

MINUTES – REGULAR MEETING
SEYMOUR INLAND WETLANDS COMMISSION
MONDAY, SEPTEMBER 25, 2017
FLAHERTY ROOM, SEYMOUR TOWN HALL

Members in Attendance: Paul Wetowitz, Mike Flynn, James Forsyth,
Tim Connors, Brian Koskelowski

Also Present: Atty. Vincent Marino, Don Smith, Town Engineer

The meeting was called to order at 7:00 p.m. by Chairman P. Wetowitz.

Public Comment

There was no one from the public wishing to speak.

Approval of Minutes, Regular Meeting, August 28, 2017

Mr. Forsyth noted that under Enforcement Officer's Report it should be that Mr. Forsyth asked about 459 North Main Street and also P&S Paving at 461 North Main Street.

MOTION: J. Forsyth/B. Koskelowski to approve the minutes of the
August 28, 2017 meeting as amended.
Motion Carried 5-0.

Great Oak Ridge Residential Community, Phase Two.

Mr. Wetowitz stated that the Commission heard a lot of information on this over the last few months. He stated that staff has worked out two resolutions for the Commission to consider. Atty. Marino stated that there was a prior approval and the number of units has not changed. It is now encroaching into the upland review area more than with the prior approval. The prior approval has expired and a new application had to be submitted. Mr. Flynn asked if the prior approval was extending into the review area. Atty. Marino stated that the 100 foot review area is adjacent to the wetlands and it is within the review area and subject to the Commission's jurisdiction. Mr. Wetowitz read Section 7.3.1 and 7.3.2 of the regulations. Mr. Flynn noted that there could be an impact to the wetlands. Mr. Koskelowski asked about enforcement of the regulations. Mr. Connors stated that if approved conditions could be placed on the approval and then the applicant can decide if he wants to comply with the conditions. Atty. Marino noted that there is a partially created project and any conditions would be to protect the watercourse and wetlands.

Mr. Wetowitz noted that if this is approved, the applicant has asked for a waiver of the fees because a fee was initially paid in 2007. Mr. Flynn stated that he has some concerns because it is within 20 feet of the wetlands. Mr. Forsyth stated that the units have been made larger and longer and the traffic circle is very close to the wetlands. He felt that a denial should be issued and then the applicant can come back with an alternate plan and does not encroach as much as these units do.

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MOTION: B. Koskelowski/J. Forsyth to deny the application as follows:

The Inland Wetlands Commission (the "Commission") makes the following findings:

1. On or around May 15, 2017, Summit Seymour, LLC (the "Applicant") filed an application for review with the Commission (the "Application").
2. The Applicant's property is located on Great Oak Ridge Way and Summer Brook Way in the Town of Seymour (Map/Block/Lot numbers 8-12-62-0 and 1-05-2A-0, respectively) (the "Property").
3. The Application seeks approval for Phase-II B of a condominium Development that extends Summer Brook Way and proposes the construction of two multi-family apartment buildings in general conformance with previously approved project plans. In 2007, the Commission granted a wetlands permit to the Applicant for regulated activities associated with the construction of twenty-two (22) units in what was designated as Phase II within the Great Oak Ridge community (the "Previous Approval"). Ten units were constructed and sold. Construction ceased in 2008. The Applicant claims that the construction ceased because of the economic downturn. The Applicant failed to seek a timely extension of its permit and the Previous Approval expired. The Applicant submitted the Application seeking a new approval. The Application contains modifications of the plan previously approved by the Commission.
4. The Project is approximately 1.278 acres. The Application states that no wetlands will be impacted by the proposed construction; that there is 26,700 square feet of the property within the upland review area that may be impacted; that 2,200 cubic yards of earth material will be removed from the Property; and, that no common fill earth material will be brought onto the Property.
5. On May 22, 2017, the Commission found that the construction proposed by the Application constituted a significant impact and referred the Application for a public hearing.
6. A public hearing was opened on the Application on June 26, 2017, but on that date, the Applicant requested a continuance of the public hearing. The Commission continued the public hearing, as requested, and on July 24, 2017 a public hearing was held and closed. The Commission began its deliberations on August 28, 2017 and continued its deliberations on September 25, 2017.

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7. At the public hearing, the Applicant maintained that the Application contained minor modifications to the Previous Approval and that the proposed regulated activities were substantially and materially the same as the Previous Approval.

8. During the public hearing, the Applicant submitted evidence into the Record including (1) a Hydrologic and Hydraulic Analysis dated July 6, 2017 Prepared by Milone and MacBroom, Inc.; (2) an Operation and Maintenance Program dated July 10, 2017 prepared by Milone and MacBroom, Inc.; and (3) an Invasive Plant Species Management Plan dated June 21, 2017 prepared by Milone and MacBroom, Inc.

9. There was no public comment on the Application.

10. The Applicant argues that the development proposed in the Application presents no direct or indirect impacts to the wetlands and that the proposed landscaping plan would benefit the wetlands by restoring a more diverse and stable riparian corridor along the wetlands.

11. The Commission appreciates the Applicant's position but has concerns raised by the modifications to the Previous Approval. The Application includes proposed unit sizes that have been expanded from the Previous Approval and adds additional sidewalks and parking, such that the proposed plans include a building with a corner at fifty (50) feet from the designated wetlands, paving within twenty (20) feet of the designated wetlands, and grading within ten (10) feet of the designated wetlands. Additionally, the Commission is aware of existing drainage concerns at the Property as well as the Applicant's failure to complete conditions associated with the Previous Approval.

12. The Commission made a finding that the Application constituted a significant impact to the wetlands. The Applicant failed, however, to submit any feasible and prudent alternatives to the Application. Notwithstanding the Applicant's failure to submit any feasible and prudent alternatives, the Commission is of the opinion that the Previous Approval constitutes a feasible and prudent alternative.

13. The Commission understands the Applicant's position that the Application does not impact the wetlands, but the Commission has concerns raised by the modifications to the Previous Approval. The Application includes proposed Unit sizes that have been altered from the Previous Approval and adds

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Additional sidewalks and parking, such that the proposed plans include a building with a corner at fifty (50) feet from the designated wetlands, paving within Twenty (20) feet of the designated wetlands and grading within ten (10) feet of the designated wetlands. Additionally, the Commission is aware of existing drainage concerns at the Property as well as the Applicant's failure to complete conditions associated with the Previous Approval.

WHEREFORE, since a feasible and prudent alternative exists to the Application, the Application is hereby DENIED. To the extent that the "minor" modifications proposed in the Application arise from an economic hardship Rralized by the Applicant, such a concern is inadequate to justify the proposed additional encroachment into the upland review area, particularly when the Applicant sold ten of the unites that were approved as part of the Previous Approval.

Motion Carried: 3-1-1.

Dredging, Legion Pool, 13 Chatfield Street.

Alex Danka, 203 Pearl Street representing Seymour Land Trust stated that they have hired Parking Trucking to dig out a portion, approximately 26 feet and four feet deep. It is only about three feet wide now and they cannot hold anymore fishing rodeos because the pond has filled up with silt. There would be approximately 300 yards of silt removed and this has been done several times. He also asked to have the fee waived for the Land Trust and noted that they will pay the State fee.

MOTION: B. Koskelowski/J. Forsyth to accept the application
and submit to the Town Engineer for review.

Motion Carried: 5-0.

Enforcement Officer's Report, Discussion and Possible Action.

Mr. Paecht submitted his report for the period 8/19/17 to 9/22/17. Mr. Wetowitz read the report from Mr. Marganski.

Don Smith submitted a follow up for P&S Paving with a surveying schedule. He stated that they will probably need a further extension. Mr. Wetowitz stated that a 60 day extension was granted but may want to think about granting another 60 day extension.

MOTION: B. Koskelowski/J. Forsyth to grant a 60 day extension
for P&S Paving.

Motion Carried 5-0.

Mr. Wetowitz recused himself from hearing this matter. It was noted that a complaint was received regarding P&S Paving about dust and debris materials from the crushing operation possibly going into the water. This is specifically about Mr. Fanotto's property at 459 North Main Street. Mr. Fanotto removed the stock piles at 461 North Main Street and brought it to 459 North Main Street. The Enforcement Officer needs to determine if there are any violations going on at the properties. If he does find a violation he then needs to determine the impact of the violation. It was suggested that a letter be written to the property owner that a complaint was made and that the Enforcement Officer needs to investigate and needs permission to go on the property. It was recommended that the letter be sent immediately and a reasonable amount of time given for a response. If there is no response then the Commission will need to determine the next step. It was also suggested to get input from the First Selectman on this matter. Mr. Connors agreed that a letter should be sent. Mr. Forsyth suggested having the letter delivered to the property owner. Atty. Marino stated that the letter will indicate that a complaint was received about activities on this property and the Enforcement Officer needs to investigate if there is a violation and ask for permission to go on the property. If there is a violation then a notice of violation will be done following inspection and the property owner would have ten days to remediate the situation. If access is denied then the Commission could consider court action.

General Conditions of Approval of Wetlands Applications.

Mr. Wetowitz asked if there were any more comments about the general conditions. Mr. Forsyth asked if there is language so that we do not run into a situation where access being restricted. Don Smith stated that one of the conditions when an application is submitted gives the Agency and its agent access to the property. Mr. Forsyth stated that the Commission should reserve the right to have the Enforcement Officer go onto a property. It was noted that during an open permit process he can go on to a property.

Public Comment

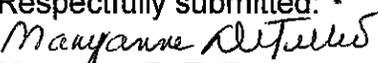
There was no one from the public wishing to speak.

Commissioner's Public Comment.

Mr. Wetowitz stated that it is important to express different opinions on matters.

MOTION: J. Forsyth/B. Koskelowski to adjourn the meeting.
Motion Carried 5-0.

The meeting was adjourned at 8:30 p.m.

Respectfully submitted:

Maryanne DeTullio