

**APPROVED MINUTES
BROOKFIELD INLAND WETLANDS COMMISSION
Monday, March 24, 2014 – 7:00 p.m.
TOWN HALL MEETING ROOM # 133**

1. Convene Meeting

Chairperson Fox convened the meeting at 7:05 p.m. and established a quorum of members.

2. Roll Call and Designation of Alternates

Present: Chairperson S. Fox, Secretary M. Mulvaney, M. Kukk

Absent: Vice Chairman Forlenza, Alternate R. Huttemann

Also Present: Wetlands Enforcement Officer K. Daniel, Recording Secretary D. Cioffi

3. Wetlands Enforcement

a. Enforcement Officer's Report

64 North Lake Shore Drive #201300317 – Citation fines now equal \$14,800. The property owner has not responded to any notifications. First Light has also issued violation and fines.

20 Deerfield Road #201301082 – WEO Daniel advised that First Light will be evaluating the site for spring milfoil growth.

18 North Lakeshore Dr.- The application was submitted and approved. The citations were concluded on November 25, 2013, and \$1,500 is outstanding. WEO Daniel inquired of the Commission if it would like to pursue collection of the fines, or have the property owner request that fines be dropped. Chairperson Fox suggested leaving this matter on the report for now, as the property owner still has work to complete. WEO Daniel will continue to inspect as the work progresses.

1 High Ridge Rd. – WEO Daniel will advise if current Town Counsel will take over this case from Special Town Counsel P. Olson. When it is decided, an Executive Session will be held, and it will be determined if the outstanding fines can be put on the land records.

b. Site Inspection Reports – No discussion.

Secretary Mulvaney moved to add to the Agenda as Item 5.c., a Permit Transfer for 57 Laurel Hill Rd., and as Item 5.d., a Jurisdictional Ruling for 592 Candlewood Lake Rd. Commissioner Kukk seconded the motion, and it carried unanimously.

4. Old Business:

a. High Meadow, Ledgewood & Newbury Crossing Condominiums #201400102:

Modification to Existing Permit #201300037: Re-route (dec date 04/30/14)

1. Memo from K. Daniel to the Inland Wetlands Commission dated 03/19/14 Re: Draft Resolution to approve Application #201400102

2. Plans prepared by Langan received in the Land Use Office on 03/20/14:

- **Sheet C-09 – Sewer Improvement Plan – Sheet 2 of 5 dated 09/12/12; revised through 03/19/14**
- **Sheet C-10 – Sewer Improvement Plan – Sheet 3 of 5 dated 09/12/12; revised through 03/19/14**
- **Sheet C-19 – Crossing “A” Plan and Section dated 09/12/12; revised through 03/19/14**
- **Sheet C-20 – Crossing “B” Plan and Section dated 10/22/12; revised through 03/19/14**
- **Sheet C-21 – Crossing “C” Plan and Section dated 10/22/12; revised through 03/19/14**
- **Sheet C-22 – Crossing “D” Plan and Section dated 10/22/12; revised through 03/19/14**

- Sheet C-23 – Crossing “E” Plan and Section dated 10/22/12; revised through 03/19/14
- Sheet C-24 – Crossing “F” Plan and Section dated 10/22/12; revised through 03/19/14
- Sheet C-25 – Wetland Restoration & Monitoring Plan and Invasive Species Management Plan (Sheet 1 of 2) dated 09/12/12; revised through 03/19/14

C. Utschig, Langan Engineering, was present. There was brief discussion regarding clarification on Drawings C10 and C23. Chairperson Fox noted that WEO Daniel drafted stipulations. She requested that #3 be changed to require approval by the WEO. There was discussion regarding having a representative of the Commission present during the work on Crossing D. It was decided that this matter is covered in #4 of the draft stipulations. It was noted that the bond is currently for the whole project, and the applicant has four weeks to provide anything different.

Secretary Mulvaney moved to approve Item 4.a., High Meadow, Ledgewood & Newbury Crossing Condominiums, to include the conditions outlined in a letter dated 3/19/14 from K. Daniel, WEO, Draft Resolution to Approve Application #2014000102, Modification to Existing Permit, #20130037, with a change noted in *italics*, and noting that the following conditions replace those of the original permit approval:

1. A pre-construction meeting with the contractor is required before beginning the project. At this time the Wetland Enforcement Officer (WEO) will take pre-construction photos of the stream conditions.
2. A bond for the cost of plant material is required as a condition of approval. The applicant will provide an estimate of the cost of the plant material within 4 weeks of this approval. The commission will use this estimate to set the bond which will be held for three growing seasons ending on August 15th of any year. When the bond release is requested, the WEO will evaluate the plant survival rate. If there is less than 80% survival, replanting may be required with a portion of the bond retained to cover the new plant material for three growing seasons. The applicant is advised to monitor plantings annually.
3. Wetlands crossings will be started and completed during the normally dry months of August and September. Exceptions *require approval by* the WEO.
4. Monitoring of erosion control measures will be required twice daily when completing the watercourse crossings. The contractor will notify the WEO three days in advance of the beginning of this work. No third party monitor will be required.
5. All work in wetlands and watercourses is subject to the requirements of invasive species control, stream bank restoration and monitoring plans as shown on sheets C-25 and C-26.
6. When the site is stable the contractor will request a final inspection by the WEO before removal of the erosion and sediment controls.

This is all described on a set of plans dated 9/12/2012, from Langan Engineering, with the second note dated 3/19/14, Inland Wetland Comments. Commissioner Kukuk seconded the motion, and it carried unanimously.

5. New Business:

- a. 857/857A Federal Road #201400165: Proposed Incentive Housing Plans - Modification to Existing Permit #201200839 for adoption of plans approved by the Zoning Commission (dec date 05/28/14)
 1. Letter from M. Lillis of CCA, LLC to the Brookfield Inland-Wetlands Commission dated 03/14/14 Re: “Greene Acres Apartments”
 2. Plans prepared by CCA, LLC received in the Land Use Office on 03/14/14:
 - Cover Sheet – Green Acres Luxury Apartments Proposed Incentive Housing Development dated 09/19/12; revised through 05/22/13

- **Sheet N1 – General Legend, Notes and Abbreviations dated 09/19/12; revised through 05/22/13**
- **Sheet 1 of 1 – Boundary & Topographic Survey dated 06/14/12**
- **Sheet C1 – Site Layout Plan dated 01/18/13; revised through 05/22/13**
- **Sheet C2 – Grading and Drainage Plan dated 09/19/12; revised through 05/22/13**
- **Sheet C3 – Utilities Plan dated 09/19/12; revised through 05/22/13**
- **Sheet C4 – Landscaping Plan dated 09/19/12; revised through 05/22/13**
- **Sheet C5 – Erosion and Sediment Control Plan dated 09/19/12; revised through 05/22/13**
- **Sheet C6 – Notes and Details dated 09/19/12; revised through 05/22/13**
- **Sheet C7 – Notes and Details dated 09/19/12; revised through 05/22/13**
- **Sheet C8 – Notes and Details dated 09/19/12; revised through 05/22/13**
- **Sheet C9 – Truck Maneuvering Plan – Fire Truck dated 05/08/13**
- **Sheet C10 – Truck Maneuvering Plan – WB-40 dated 05/08/13**
- **Sheet E1 – Erosion and Sedimentation Control Plan dated 12/07/05**

Ms. A. Adams, Registered Landscape Architect, CCA, 40 Old New Milford Rd., was present on behalf of Brookfield Development, LLC, regarding Greene Acres Luxury Apartments. She reviewed the IWC and Zoning approval for the project, and showed a plan sheet indicating the original approval, as well as the modifications approved by Zoning. Ms. Adams advised that there are no significant changes to the sanitary sewer or storm water management plan. Additionally, the extent of the disturbance, and the fence line remain the same. Ms. Adams indicated that Buildings 1 and 2 are shifted slightly to the south, and Buildings 3 and 4 have changed orientation and shape, with the major change to internal parking. The 65% impervious surface rate has been reduced to 54.3%.

Ms. Adams advised that the application is currently under review by the Water Pollution Control Authority and the Department of Transportation. Secretary Mulvaney inquired if the fence is closer to the river, and Ms. Adams measured the distance and indicated it is just a few feet closer (measured 57’).

It was reiterated that the drainage has not changed, the impervious surface is less, and the plan includes a large landscaped area.

Secretary Mulvaney moved to approve Item 5.a., #201400165, Modification to Existing Permit, #201200839, with the application for Property ID# 02291000 and #10169000, Drawings dated originally 9/19/2012, from Greene Acres Luxury Apartments, by CCA, Last Revision on 5/22/2013. Commissioner Kukuk seconded the motion, and it carried unanimously.

- b. Federal Road Reconstruction: BJ’s Wholesale Club #201100083**
 - 1. Letter from D. Gustafson of All-Points Technology Corporation to Ms. Daniel dated 03/14/14 Re: Federal Road Reconstruction BJ’s Wholesale Club**
 - 2. Memo from D. Gustafson, Professional Soil Scientist, of Vanasse Hangen Brustlin, Inc. to K. Daniel dated 02/14/11 Re: Wetland Application Submission**
 - **Drawing No. 0S-01 – Conceptual Offsite Roadway Improvements Plan dated April 2008; revised through 02/14/11 (Agenda Item 5.b.2., memo and plan, originally received as part of application #201100083 in 2011.)**

D. Gustafson, Sr. Wetlands Scientist, Samuel & Associates, LLC, was present. He advised that this review is required by the State Traffic Commission, noting that the project was approved by the IWC on April 11, 2011. He explained the concept plan, which includes the addition of two turn lanes. Mr. Gustafson advised that no direct wetland impacts were expected at that time of approval. However, the district office approved a widening of 2’ shoulder, resulting in a 125’ bordering wetlands to East Brook, and 816 square feet of impact to East Brook. Mr. Gustafson advised that this was contained in a supplemental submission to the file dated February 14, 2011. He indicated the district office will consider an alternate plan that reduces the shoulder to one foot, and avoids this wetland and flood plain impact, but

to do so, approval of Rev. 1A, under Attachment 3, is required. Mr. Gustafson reviewed the concept plan for the two new Commission members.

The Commission, noting the need to minimize impact on East Brook, indicated that its preference is for the plan with Rev. 1A. WEO Daniel advised she would draft a letter to this effect.

Chairperson Fox moved, in the matter of Federal Road Reconstruction, #201100083, the Commission, after reviewing the Federal Road Reconstruction, has a very distinct and profound preference for Rev. 1A, because it minimizes and/or eliminates any additional impact to the wetlands or the flood plain or East Brook, and to direct the Land Use Office to draft a letter to that effect. Secretary Mulvaney seconded the motion, and it carried unanimously.

- c. **Permit Transfer, 57 Laurel Hill Road, #201200552** – The transfer seeks to add a name on the permit. **Secretary Mulvaney moved to accept the Permit Transfer #201200552, 57 Laurel Hill Rd., transferring the permit to both Dakota Partners and Kenosia Development. Commissioner Kukuk seconded the motion, and it carried unanimously.**

Ms. Pearson, Kenosia Development, was present, and had a brief discussion with Attorney P. Scalzo, who represents Dakota Partners.

- d. **Jurisdictional Ruling – 592 Candlewood Lake Rd.** – *S. Belida, 62 Indian Trail/592 Candlewood Lake Rd., was present.* He explained that he is leasing property from First Light, and a tree needs to be removed on the site because it is a hazard. First Light advised him to come before the Commission. First Light will inspect the tree with an arborist. The tree is 30' tall. The Commission reviewed a tree from the arborist. Chairperson Fox inquired if the stump would be removed, and Mr. Belida advised it would be left on site. The branches and chips will be removed.

Chairperson Fox moved, in the matter if Item 5.d., Jurisdictional Ruling for 592 Candlewood Lake Road, that the Commission is satisfied with this matter being handled as a Jurisdictional Ruling. Secretary Mulvaney seconded the motion, and it carried unanimously.

6. **Tabled Items:** None.

7. **Correspondence:**

- a. **Minutes of Other Boards & Commissions: 03/13/14 Zoning**

8. **Review Minutes of Previous Meetings: 03/10/14** – Secretary Mulvaney moved to accept the Minutes of the 3/10/14 Meeting. Commissioner Kukuk seconded the motion, and it carried unanimously.

9. **Informal Discussion:**

- a. **19 & 23 Station Road:** *requested by Abigail Adams on 03/17/14- A. Adams, CCA, 40 Old New Milford Rd., Attorney P. Scalzo, 2 Stony Hill Rd., Bethel, CT, and A. Rothman, Unicorn Development, were present.* Attorney Scalzo reviewed demolition and re-development planned for the site, which will be a mixed use development. The developer recently purchased 19 & 23 Station Road. It was noted that the development was approved by the IWC in early 2013, and by the Zoning Commission in March 2013.

Ms. Adams discussed a plan to modify the front part of the property and build townhouses in the rear. Potential access, easements and wetlands mitigation were briefly discussed. Ms. Adams indicated that Soil Scientist M. Klein has been working on the plan.

There was discussion regarding a mitigation fund established with the original approval. WEO Daniel encouraged the Commission to specify what the fund would be utilized for.

The representatives were encouraged to complete an application, and provide a report from a wetland scientist regarding the feasibility of remediation.

Upon inquiry from the Commission, Ms. Adams explained where there is contaminated soil on the site, noting that environmental monitoring has been occurring, and that Unicorn wishes to remove the soil. She indicated that Unicorn would like to know what application is necessary for this work to be completed, as some of the work is in an upland review area. WEO Daniel advised that it would be a short form application.

WEO Daniel and the Commission encouraged the representatives to consider and present “prudent and feasible alternatives”, as well as the benefits associated with the development, when the formal application is filed. The short form application for the removal of the soil will be filed prior to the next meeting.

Ms. Adams advised that the representatives will be going to the Zoning Commission informally to discuss a zone change for incentive housing overlay at the site.

Secretary Mulvaney inquired regarding the wetland mitigation fund. He was encouraged to review the Minutes in the file for this site. He expressed his concern with the lack of specificity associated with the fund. Chairperson Fox recalled the discussion and referred Secretary Mulvaney to the Minutes.

Secretary Mulvaney inquired regarding the legality of the fund, and WEO Daniel advised that she recently attended the Connecticut Association of Wetlands Scientists meeting at which time a relevant Supreme Court case was discussed. WEO Daniel suggested that such funds be specific as to the work that will be done.

With regard to the above development, WEO Daniel noted that an application for a modification of the existing approval will have to be filed.

WEO Daniel encouraged the Commission members to visit the site at 1055 Federal Road, where wetlands mitigation took place. She also referenced the site of 113 Whisconier Road.

10. Adjourn:

Secretary Mulvaney moved to adjourn the meeting at 8:39 p.m. Commissioner Kukk seconded the motion, and it carried unanimously.

*****Next regular meeting scheduled for April 28, 2014*****