

**DERBY INLAND WETLANDS AGENCY  
DERBY, CONNECTICUT 06418**

**Frederick J. Columbo, Jr. Chairman  
68 Seymour Avenue  
Derby, Connecticut 06418**

**Philip Marcucio  
Paul Dinice, Jr.  
Paul Padilla  
David Barboza II  
David Rogers  
Roger Birtwell**

May 14, 2008  
(Meeting Taped)

Minutes of Derby Inland Wetlands Agency meeting of Wednesday, May 14, 2008 at Aldermanic Chambers, New City Hall, 1 Elizabeth Street, Derby. This meeting was called to order at 7:00 p.m. by Chairman Fred Columbo.

By roll call members present were Chairman Fred Columbo, Paul Padilla, Paul Dinice, David Barboza and Roger Birtwell. Michael Joyce from Milone & MacBroom was also present.

Additions, Deletions, Corrections to the Agenda:

Mr. Columbo stated that he had would like to add as Item 8d Witek Park Report, January 7, 2008 and as Item 8e, budget for 7/1/08 to 6/30/09. A motion to add those items to the agenda was made by Mr. Barboza, seconded by Mr. Padilla and carried unanimously.

Acceptance of Minutes

Mr. Padilla moved that the minutes of the April 9, 2008 meeting be accepted. The motion was seconded by Mr. Birtwell and carried unanimously.

Public Portion:

There was no one from the public wishing to speak.

7. Continue a Public Hearing for Marcucio Gardens, Philip Marcucio- Applicant. APPLICATION #08021302 - Seeking permission to conduct a "Regulated Activity" proposing to re-establish existing detention basin volume, relocate and expand existing greenhouse and relocate existing storage bins on property at 480 New Haven Avenue, Route #34, Lot #37A, Tax Map #4-3.

A motion to re-open the public hearing was made by Mr. Birtwell, seconded by Mr. Barboza and carried unanimously. Atty. James Cohen was present for the applicant and stated that at the request of the city engineer they submitted a copy of the letter that was written to P&Z in response to his comments. A revised site plan that was also submitted to P&Z at their April meeting was submitted this evening. Atty. Cohen stated that there are no

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items on this revised site plan that effect the wetlands or wetlands buffer in anyway. He stated that there is now the creation of a parking area for 8 cars directly behind the main commercial building which is not within any wetlands boundaries and this will be submitted to P&Z at their May meeting.

Jim Rotundo stated that they had presented a summary of the regulated activities and it became a little confusing. He stated that the original wetlands is what was flagged on the site before the Cornfield Subdivision was developed and that was approximately 3.3 acres of wetlands. With the approval of the detention basin there was approximately .63 acre disturbance within the wetland areas; so it nets out to 2.67 acres of undisturbed wetland areas. He stated that the wetlands were re-flagged and the new area is 2.63 acres.

Mr. Columbo stated that he received a letter from the DEP dated 4/18/08 regarding a

complaint that was made to them unanimously regarding this property. He stated that he contacted them and informed them that the Agency has taken this matter under consideration and has made on site inspections, conducted public hearings and received numerous professional reports and things seem to be in order. He stated that aerial photos of the site were included in her letter and Mr. Columbo stated that he will respond to her and include everything that has been submitted so far. Atty. Cohen stated that there are several significant misrepresentations in the complaint. He stated that the garden center is legal and it is not four acres of wetlands but less as shown in the soil scientist report. He also stated that he does not feel that there is any basis for the allegations and the pictures that are labeled 1990 are incorrect as there were no homes there at that time.

Mr. Columbo stated that the application has proceeded positively and a lot of information and items have been submitted and comments made during the public hearings. He did not feel that this is a significant impact but a public hearing was held so that the public could comment. There was no one from the public wishing to speak at this meeting.

Mr. Joyce stated that he had some concerns with the shrub area and how they are going to irrigate that area. Atty. Cohen stated that they became aware of this concern and the applicant is prepared to substitute something other than a "clicking" type sprinkler.

Mr. Joyce stated that the detention basin has become a wetlands basin and he recommended that a wetlands seed mix be used for the bottom of the basin. Phil Marcucio, Jr. stated that they have been maintaining it as lawn as opposed to a seed mix. He stated that if it is not mowed a lot of debris gets caught at the outlet hole because of its size. Mr. Joyce stated that if the woody vegetation is cleared out the seed mix would help to filter the water and improve the water quality. Mr. Marcucio stated that they would be willing to explore other options. Mr. Rotundo stated that they would try to get some wetlands vegetation established and he stated that there are things that can be done which might require less maintenance and make the basin healthier.

Mr. Barboza asked if the basin is the way it should have been built. Atty. Cohen stated that one of the items in this application is to reconfigure it and when the work is completed they will submit an as-built. He also stated that the activities do not cause a significant impact and asked the Agency to make that determination. Mr. Columbo stated that he felt it would be a summary ruling with the activities not involving a significant impact.

A motion to close the public hearing was made by Mr. Barboza, seconded by Mr. Padilla and carried unanimously.

Mr. Dinice moved that the City of Derby Inland Wetlands Agency (DIWA), having considered the factors pursuant to Section 10 of the inland Wetland and Watercourse Regulations of the City of Derby and after review of written and verbal information provided by the applicant, Commission members and City staff, finds the following:

1. On February 13, 2008, Marcucio Gardens, LLC submitted an application No. 08021302 for activities in and within 50 feet of the wetlands and other upland areas adjacent to the wetlands. The activities are associated with the development of a nursery operation including the construction of a greenhouse, establishment of plant cultivation areas and repair and improvements of the existing detention basin.

2. The site was previously disturbed for the construction of the stormwater detention basin to support the adjacent Cornfield Subdivision and periodic maintenance is a requirement that Marcucio Gardens, LLC has assumed. The detention basin discharges directly to Two Mile Brook located in the southeastern corner of the site.

3. An On-Site Soils Investigation Report has been prepared by ConnSoil which identified the existing site conditions including current wetland soils delineation.

4. Based upon the most recent ConnSoil wetland delineation, there will be a total of 0.664 acres of wetland disturbance associated with the repair and proposed improvements to the existing detention basin and a total of 0.762 acres of disturbance within the 50' regulated upland review area for the purpose of establishing the proposed nursery operations. Previous unauthorized activities are difficult to quantify given the limited amount of information available for the disturbance associated with the original detention basin construction.

5. That the regulated activities proposed by this application do not involve a significant impact or major effect on the inland wetland or watercourse as defined by the Regulations of the DIWA and will require a Summary ruling.

6. Information was provided by the Applicant, City staff, Commission members and the general public during the public hearings held on April 9, 2008 and May 14, 2008.

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7. As required by Section 10.3 of the Inland Wetlands and Watercourses Regulations the Agency has considered the Alternative plans statement and documentation submitted by the applicant and finds that the application represents an improvement to the current condition through the establishment of physical non-encroachment boundary markers to deter future wetland impacts, the application of a wetland restoration seed mix to support the "new" wetland environment now present in the detention basin bottom which will help to improve the quality of stormwater runoff to Two Mile Brook, elimination of surface materials which do not promote stormwater infiltration, changes in the use of the site to reduce vehicular traffic in and adjacent to the wetlands, and the installation of new drainage structures using water quality inserts to collect and treat on-site stormwater runoff.

Therefore, the Agency moves to approve Application No. 08031202 as presented and shown

on the following documents submitted in support of the application:

1. Plans entitled "Marcucio Gardens, LLC - 480 New Haven Avenue (S.R. 34) Derby, Connecticut", owner/applicant Marcucio Gardens, LLC/Philip Marcucio, prepared by Rotundo Engineering, LLC dated 02/04/08 and revised through 4/15/08 with the following drawings:

- a. "Site Plan - Drawing #SP-1", scale 1"=40'.
- b. "Site Grading & Utility Plan - Drawing #SP-2", scale 1"=40'.
- c. "Erosion and Sedimentation Control Plan - Drawing #SP-3", scale 1"=40'.
- d. "Erosioni and Sedimentaiton control Notes and Details - Drawing #SP-4", scale as noted.
- e. "Detention Basin Analysis Plan - Drawing #SP-5", scale 1"=40'.
- f. "Wetland Comparison Plan - Drawing EX-1", scale 1"=40'.
- g. "Additional Parking Plan - Drawing SK-1", scale 1"=40' dated 5/14/08.

2. "Property Survey - property located at 480 New Haven Avenue (C.D.O.T. Route 34), Derby, CT", prepared for Philip Marcucio, prepared by Lewis Associates, dated 1-31-08, drawn at a scale of 1"=40'.

3. "Site Engineering Report - Marcucio Gardens, LLC" prepared by Rotundo Engineering, LLC and dated February 4, 2008.

4. "Marcucio Gardens, LLC - Purpose and Description of Activity", prepared by Rotundo Engineering and dated February 4, 2008.

5. Correspondence dated January 29, 2008 from Cynthia Rabinowitz (The Hidden Garden and ConnSoil, LLC).

6. One page statement entitled "Alternative Plans".

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7. Soils and Wetlands Report dated March 31, 2008 from Cynthia Rabinowitz (The Hidden Garden and ConnSoil, LLC).

8. Correspondence from the City Engineer Milone & MacBroom, Inc., dated March 10, 2008 and April 8, 2008.

9. Correspondence from CT DEP dated April 18, 2008.

10. Correspondence from Rotundo Engineering, LLC dated April 9, 2008 and April 15,

2008.

11. Summary of Regulated Activities - dated Revised May 14, 2008.

In addition to the requirements listed in Sections 11.9, 11.12 and 11.13 of the Regulations Protecting the Wetlands and Watercourses of the City of Derby, the following stipulations also apply.

1. The use of “sprinkler” style irrigation systems shall not be permitted within 75' of adjacent residential properties.

2. A portion of the proposed crushed stone surface material shall be installed as a construction entrance prior to any activities associated with this application.

3. Connection of the proposed storm drainage system to the existing on-site drainage system shall be coordinated with and performed in the presence of the city engineer or other duly authorized city official.

4. Lack of compliance with any stipulation of this permit approval shall constitute a violation of the Regulations Protecting the Wetlands and Watercourses of the City of Derby, and a cease and desist order shall be issued by the Wetland Enforcement Officer.

5. Any further changes or modifications to the application presented shall be submitted to the Derby Inland Wetlands Agency to determine if additional review and approval is necessary.

6. Prior to any construction activities covered by this permit, the applicant shall have the following items both completed by a qualified party and verified as complete by the City Engineer, Corporation Counsel and/or Wetland Enforcement Officer:

a. Pursuant to Section 12 of the Regulations Protecting the Wetlands and Watercourses of the City of Derby, a bond covering the costs of the sedimentation and erosion control measures shall be filed with the City Clerk. The amount and form of the bond shall be approved by the City Engineer and Corporation Counsel. A minimum of \$5,000. of the approved bond shall be submitted in the form of a separate cash bond.

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b. Written confirmation that the deed of the property references the regulated areas on site and the stipulated conditions of this approval, including all easements, agreements and non-encroachment lines.

c. Arrange for the filing of this approval on the Derby Land Records.

d. Prior to any clearing or earthmoving activities, the proper installation of all sediment and erosion control measures indicated on the above referenced plans.

7. All maintenance and refueling of equipment and vehicles shall be performed at least 50

feet or as far as practical from all wetland and watercourses.

8. All disturbed areas on the site not directly required for construction activities shall be temporarily hayed and seeded until permanent vegetation is established.

9. After commencement of construction, an inspection of the condition, integrity and adequacy of the sedimentation and erosion controls shall be made by a qualified party on a regular basis, at least once every seven calendar days and within 24 hours of the end of a storm event that is 0.1 inches or greater and until the City of Derby determines that inspections are no longer required.

10. The Wetland Enforcement Officer, City Engineer or any other duly authorized representative of the City of Derby shall have the authority to direct the applicant, developer and or contractor to install additional sediment and erosion control measures as conditions may warrant.

11. A contact individual together with a 24-hour phone number shall be designated with responsibility and authority to receive notices of any breaches or deficiencies of sedimentation and erosion controls on-site, and to coordinate repair on any such breach or deficiencies within 8 hours of the notice from the sediment and erosion control inspector, Wetland Enforcement Officer, City Engineer or any other duly authorized representative of the City of Derby.

12. The Agency's decision to grant this approval makes no warranties or representations, either express or implied, that future regulated activities will be permitted on this site.

The motion was seconded by Mr. Padilla. Mr. Columbo stated that the fee on the application would be \$200.00.

Mr. Joyce stated that the language regarding the sprinkler was put for discussion and it is an audible issue. Mr. Dinice felt that it was a zoning issue and should be determined by them. Mr. Birtwell stated that he did see why this is an issue. Mr. Dinice stated that he could understand why it is an issue but one that should be handled by P&Z. Mr. Columbo stated that the stipulation #1 regarding the use of sprinklers was removed from the approval.

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Mr. Dinice stated that he would also like to add the condition with regard to the planting of the bottom of the basin that a wetlands mix be provided to the approval of the city engineer. He also stated that if they want to address the outlet structure with a hood or grate that would be allowed and also a maintenance schedule be submitted. That condition was then added to the approval motion. The vote on the motion was unanimous.

8c. Detention Basin LLC, Lanzieri Court, Attorney Michael Bologna - Agent: Submission of supplemental data for on-going detention basin maintenance program, Lot #200, Tax Map #4-5.

Atty. Michael Bologna stated that there was a problem getting the chipper machine in and they proposed a wood chip alternation to the slope. He stated that they had submitted sketch but the members asked for more detail. He stated that they are getting to the point where only a mower is going to be needed in the future for the maintenance. He stated that boulders keyed into the slope supporting a gravel driveway would be sufficient to support the truck. The plans were submitted to



the City Engineer for review and discussions held with him. Mr. Columbo stated that this is documentation submitted to support the original application and the Agency was in favor of the plans. Kathy Norwood, 4 Lanzieri Court stated that they will begin work as soon as possible. Mr. Columbo asked if she is informing the State of the activities and Mrs. Norwood stated that they come periodically and she will submit this to them.

8a. Engineering Fees: Milone & MacBroom, Inc. for the City of Derby, Statement of April 30, 2008. Mr Columbo stated that he did not receive the bill.

8b. Fran Finnucan, 45 Belleview Drive, Drainage problems on property. Mr. Joyce stated that he has not heard anything from Public Works on this matter.

8d. Witek Park Report dated January 7, 2008. Mr. Columbo presented copies of the Report on 2007 Post Construction Water Quality Monitoring from Milone and MacBroom dated January 7, 2008.

8e. Budget - 7/1/08 to 6/30/09. Mr. Columbo stated that he will request the same amount of last year. He also stated that there were some funds remaining in this year's budget and the members felt that it would be beneficial for the Agency to purchase a digital camera. Mr. Barboza stated that he will get information regarding this for the next meeting.

A motion to adjourn was made by Mr. Padilla, seconded by Mr. Dinice and carried unanimously. The meeting was adjourned at 8:20 p.m.

ATTEST:

Maryanne DeTullio

*These minutes are subject to the Agency's approval at their next scheduled meeting.*