

**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
Roger Birtwell**

May 12, 2010
(Meeting Taped)

Minutes of Derby Inland Wetlands Agency meeting of Wednesday, May 12, 2010 at Aldermanic Chambers, New City Hall, 1 Elizabeth Street, Derby. This meeting was called to order at 7:10 p.m. by Chairman Fred Columbo.

By roll call members present were Chairman Fred Columbo, Phil Marcucio, David Barboza, Paul Padilla and Roger Birtwell. Also present was Ryan McEvoy, Milone & MacBroom.

Additions, Deletions, Corrections to the Agenda

Mr. Birtwell moved to add as Item 9b Request from Lowe's for release of \$5,000.00 cash bond for work at the shopping center. The motion was seconded by Mr. Padilla and carried unanimously.

Approval of Minutes

A motion to approve the minutes of the 4/14/10 meeting was made by Mr. Birtwell, seconded by Mr. Barboza and carried unani mously with Mr. Padilla abstaining.

Public Portion

Dan Waleski, 21 Elm Street suggested that when the agenda is prepared the address of the property be listed on the agenda.

7. George Schrade and Michael Tracz – applicants. APPLICATION #10041401 – seeking permission to conduct a regulated activity. Proposing to remove trees on property at 139 Water Street, Lot #170, Tax Map 8-5.

George Schrade stated that the wetlands on the site have been flagged. He presented a letter from JMM Wetland Conservation Services. Mr. Columbo stated that the members have done site visits. Mr. Schrade also submitted a letter from an arborist, Arbor Services dated 5/10/10 which states that it is their opinion that there are trees on the site that overtime will fall over and he recommended that they be removed. He also submitted several pictures depicting the trees on the site and how they have become

uprooted. The other pictures showed the drainage ditch on the site and how it now has a normal flow of water. There was also a picture of the trees that are leaning and are covered with vines and invasive species. Mr. Schrade stated that it was the opinion of his engineer that they would remove the trees and invasive species and put in new plantings that will enhance the property. He wants to clean up the site.

Mr. McEvoy stated that the Agency needs to determine if it is a significant activity and whether a public hearing is required. The application is just for the removal of the trees. He stated that he looked at the trees and some appear to be very close to the wetlands. He also stated that it would be important for the Agency members to know how the trees will be taken down. The soil and erosion control plan also needs to be shown on the plans. He stated that there is very little information on the plan and the proposed plantings should also be shown on the plans. He stated that there is a lot of activity proposed and these things should be shown on the plans.

Mr. Columbo stated that the Agency would need to know what type of equipment will be used to remove the trees. Mr. Schrade stated that the site is wet and the trees could cause a safety issue if left as they are. Mr. Barboza stated that the plans do not show how the run off will be protected and the Agency needs to know that the equipment will not cause problems. The work needs to be done with a minimal amount of disturbance.

Mr. McEvoy stated that he did speak with Alan Shepard, the engineer, and told him that information needed to be provided regarding these things. He stated that there was a pipe that was clogged for many years and is now cleared out and now the area will be disturbed and measures need to be taken so the pipe does not get clogged again.

Mr. Columbo suggested that Mr. Shepard contact Mr. McEvoy to get the plans straightened out. He stated that the soil and erosion control plan needs to be shown as well as the details of the procedures that will be done.

Mr. McEvoy stated to the applicant that Mr. Shepard should contact him so that he can let him know what should be shown on the plans. The Agency needs this information in order to make their decision. The application will be tabled to the next meeting.

8. Continue a Public Hearing for Carl DeCarli – applicant for BAMF Homes, Incorporated. APPLICATION #10011301 – seeking permission to conduct a regulated activity: proposing to construct 2 single family homes on Lot #17, Tax Map #3-2.

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

Atty. Dominick Thomas, 315 Main Street, Derby was present for the applicant. He stated that at the last public hearing there was a question regarding drainage

Computations and all technical items have been resolved. He stated that the plans have been revised and the only revisions are spot elevations on the site. They have met the zero increase in runoff. He presented color coded maps of various areas of the site. He stated that the wetlands are divided into two areas. One portion of the wetlands on the site has been degraded and does not have wetlands vegetation. He stated that below that area they propose a split rail fence and also a conservation easement. The purpose is to allow low quality wetlands to grow into a meadow. The report from Milone and MacBroom report refers to the size of the access easement on the portion of the property being given to the abutting property owner and they have no problem addressing that issue.

Atty. Thomas stated that the Agency had concerns with the enforcement of the upland review area and when the subdivision map is recorded a note can be put on it that there is a regulated area and also references can be made on the deeds that it is subject to a regulated area. No activity would be permitted in the conservation easement area.

Otto Thiel, Soil Scientist stated that there are two portions of wetlands. The lower two-thirds has normal wetlands hydrology. The other portion has upland plantings but no wetlands plantings. The lower portion will be protected by a split rail fence. He stated that the storm water runoff which is piped and then discharges into the wetlands. The vegetation will become thicker and also act as a biofilter.

Atty. Thomas stated that the activity on the site will not have an adverse impact on the wetlands. He stated that if left along the upper portion would not regenerate. The bottom area, which will regenerate will be protected totally by the conservation easement. There will also be a note on the map and reference on the individual deeds as to what can be done.

Mr. Columbo asked about the grass that was cut on the property. Carl DiCarli, 37 Burtville Avenue stated that he hired someone to cut the lawn. He stated there was no reason other than that it was getting high and it has been cut for many years. Atty. Thomas stated that cutting the lawn is not a regulated activity and nothing wrong was done by mowing the grass. Mr. Columbo asked if the area that was cut impacted the wetlands. Mr. McEvoy stated that it has been mowed in the past.

Mr. Marcucio asked if there was any prudent way to create better wetlands in another area on this property. Mr. Thiel stated that they are not filling in any wetlands and the area of the wetlands will still be the same. He stated that he feels that there is a good balance with the conservation easement which will allow the area to be untouched. He stated that once the conservation easement is put in place the plantings will come in naturally.

Mr. Columbo stated that he felt that the wetlands were impacted by the cutting of the lawn. Atty. Thomas stated that cutting the grass is not a violation and the wetlands were not impacted.

Atty. Thomas stated that they have met all technical issues and there are no adverse impacts. Notice to subsequent homeowners will be on the map and the deeds that there is a regulated area.

Mr. Columbo stated that he felt that there were a lot of mistakes made with this application from the beginning. Mr. McEvoy stated that all technical issues that were outstanding have been addressed to his satisfaction.

Mr. Columbo asked for any public comment.

Dan Waleski, 21 Elm Street stated that this is a controversial application. This area has been built up with condominiums and a shopping center and the runoff is significant. There have been many attempts in the past to build on these lots which were denied. The wetlands are very important and this application should be looked at carefully. He stated that he was reluctant to be in favor of this application.

Karen Kemmesies, John Street stated that it is important to preserve the wetlands. The properties in the area do have surface water and a conservation easement should help to protect her property. She stated that she appreciates the comments from the city engineer regarding enforcement and protection.

Mr. Columbo asked in the 50' buffer area the amount of fill and Atty. Thomas stated that there will be no fill at all.

Greg Field, Wolf Harbor Road, Milford stated that there will be some fill in the front of the proposed house toward John Street. Mr. McEvoy stated that at the last meeting their engineer addressed that issue. Mr. Columbo asked if that would be an adverse impact to the buffer area. Mr. McEvoy stated that the applicant stated that it will not be a significant activity. Atty. Thomas stated that their expert has testified that there will be no adverse effect. The area will be allowed to grow into a wet meadow and it will act as a biofilter.

Mr. Columbo asked about maintenance of the runoff and Mr. McEvoy stated that there will be some degree of maintenance needed and the individual homeowners will have to take that into account. It will be important that the underground structures are inspected. He stated that the conservation easement will place restriction on the area.

Mr. Birtwell was concerned if the property became flooded and Mr. Field stated that should not happen. He stated that the area beyond the fence will grow with vegetation.

Mr. Padilla stated that it appears that the fence will be more of a barrier to deter the homeowner from doing anything there or putting anything back there. He asked if a stockade fence would be better. Atty. Thomas stated that a split rail fence will allow animals and wildlife to go through and there should be no problems putting it up. They are trying to protect and enhance the area. They will also have wetlands markers in the area.

Mr. Marcucio stated that he did not remember a situation like this where the houses were in the review area. Atty. Thomas stated that the upland review area covers the entire site and they attempted to get variances from ZBA to move the houses further away but were denied. He stated that they have done everything to protect the upland review area and wetlands and there is no adverse impact to the wetlands.

Mr. Thiel stated that he does not see any negative impacts from the activities in the upland review area.

Mr. Columbo stated that the Agency has received everything in order to make a sound and prudent decision and the members have a lot of information to review on this application. Atty. Thomas stated that all exhibits presented at the last meeting are part of the public hearing and are available to the members.

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

9a. Engineering fees: Milone and MacBroom, Inc.

Mr. Columbo stated that there were no bills submitted from Milone and MacBroom, Inc.

9b. Request for Bond Release – Lowe's Shopping Center.

Mr. McEvoy stated that they inspected the site and it was their recommendation that the bond be released. Mr. Birtwell moved that the \$5,000.00 bond be released for Lowe's. The motion was seconded by Mr. Padilla and carried unanimously.

A motion to adjourn was made by Mr. Padilla, seconded by Mr. Birtwell and carried unanimously. The meeting was adjourned at 9:35 p.m.

ATTEST:

Maryanne DeTullio

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