ENVIRONMENTAL PROTECTION COMMISSION
REGULAR MEETING/PUBLIC HEARING
MINUTES

November 5, 2008
7:30 P.M.
Room 206, Town Hall

Chairman Hillman called the meeting to order at 7:35 P.M. Commission Members Present: Peter Hillman, Susan Cameron, Michael Tone, Craig Flaherty, Rick Rohr, and Ellen Kirby.

Staff Present: Richard Jacobson

Court Reporter: Bonnie Syat

Mr. Hillman read the first agenda item:

EPC-48-2008, Hallie and James Palen, 45 Brookside Road, proposing grading, terrace, and walls within an upland review area.

The Commission reviewed the draft resolution and made changes. Mr. Rohr added a condition to provide for a rain garden at the downspout and to defer the river bank protection work to a future permit or permit amendment. The Commission will also require an engineer's design.

Ms. Cameron made a motion to approve the application with the above stipulations. Mr. Tone seconded the motion and it passed unanimously.

Mr. Hillman read the next agenda item:

EPC-53-2007, Wee Burn Country Club, 410 Hollow Tree Ridge Road, requesting a gravel cart path in lieu of grass pavers.

Matt Popp, Environmental Land Solutions and Doug Drugo, Course Superintendent, represented the applicant. Mr. Drugo provided an update on the status of the work done to date.

Mr. Popp said the gravel would be a suitable substitute to replace the pavement and will serve the same function of minimizing runoff.

Ms. Cameron asked for a stipulation that no herbicides be used to prevent weeds on the path. Mr. Drugo said they would not use herbicides. He said they do not use them on other gravel paths on the course.

Mr. Flaherty made a motion to approve the request. Ms. Kirby seconded the motion and it passed 5-0 (Mr. Rohr abstained)

Mr. Hillman read the next agenda item:

EPC-59-2008, John McPhee, 20 St. Nicholas Road, proposing pond dredging.

John Nazzaro, Contractor, represented the applicant. He said the pond was dredged approximately five years ago and has filled in with sediment. He described the dredging procedure. He said they

will only remove accumulated sediment. He said there is a stone wall parallel to the house they would like to reconstruct.

Mr. Hillman said the Commission would require a drawing of the wall before approval.

Mr. Flaherty asked about the size of the machine to be used. Mr. Nazzaro said they would use a small machine with a 50' reach. Mr. Flaherty asked for a 5' wide natural edge around the pond.

Mr. Rohr asked about the temporary cofferdam. Mr. Nazzaro said they would use sandbags. Mr. Rohr requested they add an anti-tracking pad to the plan.

Mr. Tone made a motion to approve the application with stipulations requiring an anti-tracking pad, and a planting plan to be approved by staff for the 5 foot natural buffer around the pond and the dewatering area. Mr. Flaherty seconded the motion and it passed unanimously.

Mr. Hillman read the next agenda item:

EPC-57-2008, Steve and Valerie Baker, 25 Hamilton Lane, proposing to amend the Town wetland map.

Attorney Wilder Gleason represented the applicant.

Mr. Hillman said that a public hearing is required for a map change. The Commission scheduled the public hearing for December 3. The Commission said they would like to notify adjacent property owners, although not required by the regulations. Mr. Gleason said he would notify the adjacent property owners.

Mr. Hillman read the next agenda item:

EPC-58-2008, Allison Gasvoda, 40 Maywood Road, proposing a fence within an upland review area.

Chris Elkow, Elise Landscapes, represented the applicant. He said they are proposing a fence along Maywood Road and four sections of the fence will be in an upland review area.

Mr. Hillman asked them to provide a space for small wildlife under the fence. Mr. Elkow said they will provide a space.

Mr. Tone asked if the fence would be of treated material. Mr. Elkow said it would be cedar with no treatment.

Ms. Cameron made a motion to approve the application. Mr. Hillman seconded the motion and it passed unanimously.

The Commission discussed the P&Z Referral for this property - Land Filling and Re-grading Application #218 Allison Gasvoda, 40 Maywood Road

The Commission did not have any concerns with the P&Z application.

Mr. Hillman read the next agenda item:

EPC-60-2008, VR Associates, 305 Middlesex Road, proposing demolition of an existing residence, construction of a new residence, and related site construction within a regulated area. The site is shown on Assessor's Map #9 as Lots #71 and 72.

Attorney Robert F. Maslan, Jr. represented the applicant.

Mr. Hillman said the application would require a public hearing because of the potential significant impact and because a hearing would be in the public interest. The Commission will hire an independent engineer to review the plans.

The Commission scheduled the public hearing for January 7, 2009.

P&Z Referrals:

Coastal Site Plan Review #240, Walter Norman, 131 Long Neck Point Road.

The Commission requested staff visit the site and make a recommendation regarding maintaining natural areas on the site.

Mandatory Referral #6-2008, Amendment of Zoning Map #4-2008, Amendment of Zoning Regulations #8-2008, Site Plan Application #268, Special Permit Application #122-A, Land Filling and Re-Grading Application, Darien Housing Authority, Noroton Avenue.

Ms. Cameron and Mr. Flaherty agreed to review this referral and provide a draft memo to P&Z.

Mr. Hillman made a motion to add the Draft Stormwater Regulations to the agenda. Mr. Flaherty seconded the motion and it passed unanimously. The Commission members have received copies of the draft regulations which will be scheduled for a public hearing by the Planning & Zoning Commission early next year. The members will review the regulations and circulate any comments.

Mr. Hillman made a motion to approve the Minutes of June 25, as revised. Ms. Cameron seconded the motion and it passed unanimously.

Mr. Hillman made a motion to approve Minutes of July 9, as revised. Ms. Cameron seconded the motion and it passed unanimously.

Mr. Hillman made a motion to approve Minutes of July 23, as revised. Mr. Rohr seconded the motion and it passed unanimously.

Mr. Hillman made a motion to approve Minutes of August 6, as revised. Ms. Cameron seconded the motion and it passed 5-0 (Mr. Flaherty abstained).

Mr. Ms. Cameron made a motion to approve Minutes of August 26, as revised. Mr. Rohr seconded the motion and it passed 4-0 (Mr. Hillman and Mr. Flaherty abstained).

Mr. Hillman made a motion to approve Minutes of September 3, as revised. Mr. Flaherty seconded the motion and it passed unanimously.

Mr. Hillman read the next agenda item:

EPC-35-2008, Oakview Housing Trust, LLC, 26 Oak Crest Road, proposing demolition of existing residence, construction of 10 condominium units in two buildings, and related site development activities within an upland review area.

Mr. Flaherty was recused for this application and left the meeting at this time.

Mr. Hillman said the test for a denial of the application is based on evidence of whether the project is likely to have a significant adverse impact on the wetland resource. If so, the Commission must find there are feasible and prudent alternatives. He said he has serious misgivings about the project. He said he thinks Spath-Bjorklund believes that there will be no impacts but there is contradictory evidence from Fuss O'Neill. He said Joe Canas did not have an ultimate opinion of no impact but he expressed his concerns. He said there is substantial documentary evidence that it is a difficult site. He said there is a substantial increase in impervious surface within 75 feet of the Goodwives River. He said Oak Crest slopes to the Hamer property and there is a significant second slope to the river. He said the Goodwives River has made significant progress but it is still a fragile watercourse. He said the applicant is proposing a complex retention/infiltration system that has little if any margin for error.

Mr. Rohr said the drainage system is not designed properly. He said the applicant did not provide detailed plans showing a cul-de-sac even though Town Counsel's opinion is clear. He said experts for the Town and neighbors showed there will be more impact from the cul-de-sac. He said the applicant's engineers are not familiar with the Goodwives River. He said he gives more credence and weight to Fuss & O"Neill because of the management plan they prepared. He said there is substantial evidence of significant impact and there are numerous alternatives. He gave a summary of his concerns including the roof runoff not being included in the basin calculations, the need to analyze bridge capacity at Granaston Lane based on actual observed flow conditions and downstream channel conditions, the irreversible and irretrievable commitment of resources and the unsuitability of the activity to the area, and the significant increase in impervious coverage.

Ms. Cameron said she agreed with Mr. Hillman and there is anecdotal evidence and observations of flooding onto the site and in the Goodwives River. She said she agreed with Mr. Aurelia that many of these systems that are well designed still fail.

Mr. Hillman said he did not agree with Mr. Klein's statement regarding the small size of the site. He said Mr. Klein was looking at the site in isolation. He said the soil mottling concerns him. Ms. Cameron said she agrees that the soil mottling could indicate high groundwater.

Mr. Tone said there are deficiencies in the application including the applicant's treatment of the issue of groundwater impacting the detention system. He said the curtain drain was proposed without sufficient investigation of the groundwater table. He said the lack of monitoring wells is a significant defect.
Ms, Cameron said there was not enough focus on snow management. She said there is likely to be snow in the basin during spring storms.

Mr. Tone said Mr. Ranelli's statement that the project would not have an impact is circular reasoning. He said they are relying on artificial factors such as rain tanks and a detention basin to prevent serious effects. He said the premise is flawed because the neighbors provided compelling evidence of a serious situation repeated under certain circumstances. He said the proposal bears a risk to exacerbate the situation.

Mr. Rohr said the basin is not designed properly. He said the installation on a slope in the upland review area is questionable.

Mr. Tone said the applicant's counsel's statements are arguments not evidence. He said Mr. Moreschi provided testimony that there would be significant adverse impacts. He said Mr. Aurelia also expressed concerns.

Mr. Hillman said Mr. Cannas had serious reservations at the end of the hearing including the stormwater overflow not being pre-treated, the infiltration basin being prone to clogging, and the actual field experiences during storms.

Mr. Rohr said Mr. Canas properly based his concerns on observing photographs of actual field conditions.

Mr. Tone said the applicant testified about suspended solids but did not include dissolved solids. He said that Fuss & O'Neill pointed out the dissolved solids that would be in the runoff. He said he is concerned with the cumulative effects from these pollutants. He said the project is not suitable for the area because the upland review area is on a steep slope.

Ms. Kirby said the initial application did not acknowledge an important part of the project which is the Town's right to build a cul-de-sac and the need to move the dumpster and the lack of area to put snow. She said she is concerned with the perfect storm in March with snow melt and steep slopes. She is most concerned with the development phase. She said the maintenance and trash removal will be a significant problem. She said she disagrees with Mr. Klein considering a one acre site insignificant because 90% of the site will be disturbed and there will be site exposure for a year or more.

Mr. Tone said the ability of the Town drain to handle the additional flow was not fully developed.

The Commission requested staff to draft a resolution denying the application because of significant impacts and the existence of feasible and prudent alternatives.

Ms. Cameron made a motion to adjourn. Mr. Rohr seconded the motion and it passed unanimously. The meeting adjourned at 9:35 P.M.

Respectfully submitted,

Richard B. Jacobson
Environmental Protection Officer