicant regarding the proposed test amendment and some Commissioners noted that they were unable to open some of the electronic files.

Ms. Cherichetti suggested that she draft a letter for them to consider that retained some elements of the Commission's 2006 letter but also reflected some of the changes in the proposed plan.

PUBLIC HEARINGS (TO BEGIN AT 7:00 PM)

- a) #S09-350—8 Norden Place—Norden Place, LLC—Construction of a multi-family residential building, four detached single-family buildings and**

associated parking, drainage and other activities in and adjacent to wetlands and watercourses

Ms. Cherichetti took the roll call.

Ms. Destefanis recused herself. Mr. Hubbard acted as Chair.

Mr. Hubbard opened the public hearing. He explained that it would be kept open until the next meeting, because the peer review consultant retained by the City had submitted information that day and the applicant should have an opportunity to respond as necessary.

Attorney Suchy described the general proposal and indicated access on the site plan. She relayed that the property involved the implementation of 10% affordable housing. She also described its amenities, including the pool, recreation area, and the gravel path to Hiawatha Lane. She confirmed that the access to the four single-family homes would be through Hiawatha Lane only.

Attorney Suchy discussed the maintenance of the property within the conservation easement area. She stated that the applicant had met twice with peer review.

Mr. Fred Mascia, engineer with Tighe & Bond, showed the site on a map, explaining that the property was about 38 acres. He discussed the access drive through to Hiawatha Lane. He addressed concerns about drainage and gave details about the plantings and detention basins on both sides of the property. He stated that the rain garden was the first line of defense, in terms of managing storm water.

Mr. Mascia indicated the gravel path, which he said would be used for maintenance and pedestrian access. Mr. Mascia emphasized that there would be no increase in runoff off of the property and no increase in runoff into the wetland.

Mr. Robert Jontos addressed the environmental impacts of the proposal. He pointed out that the site was sandwiched between I-95 and the Metro North railroad. He described the soil and the contributing watershed, adding that there were no critical habitats or vernal pools on the site. He described the existing wetlands on the site. He presented a chart entitled "Wetland Function and Value Assessment," reiterating that there would be 8,269 square feet of direct wetland impacted by the proposal.

Mr. Jontos explained that the inlet swales coming off of I-95 would be modified to include a level-spreader and that the channel would also be stabilized. He discussed mitigation and the long-term Habitat Management Plan.

Mr. Caputo asked about how the Habitat Management Plan would be implemented and enforced. Attorney Suchy explained that the applicant would be required to post a bond. Mr. Caputo asked about enforcement beyond the construction period. Attorney Suchy said that future maintenance would be the obligation of the property owner.

Mr. Hubbard asked about the maintenance of the three detention basins for storm water. Mr. Mascia said that the basins would be brought into the permanent maintenance plan and would be cleaned twice a year. He emphasized that there would be a program to maintain them.

Ms. Cagnina asked what proportion of the watershed went into the large wetland (wetland #7). Mr. Mascia pointed out that Wetland area 7 eventually received all flow from the site.

Mr. Caputo asked the applicant to summarize the impacts on the wetlands. Mr. Jontos gave details. He reiterated that Best Management Practices would be implemented, and that water would be treated before going to wetlands.

Mr. Caputo asked how a new wet meadow would be created, once Wetlands 2 and 3 were eliminated. Mr. Jontos discussed the reduction of elevation and the use of level spreaders.

Ms. Cagnina asked about the success rate of creating a wet meadow. Mr. Jontos said that the rate was once “abysmal.” He described improvements based on the evaluation of all parameters and the use of a monitoring period.

Mr. Jontos described the distinction between a wetland and a wet meadow. He gave details about how the wet meadow would function.

Ms. Cagnina asked about the conservation easement area. Mr. Jontos showed its location on a map and discussed the area included.

Attorney Suchy discussed the preliminary draft easement language.

Mr. Caputo asked about environmental monitoring for contamination at the site. Attorney Suchy stated that the concern had also been voiced in a letter from a member of the public. She discussed the Transfer Act.

Mr. Hubbard opened the hearing for public comment.

Ms. Cecelia Lapatelli read aloud from her own letter concerning contamination of the property. She said that the contamination on the property was not adequately categorized. She discussed the role of a licensed environmental professional and implored the applicant to consider the safety of citizens. She referenced that she had provided copy of the Tier One report for the property for the record. She described her own experience in the past with discovering a dumping area on her own property and health problems that she suspected were related to the contaminated site.

Mr. Rick Giordano addressed pollution on the site, pointing out that the applicant had only discussed ground water on the site. Mr. Giordano discussed the extent of the plumes

noting that there was a 100-foot deep plume. He also stated that there should be specific deed restrictions on the land.

Mr. Kenneth R. Sosnoski, Jr. agreed with Mr. Giordano. He stated that he had issue concerning rate of flow and flooding. He encouraged the applicant to withdraw the proposal to save time and trouble.

Mr. David Park, 66 Strawberry Hill Avenue, explained that houses in the area had received letters indicating that well water, as well as City water, had to be tested for contamination when the pollution was discovered on this site. He emphasized the importance of maintenance of the wetlands.

Ms. Carolann Currie, 29 Hiawatha Lane, Westport, discussed the access road, which she said had been created without impacting the wetlands. She asked whether the four single-family residences proposed could be on septic, instead of sewer, and if the remaining utilities come from Westport.

Ms. Cherichetti noted that she had received other written testimony for the record. She stated that she had received emails regarding comments from Mr. Matthew Mandel of Westport.

Attorney Suchy said that she would prefer to respond to all public comments at the same time, at the October 13, 2009 meeting. She also pointed out that the access to Hiawatha Lane was a Zoning issue.

Mr. Kim Morque, applicant, stated that he would respond to some issues today. He discussed concerns regarding the environmental impact of the site. He acknowledged that cracks in the pipes in the past had caused the ground water to be impacted. He also discussed the role of LEPs, pointing out that they have a duty to the State and are bound to a standard. He emphasized that an LEP would not yield to clients' pressure to make false statements, as suggested by one speaker. Mr. Morque also addressed concerns about groundwater, pointing out that this was part of the DEP public record.

Mr. Morque also stated that maintenance contracts depended on the responsiveness of the property owner.

Attorney Suchy addressed deed restrictions. She also emphasized that the pedestrian access-way would remain as it was and would only be used by maintenance vehicles.

Mr. Morque added that a forced sewer main would accommodate the house accessed by Hiawatha Lane. He also emphasized that the four single-family homes on the property would be typical suburban family homes.

Mr. Hubbard continued the public hearing to the October 13, 2009 meeting.

Ms. Destefanis returned to the meeting.

b) #S09-349—10 Douglas Drive—Nenin—Corrective Action deposition of fill and removal of vegetation in and adjacent to a wetland and watercourse

Mr. Caputo recused himself and left for the evening.

Ms. Destefanis opened the public hearing.

Ms. Cherichetti took the roll call.

Ms. Cherichetti indicated that there were revised documents concerning the application.

Mr. Ivo Nenin clarified that the concern involved the amount of fill on the property. He said that he had requested a letter from the contractor and also from the surveyor. The letter had indicated that there was about 160 cubic yards of fill on the property.

Mr. Nenin discussed the proximity to the wetland, stating that he could move the fill 25 feet away from the wetland. He added that a silt fence had been proposed to control erosion. He also agreed that to clean up wood chips and tree trunks on the property. He explained that he wanted to blend the yard with the adjacent woody area and to improve the appearance of the back yard.

Ms. Cagnina asked about the depth of the fill and its proximity to the house. Ms. Cherichetti clarified the grades and elevations of the current and pre-existing conditions on the property by pointing to the recently submitted survey map of the property.

Mr. Nenin said that he purchased the property in June 2005 and discussed an addition put in by previous owners. He added that he had ceased any work in the overgrown back yard, after discovering snakes there.

Ms. Cherichetti discussed the proposed grading plan for the property.

Mr. Hubbard confirmed that there was no fill in the wetland itself or in the drainage easement.

Ms. Destefanis asked the applicant to confirm that he was not taking the removed fill and re-grading the land uphill of the wetland. Mr. Nenin said that it would not be graded and that the extra fill would be removed from the property.

Mr. Hubbard asked about how the slope would be stabilized. Mr. Nenin stated that the surveyor had told him that the slope would be a 2 to 1 grade and also that a silt fence would be installed.

Ms. Cherichetti clarified that this would be less steep than the existing condition.

Ms. Cagnina pointed out that a large stone appeared to be blocking the hole over a pipe.

Ms. Cherichetti said that staff had suggested moving fill that was covering trees, so that the trees would not die. She then noted that the current proposal indicated that there would be excavation down to an elevation even lower than the original grade. She suggested that the Agency focus on the distance of fill from the wetland, not the elevation of the fill at the bottom of the proposed slope

Mr. Nenin agreed to move the fill and stated that he would plant the trees suggested by staff. There was a discussion of the need for the applicant to propose a plan.

Ms. Destefanis asked if an excavator would be able to ascertain all the elevations with the fill in place. Ms. Cherichetti discussed the issue and described the actual slope.

Ms. Destefanis explained that the application seemed incomplete, due to the lack of a planting plan and an unclear idea about the amount of topsoil. She said that the Commission would be uncomfortable approving the proposal without more details.

Ms. Cherichetti agreed that the applicant needed to propose a planting plan.

Ms. Destefanis continued the public hearing to the October 13, 2009 meeting.

DISCUSSION &/OR DECISION

- a) **#S-09-350—8 Norden Place—Norden Place, LLC—Construction of a multi-family residential building, four detached single-family buildings and associated parking, drainage and other activities in and adjacent to wetlands and watercourses**

There was no further discussion this evening.

- b) **#S09-349—10 Douglas Drive—Nenin—Corrective Action deposition of fill and removal of vegetation in and adjacent to a wetland and watercourse**

There was no further discussion this evening.

II. ADJOURNMENT

- ** MS. CAGNINA MADE A MOTION TO ADJOURN.
** MR. HUBBARD SECONDED.
** MOTION PASSED UNANIMOUSLY.**

The meeting was adjourned at 9:25 pm.