

**APPROVED MINUTES
BROOKFIELD INLAND WETLANDS COMMISSION
Monday, December 22, 2014 – 7:00 p.m.
TOWN HALL MEETING ROOM #133**

1. Convene Meeting

Chairperson S. Fox convened the meeting at 7:00 p.m. and established a quorum of members.

2. Roll Call and Designation of Alternates

Present: Chairperson S. Fox, Secretary M. Mulvaney, R. Huttemann, Alternate and Voting Member J. Bronn, M. Kukk (arrived at 7:02 p.m.)

Absent: Vice Chairman M. Forlenza

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

3. Wetlands Enforcement

a. Enforcement Officer's Report

1. 148 North Lake Shore Drive #201401091 – WEO Daniel left a message at the property owner's home. She is unsure if the property owner has complied with the Sanitarian's requirements. In her telephone message, she requested that he complete an application. **No motion.**

M. Kukk arrived at 7:02 p.m.

2. 136 Grays Bridge Road #201400652 – The Town Attorney is still working with the property owner. **No motion.**

3. 81 Kellogg Street: Letter from Wetlands Enforcement Officer K. Daniel to Marny

E. Lundy dated 12/17/14 – WEO Daniel reported that this matter is a Request for Voluntary Compliance looking for resolution of a violation of a conservation easement from 2005. There was a note in the subdivision and wetlands approvals that area below 440' was under jurisdiction of First Light. WEO Daniel has documented the conservation easement paperwork, and some information regarding the prior owners of 81 Kellogg Street, who had applied for permits prior to selling the house. The new property owner was unaware of this, and had the property cleared. WEO Daniel referenced photos in the file. Secretary Mulvaney inquired if the stumps were gone, and WEO Daniel advised that they are, and that plantings have been done. **No motion.**

b. Site Inspection Reports

84-140 Federal Road (BJs)

- **Letter from J. Cowen of Environmental Planning Services dated 12/09/14 Re: Wetland Mitigation Monitoring Inspection Report #8**

40 & 64 Laurel Hill Road

- **Letter from M. Morin of the Northwest Conservation District dated 12/10/14**
- **Letter from M. Morin of the Northwest Conservation District dated 12/15/14**
- **Letter from M. Morin of the Northwest Conservation District dated 12/17/14**

WEO Daniel advised that an amount of plants, in excess of the requirement, were purchased for the restoration.

Miscellaneous

Secretary Mulvaney inquired if the issue with runoff on Federal Road from an adjacent property was investigated. WEO Daniel responded that the discharge occurs behind the Savings Bank of Danbury, near the Chick-fil-A site. She indicated that prior to the Chick-fil-A construction, the pipe had been buried. She further noted that there was a drainage easement to the Department of Transportation for the pipe. She is attempting to find the proper DOT representative to speak with to resolve the matter.

40 & 64 Laurel Hill Road

The latest report noted that things are looking more favorable and that the applicant is working on plan to divert storm water into a detention area. **No motions.**

4. Old Business:**a. Bonding for Buffered Areas on Candlewood Lake/First Light Property**

WEO Daniel and Chairperson Fox stated that First Light is attempting to create a list of grandfathered, non-project uses. Currently, First Light does not require bonds. Chairperson Fox believes that the letter will be responded to, and she requested that this matter remain on the agenda.

PUBLIC HEARING – 7:15 PM:**101-103 Laurel Hill Road #201401095: Proposed Incentive Housing Mixed Use Development with 8,600 square feet of commercial space with supporting driveway & utilities (PH close date: 01/25/15)****a. Letter from J. Cowen of Environmental Planning Services LLC to Town of Brookfield Inland Wetlands Commission dated 12/08/14 Re: 101-103 Laurel Hill Road #201401095: Proposed Incentive Housing Mixed Use Development**

Chairperson S. Fox opened the Public Hearing and introduced the Commission members. Secretary Mulvaney read the legal notice, which was published in the Pennysaver dated December 11, 2014 and December 18, 2014.

Chairperson Fox noted that the application was received on November 24, 2014. She then reviewed the policies and procedures that govern public hearings. Secretary Mulvaney noted the following correspondence: 1) a letter dated December 10, 2014, to the Zoning Commission from R. Tedesco; 2) a letter from the Environmental Planning Services to the Inland Wetlands Commission. WEO Daniel noted that Mr. Cowen from EPS would review his report.

J. McCoy, JFM Engineering, 231 Great Plain Rd., Danbury, CT; K. Throckmorton, Landscape Architect, and representatives of the owners were present. Mr. McCoy indicated that the applicant has not had an opportunity to respond to Mr. Cowen's comments but plans on doing so.

Secretary Mulvaney inquired if the application relates to 101-103 Laurel Hill Road or 101-105 Laurel Hill Road. Mr. McCoy indicated that there are three lots, and the application does include 105 Laurel Hill Road. He added that the intent is to combine the three lots. Mr. McCoy continued that there are more than three wetlands on the entire site, totaling 10,801 square feet, or approximately five percent of the lot. He indicated that the property is part of a five-acre watershed, and referenced the drainage report and attachment. He advised that the entire watershed eventually ends up in the Lime Kiln Brook.

Mr. McCoy stated that the 4.7 acre property is overlaid by an incentive housing district, where the project will be developed. The proposal involves four residential buildings and one mixed-use building. He discussed the requirement of commercial space on the first floor and indicated that the applicant would be requesting a waiver of that requirement, and acknowledged that will affect the parking requirements. The parking will be calculated by a 1.5 space for one-bedroom units, and 2 spaces for two-bedroom units for a total of 194. Chairperson Fox advised Mr. McCoy that the parking discussion is more relevant for the Zoning Commission.

Mr. McCoy noted that in attempt to reduce ground coverage, twenty-seven percent of the pavement surfaces will be permeable. He then reviewed the grading plan for the overall project, pointing out that most of the storm water management controls are on the south side of the property. Mr. McCoy indicated that the driveway will require some filling of Wetland #2. He discussed a possible sidewalk extension to Station Road and provisions for proposed development to the north. The approximate ratio of created wetlands to filled wetlands will be 1.5:1, which does not include a slab and other areas.

Kate Throckmorton, Environmental Land Solutions, Norwalk, CT, was present. She reviewed the Existing Conditions map, showing Wetlands 1, 2 and 3 and the topography of the site, noting it forms a "bowl". She pointed out a piping system, and a channelized swale. She reiterated that there will be some wetland filling, but pointed out that the goal is to restore and maintain the existing wetlands. She discussed the tree canopy and naturalized young forest. Ms. Throckmorton then went on to summarize LP1 and LP2. She noted that the wetlands will be impacted by the vegetation removal and wetland

filling, and noted the applicant's intent to mitigate the lower portion of the site. Additionally, there are plans to reduce the invasives in the basins, and to replant the understory and expand the wetlands in Wetland 2. To control the overflow of wetlands, a swale with check dams will be used. Ms. Throckmorton stated that the applicant plans on reclaiming previously-filled wetlands. She reviewed the planting plan for the site which includes evergreens, flower types, and seasonal diversity, and a majority of native plants.

Mr. McCoy advised that the primary alternative relates to Wetland #2. It will move a building on the north end. The plan, labeled Alternative #1, was submitted for the record. This will drain all of the water from the building to one direction, and there will be an increase in runoff due to a different type of surface. Secretary Mulvaney inquired what happens to the offsite drainage and Mr. McCoy indicated the water will collect in a catch basin.

There was discussion regarding the south side of the lot with the original plan, and upgrading the pipe by making it larger.

Chairperson Fox referenced the letter from the soil scientist, and inquired what she did to identify vernal pools. Ms. Throckmorton stated that a specific vernal pool study has not been completed. She indicated it could be done if needed. Chairperson Fox inquired regarding the hydrology work, and Mr. McCoy advised that a full analysis of the drainage system was done, and offered a comparison of the flows. He added that the applicant looked to where the wetlands could be expanded and explained how the 1.5:1 ratio was calculated.

J. Cowen, Registered Soil Scientist, was present. He indicated that he reviewed the application and walked the site, and provided the written report and comments with his colleague, Michael Klein. He indicated that the alternatives presented thus far by the applicant are a good start to making a plan that minimizes or avoids the filling of wetlands. Mr. Cowen noted there are several options for mitigation: restoration, enhancement of existing wetlands, and creation of new wetlands. Other factors include: invasive control, land preservation, and enhancement of the upland review area.

Mr. Cowen stated in this particular application, the issues include the need for direct fill, and activity in the upland review area. He acknowledged Mr. McCoy's discussion for an alternative. There was discussion regarding the number of species in the wetlands. Mr. Cowen stated the presence of a vernal pool also affects the value of a wetland, and the topography and vegetation should also be considered. Additionally, he reviews what the existing functions are as they relate to state-listed species. He noted the importance of considering the hydrology, including the subsurface hydrology, of the soils.

Mr. Cowen encouraged the Commission to look at: the functional goal of the wetland creation/restoration areas; and what native vegetation would have to be removed to create the wetland (he specifically noted the need to preserve the Red Oak). He noted the importance of aesthetics and education of the residents of the zone. He noted Comment #11 in his report, specifically, that all woody invasive species should be included in the removal, as some species can take over the area. He referenced guides for the disposal of terrestrial and aquatic species, so it is done legally. He also suggested waiting for the response from the Department of Environmental Protection and Energy with regard to the storm water management plans. Mr. Cowen stated that a wet-bottom basin will provide the best treatment. He further recommended a long-term plan for restricting pesticides and herbicides in the mitigation areas, and consideration of seed mixes appropriate for shaded areas. Mr. Cowen also requested that standpipes be used in the creation areas to test hydrology, along with a monitoring plan for five years, which includes a cost estimate.

Mr. Cowen requested clarification of the storm water drainage, how deep the wetlands soils are, and what the level of treatment for water before the swale. Mr. McCoy indicated that the upper part drains into the rain garden, and pointed out where a majority of the site drains to the basin. Mr. Cowen also requested that when the roof material is selected, that the importance of keeping roof runoff clean is considered.

Mr. McCoy advised that the applicant has begun to address the comments in Mr. Cowen's report. WEO Daniel advised that Mr. DiVesta has also sent a copy of his review to Mr. Cowen and her, and this will also be forwarded to the applicant and Commission members.

Mr. McCoy indicated the applicant will respond in writing through WEO Daniel. He inquired if a site walk would be completed. After some discussion, a site walk was scheduled for Saturday, December 27, 2014 at 9 a.m. WEO Daniel suggested that Mr. McCoy be present. *F. Bacon was present*, and suggested that the 101 Laurel Hill Road address be used for parking and access.

There were no questions of clarification from the audience. No one was present to speak in favor of the application, nor was anyone present to speak in opposition.

Secretary Mulvaney moved to make a Special Site Visit Meeting at 9 a.m., on Saturday, December 27, at 101 Laurel Hill Rd., #201401095, to review the entire project. Commissioner Huttemann seconded the motion, and it carried unanimously.

Secretary Mulvaney moved to continue the Public Hearing to the next regularly scheduled meeting on January 12, 2015, at 7:15 p.m., for 101, 103, 105 Laurel Hill Road project, #201401095. Commissioner Huttemann seconded the motion, and it carried unanimously.

The proper address will be listed on the next agenda.

5. New Business:

- a. **540 Federal Road #201401184: Revise construction phasing sequence by moving mitigation planting on North & South sides of Oak Meadows Dr. from phase II to phase III**
 1. **Sheet PH1 – Phasing Plan prepared by CCA, LLC dated 08/14/08; revised through 12/09/14**

Ms. A. Adams, Landscape Architect, CCA, 40 Old New Milford Rd., was present. She advised that the applicant is requesting a revision of the planting sequence, which will move the mitigation plan from Phase II to Phase III, as it is late in the season to plant. Ms. Adams has discussed this proposal with WEO Daniel. Phase II is concluding; Phase III work will continue through the winter, and the planting will occur in the spring. WEO Daniel explained the rationale. It was noted that the planting must occur between April 15 and May 15 of 2015.

At Chairperson Fox's request, Ms. Adams discussed some of the species to be planted. Upon inquiry from Secretary Mulvaney, Ms. Adams stated that the site is stabilized at this time.

WEO Daniel stated she finds this request for modification reasonable.

Secretary Mulvaney moved to approve Item 5.a., 540 Federal Road, #201401184, Drawing by CCA, PH1, original date 8/14/08, with the revision date of 12/9/14, which revises the construction sequence that the wetland plantings be done between April 15 and May 15, of 2015. Commissioner Huttemann seconded the motion, and it carried unanimously.

6. Tabled Items: None.

7. Correspondence:

- a. **Minutes of Other Boards & Commissions: 12/04/14 Planning; 12/11/14 Aquifer Protection Agency; 12/11/14 Zoning**
- b. **Letter from K. Daniel to Melvin McBreairty of M&O Construction Co, Inc. dated 12/08/14 Re: Letter of Credit No. 10445**
- c. **Letter from S. Fox to First Selectman Bill Tinsley dated 12/11/14 Re: Opportunity for the Town of Brookfield Vernal Pools - Noted. No motions.**

8. Review Minutes of Previous Meetings: 12/03/14 special –Commissioner Kukuk moved to approve the Minutes of the 12/03/14 Special Meeting. Commissioner Huttemann seconded the motion, and it carried, 4-0-1, with Commissioner Bronn abstaining.

12/08/14 – Continue to January 12, 2015.

9. Informal Discussion: Commissioner Kukuk inquired if the public hearing notices are published anywhere besides the Pennysaver. WEO Daniel advised that hearing notices are also listed on the Town’s website, under “News and Announcements”. Publication in the Pennysaver was done to as a cost-saving measure.

Commissioner Kukuk inquired if adjoining property owners are notified. WEO Daniel advised that this is not done for either the Zoning or Inland Wetlands Commissions, but is done as a courtesy for Zoning Board of Appeals matters. Notification is required for Planning Commission matters. Chairperson Fox stated that this procedure could be changed via an application for a regulation change. Secretary Mulvaney stated that if abutters were notified, they would likely come to IWC meetings to express zoning concerns. WEO Daniel advised that adjoining property owners often come to the Land Use Office when they see preliminary activity begin on a property, i.e., staking.

Secretary Mulvaney inquired what the procedure is if a quorum of members is not present. He was advised that the meeting cannot start, and would be cancelled. Chairperson Fox noted that the Commission members have been courteous in advising her of their availability for meetings.

Chairperson Fox advised that the discussion of vernal pools will take place early next year.

10. Adjourn:
Commissioner Huttemann moved to adjourn the meeting at 9:12 p.m. Commissioner Bronn seconded the motion, and it carried unanimously.

*****Next regular meeting scheduled for January 12, 2015*****