

**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

March 21, 2007
(Meeting Taped)

Minutes of Derby Inland Wetlands Agency meeting of Wednesday, March 21, 2007 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 and Philip Marcucio. Michael Joyce from Milone & MacBroom was also present.

Additions, Deletions, Corrections to the Agenda:

Mr. Columbo stated that he had five items to add to the agenda under Item 9, which were as follows: 9d Witek Park Report 3/9/07; 9e Joe Jalowiec - Letter 2/28/07; 9f Budget for July '07-June '08; 9g Starbucks, 552 New Haven Avenue Signed off 2/28/07 and 9h Derby Recreation Camp; Donald Smith. Mr. Marcucio moved that those be added to the agenda. The motion was seconded by Mr. Padilla and carried unanimously.

Public Portion:

There was no one from the public wishing to speak.

Acceptance of Minutes

Mr. Padilla moved that the minutes of the February 28, 2007 meeting be accepted. The motion was seconded by Mr. Dinice and carried unanimously with Mr. Marcucio abstaining.

7. Conduct a Public Hearing for Derby Shopping Center, LLC Christopher M. Colon - Applicant. APPLICATION #07021401 - Seeking permission to conduct a "Regulated Activity" proposing to reconstruct the Orange/Derby Shopping Center with the building of Lowe's Home Improvement Store, a retail building and a restaurant building at 500 New Haven Avenue, Lot #39, Tax Map #4-3.

A motion to open the public hearing was made by Mr. Padilla, seconded by Mr. Dinice and carried unanimously. Mr. Marcucio recused himself from hearing this application.

Atty. Thomas Welch, Ron Gautreau, Ray Gradwell and L. LePere were present for the applicant. Atty. Welch submitted the notices that were sent to the adjacent

property owners. He also submitted the report from Evans Engineering, photos of the area, Storm Water Management Report dated 2/7/07, response to comments from the City Engineer and Geotechnical Report dated 11/20/06. He asked that all of these be made part of the record.

Atty. Welch stated that they are asking for permission to conduct a regulated activity within an inland wetland or watercourse area relative to the redevelopment of the property known as the Orange/Derby Shopping Center. He stated that this is a permitted use under zoning regulations and they are taking proper safeguards to protect the wetlands. They are enhancing the area and the water quality, drainage and wetlands issues will be improved. They are lessening the environmental impacts in the area. It is the most feasible alternative and least detrimental impact to the wetlands. There will be a net zero increase in peak discharges when compared to the pre-development conditions. They will be providing a small under pavement stormwater detention/retention system. He stated that their analysis indicates that there will be no adverse impacts to the downstream properties or existing offsite drainage infrastructure.

Larry LePere, Lowe's stated that they are the second largest home improvement store in the world. He stated that they want to make sure that they understand the concerns of the boards and neighbors and address those.

Ray Gradwell, Langan Engineering stated that the site is the Orange/Derby Shopping Center located on Route 34 and Sodom Lane. The shopping center buildings will be demolished but the three separate buildings will remain. The site is 20.6 acres and 14 acres will be developed as part of the redevelopment of the center. Two Mile Brook runs through the site from east to west. The Lowe's building will be located on the northern side of the site and there will be a 8000 s.f. retail pad and 3200 s.f. restaurant pad on the southwest and southeast corners of the site. The main access points are from Sodom Lane and New Haven Avenue, which is a limited access point. There will be some minor geometric changes to those driveways. The site slopes from north through the parking lot to Two Mile Brook. He stated that they are not changing any drainage patterns on the site but improving them. The storm water on the site today is limited and the storm water treatment that they are proposing will implement best management practices and storm water treatment devices to improve the storm water leaving the site. The water will be collected by catchbasins and in those will be deep sumps and hooded outlets. Once it leaves those catchbasins and gets to the collection, it will discharge to storm water treatment devices. There will be three located at the head of the storm water detention system and one located on the eastern side of the site that discharges directly into Two Mile Brook. He stated that once it runs through those storm water treatment devices most of the water will run through an underground detention system. He stated that they analyzed all storm events and made sure that any increases were attenuated by the storm water management system. The under pavement will be located generally at a low portion of the site between the proposed restaurant and retail pad. He stated that once the water is attenuated through an outlet control structure it will discharge to an existing culvert at

Mile Brook on the west portion of the site. During construction there is a storm water pollution prevention plan which is followed and post construction maintenance measures are implemented.

There are 612 parking spaces proposed on the site. They are proposing to increase the northwest corner of the site by excavating in that portion. The limits of that excavation has been staked in the field. Mr. Columbo asked what the purpose was for expanding that area and Mr. Gradwell explained that it is to allow better truck circulation around the building. The wetlands and intermittent watercourses on the site, which are located in areas that are adjacent to earth excavations and rock cuts. They are maintaining generally all areas and improving one area where they are eliminating a pipe and also eliminating a small section of wetlands where they are expanding for the turning area in the rear. The quantity of wetlands that are being deleted is approximately 4400 s.f. but will be re-created with channel work. They will be working within the 50' upland review area but they have already been encroached upon by the existing development. The site will be serviced by city sewers, water and electricity. There will be significant plantings added throughout the parking area and along the edges of the site. The site lighting will be in accordance with city regulations.

Ron Gautreau, Evans Engineering stated that there are two different types of wetlands. Throughout the entire perimeter there is a constructed drain which is adjacent to the paved area intermittently closed and does make it a regulated watercourse. The other area on the site is Two Mile Brook. The edge of Two Mile Brook is currently riprapped with little to no vegetation. Everything drains down ultimately to Two Mile Brook. He stated that the primary function provided by the perimeter drain is to convey the drainage across the site into Two Mile Brook. They will be improving the water quality and adding more plantings. They will be improving the water quality to downstream areas.

Atty. Welch stated that at last month's meeting a question was asked regarding the storage of fertilizers. Mr. LePere pointed out the garden center area and stated that it will be under roof away from any rainfall. There will be a designated area for spill materials and there are spill kits and employees are trained in the use of them. Mr. Dinice asked if there are signs in the store where fertilizers are to be kept and Mr. LePere stated that they can put them up. Mr. Joyce stated that another question was regarding the runoff from watering activity in the garden center. Mr. LePere stated that the plants are not fertilized once they are received in the store and the watering is done in the garden center. There are no floor drains in the garden center. Mr. Dinice asked about the maintenance schedule for the drainage facilities. Mr. Gradwell stated that it is on the plans. Mr. Dinice stated that he had asked about their haz-mat program. Mr. LePere stated that it is in the rear of the store and they will provide the details.

Mr. Gradwell stated that the March 2nd rain event caused the culvert to fail near Dunkin Donuts. It was temporarily fixed and they have a plan to fix and stabilize the area. They

locations with riprap. The banks in the location of Burger King and Dunkin Donuts will be stabilized with permanent erosion control mat. They will fix the section of the pipe that failed and the plans will be finalized after speaking with the city engineer.

Mr. Gradwell stated that they have done a geotechnical study of the area to be excavated and further assessment of the rock was done and they were able to determine how they can safely do this. On the north of the building they will provide an adequate catchment zone and there will be a ten foot shelf at the bottom of the rock slope with a ditch so that any rocks that fall off will fall into the ditch. On the west of the project site they are proposing to cut the rock a little steeper and provide stabilization measures such as rock bolts and netting. There will be no blasting proposed; the work will be done by rock line drilling/rock splitting. This is a very clean and non-evasive way to do this work. He stated that they are aware of the close proximity of the residences in this area. Mr. Columbo asked if there is any pre-testing of their locations prior to the start. Mr. Gradwell stated that a lot of that has been already done but as the driller gets on the site he will do some tests to determine how the work will be done. Mr. Columbo asked how high the rock ledge will be and Mr. Gradwell stated that it is about 55' from the flat area to the top of the rock cut. Mr. Padilla asked how high they will be going and Mr. Gradwell stated to the top. Mr. Padilla asked how far the residential property is and Mr. Gradwell stated that it is about 35' to the house. They are proposing a chainlink fence along the entire ridge.

Atty. Welch stated that this is a redevelopment project and will be an enhancement from an inland-wetland point of view. It is an improvement and a better situation than what is there now. Mr. Columbo stated that the Agency is very happy to hear about the improvements and they are aware of the concerns.

Santiago Llanos, 13 General Wooster Road stated that he did not understand why they are going so far back and is aware that there will be a fence there but it will be a straight drop. Mr. Gradwell stated that they are proposing a fence; one along his property line and one along the top of the rock cut. Mr. Llanos stated that he had erosion concerns on the top and his property. Mr. Gradwell stated that line drilling is more prudent than blasting. Mr. LePere stated that any blasting would require a survey and they can do that with the property owner.

Renee Llanos, 13 General Wooster Road was concerned about gradual erosion over time. Mr. LePere stated that it is a solid situation. Mr. Gradwell stated that there are measures on top of the rock excavation to prevent soil runoff. There will be a retaining wall and lintings along the edge to stabilize the soil.

Mr. Llanos asked about blasting and Atty. Welch stated that there will be no blasting done. Mr. Joyce asked if the applicant would agree to that as a condition and Mr. LePere stated that they will not blast.

totally removed. Mr. Llanos asked where the delivery area will be and Mr. LePere stated that it is in the rear of the building.

Philip Marcucio, Jr. stated that there is a brook that divides the property and he asked if the flow will be impacted at all. Mr. Gradwell stated that it will not be increased and will probably be lessened. He stated that there are erosion problems now that they want to minimize those problems. Mr. Marcucio asked if there will be enough flow to maintain the pond. Mr. Gradwell stated that it is a very small pond and there should be enough. Mr. Marcucio stated that there is plant material growing along the brook and asked if that will be removed. Mr. Gradwell stated that it will be enhanced significantly with plantings.

Mr. Marcucio stated that there are fish in Two Mile Brook and animals that use the brook and Mr. Gradwell stated that they will be cleaning up and landscaping that area.

Mr. Columbo stated that the previous owners had a lot of problems and there was a lack of maintenance. He stated that they are improving the area and he is comfortable with what they are proposing. Atty. Welch stated that the applicant will provide information regarding the property manager who will be on site. Mr. LePere stated that they are also very interested in making sure that the other retailers on the site do proper maintenance of their areas.

William Zaleha, 16 Homestead Avenue asked if they will be increasing or decreasing the non-permeable area that is in existence now. Mr. Gradwell stated that it is going to increase it about 5% over the entire area. Mr. Zaleha asked what the detention capability is. Mr. Gradwell stated that the detention of storm water from the site will be done through a detention system and it will not increase. Mr. Zaleha asked if the culvert will be replaced or repaired and Mr. Gradwell stated that the culvert will be replaced where damaged. Mr. Zaleha asked if the culvert has been tested to handle the size and weight of the trucks that will service Lowe's. Mr. Gradwell stated that it is capable of handling those.

John O'Brien, 120 Rail Fence Road, Orange stated that he was concerned with the dimension of the pipes and with debris washing down and getting caught. Mr. Gradwell stated that there will be fencing all around the edges of the site.

Michael Marcucio, Marcucio Gardens asked about the location of the main dumpster and Mr. Gradwell pointed out the locations. Mr. Marcucio stated that he is trying to get an idea of what the stream will look like. Mr. Gradwell stated that they will not clear cut the area but will cut down brush and replant. Mr. Marcucio stated that he is concerned that the stream will be dried up and now it is continuing flowing. Mr. Gradwell stated that most of the water comes from the Marcucio property and they will not be interrupting it.

William Zaleha asked about the maintenance of the catchbasins and Mr. Gradwell stated that there is a maintenance plan which is part of the plans. Mr. Joyce asked about an

Philip Marcucio, Jr., Marcucio Gardens asked if any study was done on the percentage of water that will be lost in that brook. Mr. Gradwell stated that they can provide that information as part of the drainage analysis.

Mr. Columbo read a letter from Joseph Jalowiec, Jalowiec Realty Associates, 90 Sodom Lane with pictures attached taken on 3/2/07 (copy attached). Mr. Columbo stated that the public hearing will be continued to the April meeting when he anticipates closing the hearing.

Mr. Gradwell thanked everyone for their input. Mr. Columbo stated that it appears that they have met the concerns and is pleased to hear that the area will be improved and the quality of the water improved. The entire project will be a benefit to the City of Derby.

A motion to continue the public hearing to the April 11, 2007 meeting was made by Mr. Padilla, seconded by Mr. Dinice and carried unanimously.

8. William Zaleha - Applicant. APPLICATION #07011001 - Seeking permission to conduct a "Regulated Activity" proposing to construct an addition to an existing house at 16 Homestead Avenue, Lot #88, Tax Map #5-4.

Michael O'Bymachow was present for the applicant and stated that the plans have been revised based on comments from last month's meeting. He stated that they put in another length of galleys for the storm water detention in the front. They added 24' of galleys and now meet the 100 year storm requirement. He also stated that the upland review area has been shown on the plans. The activity in that area will be 2400 s.f. of driveway, proposed house and deck. The existing garage will be removed. The garage will be slab and the house addition will have a basement. Mr. Columbo read the drainage report dated 3/9/07. Mr. Joyce stated that they have complied with the section regarding no increase in runoff.

Mr. Marcucio moved that on January 10, 2007, William Zaleha (applicant) submitted Application No. 07011001 for the construction of an addition to an existing house at 16 Homestead Avenue which proposed no direct impacts to wetlands or watercourses and 2430 sf of wetlands within the 50' upland review area and will require a summary ruling in accordance with Section 11.11.

Therefore, the Agency moves to approve Application No. 07011001 as presented and shown on the following documents:

1. "Site Plan - for Proposed Addition", prepared for William & Deborah Zaleha - 16 Homestead Avenue - Derby, CT", prepared by Nowakowski - O'Bymachow - Kane, Associates, dated February 4, 2007 and revised through 3/9/07, drawn to a scale of 1"=10'.
2. "Soils and Wetlands Report", prepared by Cynthia Rabinowitz, Soil Scientist (ConnSoil, LLC), dated January 30, 2007.

O'Bymachow, Kane & Associates, dated March 9, 2007.

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 Regulations), the following conditions also apply:

1. Prior to the installation of the on-site storm drainage "galleys", test pits shall be performed in the presence of the City Engineer to confirm stability of soils. City Engineer shall be notified a minimum of 48 hours prior to test pit excavation.
2. The proposed driveway shall be constructed in a manner which will prevent storm water runoff on Shelton Street from entering the site.
3. Lack of compliance with any condition 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.
4. Any further changes or modifications to the application presented shall be submitted to the City Engineer to determine if additional review and approval is necessary by the Agency.
5. Prior to any construction activities covered by this permit, the applicant shall arrange for the proper installation of all sediment and erosion control measures indicated on the above referenced plans by a qualified party and verified as complete by the City Engineer and/or Wetland Enforcement Officer.
6. All disturbed areas on the site not directly required for construction activities shall be temporarily hayed and seeded until permanent vegetation is established.
7. 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.
8. The Agency's decision to grant this approval makes no warranties or representations; either expressed or implied that further regulated activities will be permitted on this site.

The motion was seconded by Mr. Padilla and carried unanimously.

9h. Derby Recreation Camp - Donald Smith

Mr. Columbo stated that they met informally regarding this matter. Mr. Smith stated that there is an existing three story building on the site and there is a boathouse on the north side of that building. He stated that on the south side of the existing building there is an
Inland Wetlands Agency 8 March 21, 2007

old drib style retaining wall and they are looking into solutions on replacing that retaining wall. They are having some geotechnical borings done and will be going out to bid and developing a more detailed plan on that retaining wall and how it will be replaced. That wall forms the boundary between the floodway and non-floodway. He stated that they are working with DEP on what can be done to that wall.

Mr. Smith stated that they also proposing to expand the existing building by adding two stories to the top of the boathouse. From the building it would be three stories and one story from the road side. That would be a straight up addition with no increase to the impervious area. They also propose to have handicap accessibility from street level down to the beach area. That would be done by using an existing drive on the northern section of the property. It comes down and would create a flat area so that a van can come down and drop off, turn around and exit back out the driveway. He stated that part of the driveway will be paved for the turning area and will probably add a basketball court in that area.

Mr. Smith stated that the biggest issue is that there is no parking on site. They have spoken with DEP for use of their facility across the street and they have given permission to construct 10 parking spaces behind their barn for use by staff. They have requested that the area have a milling surface. He stated that they are also in discussion with the Housing Authority regarding the property at the corner of Lakeview Terrace to develop a drop off area for parents. They have also retained a traffic consultant to apply to DOT for a signal with a protected pedestrian crossing. They are also working with the Housing Authority to try and develop some additional parking on Lakeview Terrace for 12 parking spaces. This would not be a permanent parking area - it would only be used for about 8 weeks during the year when the Camp is in session.

Mr. Smith stated that Roy Shook has identified the limits of the watercourse and a soil report indicating that the only wetlands on their property is the edge of the watercourse. He stated that he is looking for some direction. Basically they have an application that covers three different things. He was looking for advice on how to proceed with this. Mr. Marcucio felt that the main one was the work along the water. Mr. Columbo felt that the others could be signed off on. Mr. Joyce stated that the application is for the subject property itself and the other is ancillary and ties into the project. He felt that one application for the Recreation Camp should be made and if that isn't approved then the other proposals would not be necessary. Mr. Smith stated that they do need the parking and will proceed with those. Mr. Columbo stated that the parking sites have no impacts on wetlands and he would sign off on those. Mr. Columbo stated that when the application is made he would recommend that the fees be waived since this is a non-profit organization and benefits the city. Mr. Marcucio asked about the time frame for the work and Mr. Smith stated that they probably would begin in May. They are going back to the Housing Authority at the beginning of April. He would anticipate that the work on the retaining wall would be done in July or August.

9a. Engineering Fees - Milone & MacBroom, Inc. for the City of Derby March 9, 2007.

Mr. Dinice moved that the bills from Milone & MacBroom be paid. The motion was seconded by Mr. Padilla and carried unanimously.

9b. DIWA Schedule for 2007.

A motion to set the meeting schedule for 2007 as the second Wednesday of each month at 7:00 p.m. in the Aldermanic Chambers, City Hall was made by Mr. Padilla, seconded by Mr. Dinice and carried unanimously.

9c. Susan Martino, 27 Grandview Blvd. APPLICATION #07022801.

Mr. Columbo stated that this was added on last month and approved as a declaratory ruling. Mr. Padilla stated that there are no soil and erosion controls on the site. Mr. Joyce will contact the Public Works Department.

9d. Witek Park Report 3/9/07

Mr. Columbo stated that the Report on 2006 Post-Construction Water Quality Monitoring dated 3/9/07 prepared by the City Engineer has been received. Mr. Joyce stated that there have been no negative impacts as a result of the development. It is now time to implement the organic plan and he will be speaking to Ken Hughes regarding that.

9e. Joe Jalowiec Letter 2/28/07

Mr. Columbo stated that a letter was received from Mr. Jalowiec regarding an accident that occurred in December, 2006 on property at 114 Sodom Lane. He is concerned about damage to the pipe and would like to have tests done to make sure that there are no problems. Mr. Jalowiec would not sign off on a release for this accident.

9f. Budget for July '07 to June '08.

Mr. Columbo stated that he received a memo from the Tax Board Chairman regarding budget submittal. He would recommend that the same budget be used and will submit a request for that amount.

9g. Starbucks, 552 New Haven Avenue - Signed off 2/28/07

Mr. Columbo stated that he wanted to inform the members that he signed off on this matter on 2/28/07.

A motion to adjourn was made by Mr. Padilla, seconded by Mr. Dinice and carried unanimously. The meeting was adjourned at 9:50 p.m.

ATTEST:

Maryanne DeTullio

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