

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION**

**Public Hearing #1587
March 22, 2011**

******* Draft Document subject to Commission Approval *******

The Meeting was called to order in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT. at 7:00 P. M. by Chairman Ouellette.

ESTABLISHMENT OF QUORUM:

A quorum was established as four Regular Members (Devaney, Gowdy, Ouellette, and Thurz) were present. Regular Member O'Brien and Alternate Member Mulkern were absent. Chairman Ouellette noted all Regular Members would sit in, and vote, on all Items of Business this evening. Also present was Town Planner Whitten.

GUESTS: None.

ADDED AGENDA ITEMS: None.

APPROVAL OF MINUTES/March 8, 2011:

MOTION: To APPROVE the Minutes of Public Hearing #1586 dated March 8, 2011 as written.

Gowdy moved/Devaney seconded/VOTE: In Favor: Unanimous

RECEIPT OF APPLICATIONS:

Chairman Ouellette acknowledged the receipt of the following Application:

1. Application of Annette Fortune for a Special Use Permit for 2 training fields to allow for dog training classes and possible show events on property located on the north side of North Road. [A-1 Zone; Map 124, Block 16, Lot 26A].

CONTINUED HEARING: Herb Holden Trucking – Special Use Permit/Excavation for renewal of earth products removal permit for property located on Wapping Road (Rear), owned by Northern Capital Region Disposal Facility, Inc., [M-1 & A-2 Zones; Map 36, Block 49, Lot 17C] (*Deadline to close hearing 4/12/2011*):

Chairman Ouellette read the Hearing description. Appearing to discuss this Application was Jay Ussery, of J. R. Russo & Associates, LLC., representing the Applicant; Scott

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Atkin, of Anchor Engineering, consultant; and Herb Holden, owner of Herb Holden Trucking.

Mr. Ussery described the Application as being for the renewal of an existing permit for gravel excavation on property owned by NORCAP on the west side of Wapping Road and west of the railroad tracks on land previously owned by the Nilsson Family. Access to the project is provided via an existing access driveway for the previous landfill on Wapping Road. That access drive is currently being used for an excavation operation located on property previously owned by the Gilson family and approved a few years ago. This access is also used for the generating facility.

Mr. Ussery indicated that Mr. Holden was required by DOT to improve the railroad crossing and a tunnel used as a cattle crossing. Mr. Ussery reported the drainage and the crossing have been put in; Mr. Holden reported that a sleeve for a gas line which runs through the cattle crossing remains to be done.

Mr. Ussery reported none of the excavation operation has begun; Mr. Holden indicated he would like to finish the work on the railroad crossing first; he hopes to begin excavation this year.

Mr. Ussery introduced Scott Atkin, of Anchor Engineering, to give the Commission an update on the condition of the monitoring wells. Mr. Atkin reported that little has changed at the site as the excavation has not begun. When preparing his reports he looks for: 1) the elevation of the groundwater, 2) direction of the flow, and 3) impact on the plume. He tests 3 wells, 2 on the western edge of Phase II of the proposed excavation, and a third (#210) at Ketch Brook. He found the groundwater level to be essentially the same level as a year ago. When testing the quality of the water he checks for volatile organic compounds – none were found; leachates – levels consistent with previous findings; and heavy metals – he found iron and manganese to be a little higher than in the past. Commissioner Devaney suggested East Windsor tends to have a lot of iron in its water; also the recent rains might have contributed to the higher levels. Mr. Atkin concurred, noting East Windsor has hard water which contains a considerable amount of calcium. Mr. Ussery suggested this information may be confusing to the layperson; he questioned if the groundwater coming from this area safe to drink? Would it pass health standards at these concentrations? Mr. Atkin replied affirmatively, noting the water coming from the landfill isn't a problem from a health standpoint. He suggested that these 3 wells are outside the plume, and nothing would prevent someone from putting in a well for a house nearby.

Commissioner Gowdy suggested he didn't see that a test was done for EDB as a volatile. Mr. Atkin that in 1996 they came up with a monitoring program, and EDB wasn't included. He reported he hadn't seen any EDB at the landfill.

Chairman Ouellette questioned if DEP requires quarterly monitoring of the wells? Mr. Atkin replied affirmatively. Chairman Ouellette suggested that then this Board isn't

asking for anything that DEP wouldn't require? Mr. Atkin agreed. Town Planner Whitten questioned why the quarterly reports haven't been submitted to the Planning Department as required? Mr. Atkin indicated there are issues going on with the DEP and NORCAP regarding the bonding. The landfill has been closed since 2004, and there has been back and forth discussion regarding compensation. Anchor Engineering hasn't been retained to do the monitoring. Commissioner Gowdy questioned the impact of the lack of the reports to this Board? Town Planner suggested the quarterly monitoring reports are a condition of this Permit; Mr. Holden could hire anyone to do the testing. She reported the Planning Office hasn't been getting the quarterly reports. Mr. Atkin suggested he understood the purpose was to monitor that the plume didn't have any impact on the groundwater. Commissioner Devanney suggested there shouldn't be much difference at present as the excavation hasn't started.

With regard to the length of the Permit renewal the Commission considered the current economic conditions and the length of extensions given on other excavation operations. It was noted the Charbonneau renewal was recently extended for 3 years. The consensus of the Commission was a 3 year extension was appropriate. Town Planner Whitten agreed, but noted she would like to see submission of the monitoring reports. Condition #40 will be revised to reflect the 3 year permit extension. Town Planner Whitten noted the regulations require an annual renewal; a waiver motion must be made to allow the 3 year extension.

Chairman Ouellette noted Town Engineer Norton had previously expressed concerns regarding the sequence of the proposed phasing. Mr. Ussery suggested he felt Town Engineer Norton thought Phase II and Phase III should be "flipped" to avoid creating a high point in the center of the excavation. Mr. Holden suggested he would prefer to start at the edge but he can follow the Town Engineer's recommendation. Town Planner Whitten suggested the phasing can be worked out with Staff; Condition #7 will be revised to reflect appropriate language. Condition #9 will be revised to require annual submission of As-Built Plans.

MOTION: To CLOSE THE PUBLIC HEARING on the Application of Herb Holden Trucking for a Special Use Permit/Excavation for renewal of earth products removal permit for property located on Wapping Road (Rear), owned by Northern Capital Region Disposal Facility, Inc., [M-1 & A-2 Zones; Map 36, Block 49, Lot 17C].

Devanney moved/Gowdy seconded/VOTE: In Favor: Unanimous

MOTION: To GRANT A WAIVER TO ALLOW A THREE (3) YEAR EXTENSION for the Application of Herb Holden Trucking for a Special Use

Permit/Excavation for renewal of earth products removal permit for property located on Wapping Road (Rear), owned by Northern Capital Region Disposal Facility, Inc., [M-1 & A-2 Zones; Map 36, Block 49, Lot 17C].

Devanney moved/Gowdy seconded/VOTE: In Favor: Unanimous

MOTION TO APPROVE the application of Herb Holden Trucking, Inc. and owner Northern Capital Region Disposal Facility, Inc. (NORCAP) for an extension of a Special Use Permit to allow excavation and removal of earth products, screening and crushing of products, on property located to the rear of Wapping Road. M-1 & A-2 Zones. [Map 36, Block 49, Lot #17C This approval is granted subject to conformance with the referenced plans and the following conditions:

Referenced Plans:

Cover Sheet - Proposed Gravel Removal Operation Wapping Road, East Windsor, CT, Applicant Herb Holden Trucking, Inc. 59 Broad Brook Road, Broad Brook, CT 06016, 860/623-8855; Owner Northern Capital Region Disposal Facility, Inc. 321 Olcott St., Manchester, CT 06040 prepared by J.R. Russo & Associates, 1 Shoham Road, East Windsor, CT 860/623-0569, fax 860/623-2485, dated 3/09/10.

Sheet 2 of 5 Area Map, last rev 2/21/07 scale 1" = 500', rev. 11/06/09

Sheet 3 of 5 Grading plan, rev. through 2/21/07, rev. 3/09/10

Sheet 4 of 5 Grading Plan, rev. through 2/21/07 rev. 3/09/10

Sheet 5 of 5 Soil Erosion and Sediment Control Notes rev. 11/18/09

Conditions that must be met prior to signing of mylars:

1. The name and phone number of an individual for 24-hour emergency contact for erosion control problems must be noted on the plans. Any changes in the individual responsible for emergency contact must be reported immediately to the Planning and Zoning Department.
2. The conditions of this approval shall be binding upon the applicant, landowners, and their successors and assigns. A copy of this approval motion shall be filed in the land records prior to the signing of the final mylars.

Conditions that must be met prior to issuance of permits:

3. A performance bond, with surety acceptable to the Town Attorney shall be provided by the applicant prior to the signing of the mylars.
4. One set of final plans, with any required revisions incorporated on the sheets shall be submitted for signature of the commission. The signed plans shall be filed in the Planning & Zoning Office by the applicant prior to issuance of any permits.
5. In order to ensure the site is graded in accordance with the approved plan, vertical and horizontal control points shall be setup around the entire perimeter of the parcel. Such control points shall be located as per approved plans.

6. In addition, **the applicant shall be required to provide the Zoning Enforcement Officer with as-built drawings six months after the issuance of the permit to demonstrate compliance with the approved grading plan**, Any deviation from the approved plan shall be a violation and cause for revocation of the permit
7. No phase may begin until the previous phase has been *substantially* completed except for the phase containing the reclamation plan as indicated on the referenced plans. **Sequence of phasing to be approved by Staff.**
8. Prior to the start of any new phase, the applicant shall submit evidence of conformance to the approved plans for the previous phases including a certified as-built survey showing finished grades.
9. **As-builts will be required annually.**
10. **Hydraulic data indicating the location of the plume shall be submitted with each renewal. D.O.T. should be provided with this data as well.**
11. **Ground water monitoring reports shall be submitted quarterly.**
12. **An anti-tracking pad should be installed and maintained on either side of the railroad crossing. Crossing should be kept free of dirt and debris.**

General Conditions:

13. A zoning permit shall be obtained prior to the start of any work or new phase. No zoning permit shall be issued until a cash or passbook bond for site restoration, erosion and sedimentation control has been submitted. Such bond shall be good for the life of the permit/project. Any funds that may be withdrawn by the Town for such maintenance shall be replaced within 5 days or this permit shall be rendered null and void.
14. Operation of the gravel pit may include:
 - a. screening of excavated material pursuant to provisions of Section 9 and 9A.5.
 - b. crushing of rock and gravel mined on-site only with portable crushing apparatus and pursuant to provisions of Section 9 and 9A.5.
15. Excavation shall not ever exceed the approved finished grade elevations. Subsoil must remain native.

16. The final grading shall conform to the proposed final grading as indicated on the referenced plans; but in no case shall any final slope be steeper than a rise to run ratio of 1:3, also known as a 33% slope.
17. In the event that the operation ceases before all phases are completed, the remaining land shall be graded to leave no slope exceeding 33%.
18. As each area or phase is graded to final contours, the ground shall be back covered with topsoil or loam to render it usable for growing agricultural products. All areas will require a minimum of 6 inches of topsoil in accordance with the regulations.
19. No trees, brush or stumps shall be buried on site.
20. The driveway to the pit shall be maintained in a hard surfaced, paved condition from Wapping Road inward for a minimum distance of two hundred feet. The driveway shall be cleaned regularly to minimize the dust nuisance created by exiting traffic.
21. An oversized 300-foot gravel anti-tracking pad leading to the driveway shall be installed and maintained to further minimize dust nuisance.
22. The gate across the driveway into the pit shall be maintained in good condition and kept closed and locked during all times when the pit is not in operation. “Private Property – No Trespassing” sign shall be maintained at the entrance to the pit facing outward toward Wapping Road.
23. The total number of loaded, or partially loaded, outgoing trucks from the pit shall not exceed an average of sixty (60) trucks per day or a maximum of three-hundred (300) trucks in any one week period, counting Monday through Friday.
24. The pit shall not be opened or operated before 7:30 a.m. and shall not be opened or operated later than 5:00 p.m. on weekdays, Monday through Friday.
25. The pit shall not be open or operated on weekends.
26. Measures to minimize the dust nuisance from the site shall be provided by the applicant for review and approval of Town staff. Additional measures are to be undertaken if required by staff if field conditions necessitate.
27. The “Best Management Practices” outlined by the Hartford County Natural Resource Conservation Service shall be adhered to.
28. The applicant shall adhere to all conditions of their Inland Wetlands Permit.

29. The vegetation (trees) to be removed shall be accomplished in one step and the topsoil shall be stripped off and stockpiled immediately or a temporary vegetative cover implemented. Stockpiled soil shall remain on site for future reclamation of site.
30. Finished grades may not be closer than 8' to the water table, and must adhere to approved plans.
31. There shall be no on-site maintenance of equipment unless it is a clear emergency. Town staff shall be notified if such emergency exists.
32. There shall be no bulky waste or debris disposal allowed on the site. The operator of the pit shall provide adequate security measures to prevent unauthorized waste disposal. Any unauthorized disposal shall be cleaned up and disposed of off site by the operator of the pit.
33. The project shall be carried out in phases as shown on the plans.
34. All trucks and equipment shall be parked off-street.
35. Upon completion of the excavation, the land shall be cleared of all debris and a minimum of six (6) inches of topsoil shall be spread over any disturbed areas.
36. Additional drainage and erosion control measures are to be installed as directed by town staff if field conditions necessitate.
37. Any modification to the proposed drainage for the site plan is subject to the approval of the town engineer.
38. This project shall be executed and maintained in accordance with the approved plans and conditions. Minor modifications to the approved plans which result in lesser impacts may be allowed subject to staff review and approval.
39. By acceptance of this permit and conditions, the applicant and owner acknowledge the right of Town staff to periodically enter upon the subject property for the purpose of determining compliance with the terms of this approval.
- 40. *This approval shall expire THREE YEARS plus 30 days (to allow for signing and filing of mylars) from the date of approval, or upon completion of the project, whichever occurs first.***

Additional Conditions:

41. The railroad crossing and cattle path shall be relocated per mutual agreement between applicant and Central New England Railroad Company.
42. Well #210 shall be added to monitoring list to check for volatiles.
43. Should quarterly groundwater monitoring reports reflect excessive mounding or contaminants, all work within said phase may be required to be halted until such time that subsequent reports, and/or evidence demonstrates that the plume has not been adversely affected.

Devanney moved/Gowdy seconded/VOTE: In Favor: Unanimous

BUSINESS MEETING/(1) Victory Outreach Development:

Appearing for this informal discussion was Jay Ussery, of J. R. Russo & Associates, LLC., and Jeff Respler, of Construction Technologies, Inc.

Mr. Ussery recalled that a previous Application for a 41 unit detached condominium common interest community had been approved for a portion of land – 25 acres - owned by Victory Outreach Missions. A Zone Change to a Multi-Family Development District (MFDD) was approved for 12 acres containing the condominium development; additional acreage was being retained for the church facility. The MFDD project presently holds a valid permit; a developer could come in and build that project today. A bank has now foreclosed on the parcel which is the subject of the condominium development and the church property. The total parcel – which is served by sewer and water - contains 25 acres in East Windsor and 25 acres in South Windsor. The acreage in South Windsor includes flood plain which reaches down to the Scantic River.

Mr. Ussery indicated a developer may be interested in the parcel but is considering something more in line with a PRD (Planned Residential Development) of single family homes similar to Mason's Brook; the interior road would then be owned by the Town. Both the lot sizes, and the dwelling footprint, would be smaller; the market price of the homes would be lower as well. The smaller lot sizes would be similar to existing lot sizes along Main and Depot Streets in the Broad Brook section of East Windsor. While the Open Space would be physically located in South Windsor it could be owned by the Town of East Windsor, DEP, or the 4-Town Land Trust. The Open Space could provide several hundred feet of frontage on the Scantic River that could be added to the Scantic River Linear Park which has been under development for 20+ years.

A change in the regulations would be required as PRDs are not presently allowed in a MFDD. Lengthy discussion followed regarding the merits of both types of development, project marketability during these difficult economic times, the various types of recreational uses under the Open Space proposal, access to the Open Space, and other growth issues. The Commission indicated they would be receptive to submission of a formal application.

BUSINESS MEETING/(2) Farm Regulations – Discussion:

The Commission and Town Planner Whitten reviewed the comments made during the previous Farm Workshop and reviewed sections of the proposed regulations affected by those comments.

MOTION: To MOVE FORWARD WITH FINALIZATION OF THE PROPOSED FARM REGULATIONS AND TO REFER TO THE TOWN ATTORNEY FOR REVIEW.

Gowdy moved/Devanney seconded/VOTE: In Favor: Unanimous

BUSINESS MEETING/(3) Incentive Housing Zone – tabled.

BUSINESS MEETING/(4) Route 140 Sewers – tabled.

BUSINESS MEETING/(5) Correspondence:

Town Planner Whitten noted the Economic Development Commission is holding a workshop on Thursday, March 31st.

BUSINESS MEETING/(6) Staff Reports: None

SIGNING OF MYLARS/PLANS, MOTIONS: None.

ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 8:52 p.m.

Gowdy moved/Thurz seconded/VOTE: In Favor: Unanimous

Respectfully submitted,

Peg Hoffman, Recording Secretary, East Windsor Planning and Zoning Commission
(3239)