

**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 12, 2008  
(Meeting Taped)

Minutes of Derby Inland Wetlands Agency meeting of Wednesday, March 12, 2008 at Aldermanic Chambers, New City Hall, 1 Elizabeth Street, Derby. This meeting was called to order at 7:05 p.m. by Chairman Fred Columbo.

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

Additions, Deletions, Corrections to the Agenda:

There were no additions, deletions or corrections to the agenda.

Public Portion:

Fran Finnucan, 45 Belleview Drive stated that his home has been damaged by runoff from the City landfill. He stated that the City Engineer, David Kopjanski and Ken Hughes have been there and they found things that have caused this. The City had some people there to do work and they dug up the monitoring wells which were to monitor the water. He is concerned about what the runoff consists of. The City hired Bill Korolyshun and he dug a trench to divert the water but that hasn't worked. He stated that they have tried to make it deeper and clean it out but it did not help. He submitted pictures of what is backyard looks like.

Mike Joyce stated that he looked at the property and the activity that occurred there and there are a lot of different things going on in that area. He stated that there are a lot of things that need to be looked at and they will be investigating it further to see what steps need to be taken to correct the problem. He stated that when they were out there they noticed some work being done to property on Marshal Lane which might contribute to some of the problems. He also stated that there was a drywell system that probably needs to be maintained. Mr. Columbo stated that they will look into the problem further and try to get it resolved.

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Ken Hughes, 410 New Haven Avenue stated that he saw the problem and notified the Mayor and Public Works Director of the situation. He stated that it needs to be addressed and hopefully there will be a solution.

Robert Miani, Belleview Drive stated that he has had problems with water in his basement and on his property. There is a retaining wall being built on Marshal Lane site which is causing some of the problems. Mr. Columbo stated that he will notify Mr. Kopjanski of the problem.

Mr. Marcucio recused himself from the public portion of the meeting.

John Saccu, 34 Homestead Avenue stated that his property borders the Marcucio Gardens on the east side and he stated that they have been good neighbors and he has had no problems with them. He also stated that he has no problem with their application and he had nothing negative to report as a close neighbor.

Ken Hughes, 470 New Haven Avenue, 3<sup>rd</sup> Ward Alderman stated that he is speaking for several residents in the area and there are several issues that they would like to have answered during this process. He submitted his questions to the Commission (copy attached). He also stated that he spoke to the applicant and he made it known that he is willing to do what is right regarding the Wetlands regulations.

Ken Baltes, 23 General Wooster Road stated that his property adjoins Marcucio Gardens and asked how many members visited the site. He also stated that the property in question is zoned residential and everything currently existing except for the detention basin has no permit or permission. He also stated that there is a zoning violation on the property issued approximately 300 days ago and nothing has been done. He submitted a copy of the zoning violation, pictures and petition to the Agency.

Delores Cremonie, 15 Homestead Avenue stated that much of the land is on wetlands and could not understand how a permit could be issued to do work there. She also submitted her concerns to the Agency (copy attached).

Mark Nuzzolo, 17 Brook Road, Woodbridge stated that he sold this property to Mr. Marcucio and during the approval process the wetland soils were analyzed. He stated that there was some discussion that whether that wetlands would cease to be a wetlands. He also stated that there were a series of watercourses that came down the hill and probably ceased now because the water was intercepted to the basin. He stated that when he developed the property he placed a buffer in the area and it was not to be developed. He stated that he does not know what Mr. Marcucio has done but feels that the soils have probably changed since the development. He stated that when he sold Mr. Marcucio the parcel because he thought that the use would be compatible with the residents. He also stated that there were discussions whether it was residential or commercial.

Mr. Columbo stated that the Agency deals with wetland issues and not zoning issues. He also stated that when Mr. Nuzzolo was developing the subdivision there were many meetings and some of the issues brought up this evening were discussed at the original development. Mr. Nuzzolo stated that there were discussions of why it was classified a wetlands and if it was soils they usually don't change much. He stated that if it was a watercourse and the watercourse ceases to be a watercourse because of the upstream development then it is possible that the watercourse doesn't exist and it is not a wetlands. He stated that would have to be analyzed again but at the time of the development there were a lot of discussions. Mr. Columbo stated that a major proponent of his development was the basin.

Mike Krager, 21 General Wooster Road stated that the bottom of his property is wetlands and the comes through his property into the wetlands and it is very wet there.

#### Approval of Minutes

Mr. Padilla moved that the minutes of the February 13, 2008 meeting be approved. The motion was seconded by Mr. Marcucio and carried unanimously.

Gilbert Debrum - Applicant. APPLICATION #08021301 - Seeking permission to conduct a "Regulated Activity" Proposing to construct one single family house on Stelmack Drive, Lot #81, Tax Map #5-4.

Mr. Debrum stated that Fred D'Amico received the e-mail from the City Engineer who had some issues which they have addressed. He stated that they do not have the soil scientist certification at this time. He stated that there was some issue with the pipe that goes under the property. He stated that they cannot see a pipe but it is about ten feet down and they cannot tell if it is actually a pipe or a stone or concrete culvert. He stated that they will be going with a slab on grade. He also stated that they can relocate the pipe if that is what the Agency wants.

Mr. Joyce stated that he asked them to show the pipe and they need to identify where it is. Mr. Debrum stated that they tried to locate it. He also stated that this is a flag lot and it is difficult to locate the house on the lot. Mr. Joyce stated that Stelmack Drive in its right of way goes around this property but the pavement surface cuts through this property. He stated that there is nothing in writing but the people in the back have rights to get there through this property. He also stated that the pipe was a concern to him and it runs continuously and is not comfortable with the pipe underneath the house. He stated that he wants to speak with Mr. D'Amico, Mr. Kopjanski and the applicant regarding the setbacks because it is not a traditional flag lot. He stated that the issue of the pipe needs to be resolved and he would like to discuss this further. Mr. Columbo urged the applicant to get together with the City Engineer and Building Department. He stated that the item will be on the April agenda.

Marcucio Gardens, Philip Marcucio. APPALICATION #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 proeprty at 480 New Haven Avenue, Route #34, Lot #37A, Tax Map #4-3.

Mr. Marcucio recused himself from hearing this item. Attorney James Cohen was present for the applicant and stated that the purpose of the presentation is to respond to the letter from the City Engineer. Keith Buda, Rotondo Engineering will go through a number of the items in the letter. Atty. Cohen stated that there were a number of questions raised this evening. He stated that there are no fertilizers used for the shrub storage; it is a question of watering the shrubs which will not impact on the wetlands. He stated that the mulch issue question issue had to do with mulch that has coloring in it which is in fact water soluble and they will produce material safety sheets on those items. He stated that with regard to the question regarding the drainage at the rear of the Hughes' property; the elevation of the land at the Hughes property was changed by someone other than Mr. Marcucio off site so that as the water previously flowed down toward Route 34, the level of the land was raised so that the water cannot flow in its natural course and in fact goes toward th Jupin property but this is not a creation of Mr. Marcucio. He stated that the driveway is gravel and not asphalt and is a permeable surface. He also stated that the greenhouse is existing and this is a zoning issue. Atty. Cohen stated that as far as the zoning violation issued by Mr. Kopjanski it was responded to and that issue had to do with trailers and mulch storage and those issues have been resolved and no further issue with that. He submitted copies of letter regarding that.

Keith Buda, Rotondo Engineer stated that he will respond to the items in Mr. Joyce's letter. He stated that the site plan has been revised and the purpose and description of the activity narrative has also been revised and those were submitted. He stated that they added additional topographic survey information of the southwestern corner of the property to the plans.

Mr. Joyce stated that the Agency needs to determine the significance of this project and whether a public hearing is necessary.

Mr. Buda stated that 29,604 s.f. activity within the wetlands only accounts for the proposed improvements not the existing improvements that are there today. Mr. Buda quantified those areas of existing improvements that have occurred within the wetlands and 50 foot upland review area. He noted that of the 29,604 s.f. of proposed improvements within the wetlands, approximately 16,000 s.f. is actually work being done to re-establish the previously approved detention basin volume. He stated that approximately 14,700 s.f. within the upland review area is actually work to re-establish the previously approved detention basin volume. He stated that as far as mitigation within the wetlands area the applicant is proposing to install a heavily landscaped berm to further buffer some of the activities that occur on the site. He stated that the proposed shrub storage area has been eliminated but would still like the ability to plant an orchard there at some point in the future. Inland Wetlands Agency

The plantings of those trees would not be for commercial uses. Mr. Buda stated that the limits of the existing and proposed gravel driveway have been identified on the plans. The as-built of the detention basin will be prepared and submitted upon completion of the proposed improvements. The storage area for temporary merchandise has been shown on the plans. Mr. Buda stated that the check dam and riprap outlet protection pad will be re-established and re-installed. He stated that the basin bottom is currently maintained as lawn because of problems with dead vegetation. The applicant is responsible for the maintenance of the detention basin and has seeded it and maintains it as lawn to avoid any problems with blockage on the outlet pipes.

Mr. Buda stated that one of the comments in the letter regarded the relocation of the activities in the southwestern corner of the property. Mr. Joyce stated that is really a Planning & Zoning issue and it is the buffer area. He asked what has changed since the original application. Mr. Buda stated that the topography that is shown on this plan when compared with the 1997 plans there is very little change. There is some slight filling but the contours are very close. He stated that it appears from the soil scientist report that the boundary of the wetlands seem to be the same, but when the analysis was done she could not do a very thorough one. It is possible that there were some slight grade changes. Mr. Joyce stated that he is asking for topographic information to confirm drainage patterns and also would like the soil scientist to look at the wetlands again for a more thorough report.

Mr. Buda stated that is you look at the plan from 1997 and look at the contours the natural drainage path was that it would make its way across a portion of Mr. Hughes' property and onto Mr. Jupin's property. He stated that it is almost identical and there is a small channel or swale and when water reaches that point and being directed to the west, where previously it was making its way across the property.

Mr. Columbo asked if the improvements that are being proposed will not pose any negative impacts on the neighboring properties. Mr. Buda stated that the drainage patterns that are there today and the activities on the Marcucio property are not increasing any runoff that is running toward Mr. Jupin's property. Mr. Columbo asked if the improvements to the basin will also alleviate any negative impacts. Mr. Buda stated that the basin was built for the subdivision uphill and the volume of the existing basin as it is today does not meet what the proposed design plans showed. He stated that he does not know if detention basin was ever constructed according to the plans because there is no as-built. He stated that they are proposed to re-establish the volume. Mr. Columbo asked about runoff from the northeast corner and Mr. Buda stated that it will not change and goes into the detention basin.

Mr. Joyce stated that the Agency needs to determine whether it is a significant activity and whether a public hearing should be held. Mr. Columbo stated that when the subdivision was being proposed a public hearing was held and at that time all kinds of aspects as to impact were taken under consideration and it was presented as a major impact with all the runoff collecting into the basin. He did not feel that a new public hearing was required at Inland Wetlands Agency

this time. Mr. Dinice stated that he felt that a public hearing should be held especially on the re-construction of the detention basin and the new activity of the relocating of the mulch pile to the northeast. He stated that we do not know if the basin was correctly constructed

Atty. Cohen stated that as to the detention basin and what was approved and what it should have been has been addressed. There is nothing new about the detention basin now that was not already discussed at the previous public hearing. Mr. Columbo stated that the Agency has already discussed the purpose of the basin and everything that needs to be done to bring it to the original specifications is being proposed now. There has never been any problems with the basin itself. Mr. Dinice stated that there is still another activity in the wetlands areas that was not part of the original plan. He felt that it meets the criteria of a significant activity. Atty. Cohen stated that if they are talking about the movement of the storage bins resulting in a significant impact on wetlands he did not believe that it would be significant activity. Mr. Joyce stated that activities occurred prior to this application and there are activities proposed with this application. Atty. Cohen stated that in looking at the wetlands regulations it specifically provides that as a matter of right nurseries, gardens, greenhouses are permitted within the wetlands and watercourses. He stated that they are showing what was there originally, what has taken place and what is being proposed and none has a significant impact.

Mr. Padilla stated that one of the questions was about oil and gas getting into the wetlands. The applicant stated that it is kept in a barn. Mr. Padilla asked if there was a spill could it be contained and Mr. Joyce stated that there is no information provided on that. Mr. Columbo asked about activities outside of the basin and Mr. Buda stated that the storage bins are being relocated and the applicant has to maintain the basin and it is being done through this area because of the access to the basin. He stated that area gets disturbed because of having to get to the basin and it is where they want to relocate the bins. Mr. Columbo stated that the Agency needs to determine if anything being proposed outside of the basin is significant then we would have a public hearing. Mr. Birtwell asked if the existing business is changing the use of the property and Atty. Cohen stated that there is no change in use. Mr. Barboza stated it appears that the change to the detention basin will be what was originally approved. He asked if materials will be removed and if so where they will be going. Mr. Buda stated that some of the materials will be used to reconstruct the berm and the remaining materials will be stockpiled and concealed in the storage bins.

Mr. Columbo stated that it is the feeling of the Agency that a public hearing is necessary for this application and it will be scheduled for April 9, 2008. Mr. Joyce stated that soil scientist was not able to do actual wetlands delineation and it would be recommended that it be done now.

9. City of Derby, Mayor Anthony Staffieri. APPLICATION #08021303 - Seeking permission to conduct a "Regulated Activity": Proposing to construct a new Middle School on the Derby High School site, creating a campus. Included are the building, parking, walks, play areas, site utilities, storm drainage, lighting, lawns and plantings on property at Nutmeg Avenue, Lot #2, Tax Map #9-6.

Jeff Gebrian and Kevin Clark were present for the applicant. He stated that they presented the

application at the February meeting and the City Engineer has reviewed the plans and drawings. Mr. Clark stated that there are no wetlands on the site and he explained the storm water management system. He stated that water basically drains in three directions and there will be no change to the drainage patterns going east to Coon Hollow. There are no catchbasins on the property at this time. They will extend the city storm sewer system up to the driveway and into the site and add catchbasins and a hydro-dynamic separator, which will be located at the intersection of the driveway and Chatfield. The storm water drainage to the west will be split around both sides of the building. There will be two storm water detention systems which will be buried underground. The water that is draining from paved areas will also be treated either through a separate hydro-dynamic separator or in the detention system. They will be making a piped connection down to a catchbasin just on the downhill side of the ball fields. They are reducing the impervious area slightly and also peak flows from the site. The system will meet DEP storm water management standards.

As far as the City Engineer's review letter they have either added certain items or will agree to all conditions. Mr. Joyce stated that a lot of comments were discussed and some have been addressed. He also stated that the construction sequence plan is being prepared and he will want to see that. Mr. Clark stated that this is a significant improvement to the storm water drainage from the site. Mr. Columbo stated that the Agency feels that everything has been presented and submitted and this would be a summary ruling and the fees will be waived because the City is the applicant.

Mr. Birtwell moved that the City of Derby Inland Wetlands Agency (9DIWA) based upon the information provided by the applicant finds the following:

1. The proposed project does not involve a significant impact or major effect on an inland wetland or watercourse as defined in the regulations and will require a summary ruling.
2. The stormwater management system has been designed to accommodate the 100 year design storm and represents no increase in runoff for the overall project area.
3. Sedimentation and erosion control measures have also been incorporated into the design including sediment filter fence, stabilized construction entrances, temporary sediment basins and erosion control matting for slope stabilization.

Therefore, the Agency moves to approve Application No. 08021303 as presented and shown on the following documents submitted in support of the application:

1. Plans entitled "New Construction of Derby Middle School" with the following attached drawings dated 2/6/08 and revised March 12, 2008.

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- a. "Cover Sheet"

- b. "Overall Site Plan - Drawing L.0", scale 1"=100'
  - c. "Site Preparation Plan" - Drawings LSP. a, b and c, scale 1"=20'
  - d. "Site Layout Plan" - Drawings L.1.a, b and c, scale 1"=20'
  - e. "Site Grading Plan" - Drawings L.2.a, b and c, scale 1"=20'.
  - f. "Site Planting Plan" - Drawings L.3.a, b and c, scale 1"=20'.
  - g. "Site Details - Drawing L.4.a", not to scale.
  - h. "Site Utilities plan - Drawings C.1.a, b, c and d, scale 1"=20'.
  - i. "Site Erosion & Sedimentation Control Plan" - Drawings C.2.a, b and c, scale 1"=20'.
  - j. "Site Civil Details" - Drawings C.3.a, b and c, scale 1"=20'.
  - k. "Floor Plans" - Drawing A-101, scale 1/16"=1'0".
  - l. "East & West Exterior Elevations" - Drawing No. A-201, scale 1/8"=1'.
  - m. "North & South Exterior Elevations" - Drawing No. A-202. scale 1/8"=1'.
2. "Existing Conditions - Derby High School/Middle School - Nutmeg Avenue - Derby, CT" prepared for the City of Derby, prepared by Nafis & Young Engineers, Inc., and dated February 5, 2008, scale 1"=100'.
  3. "Record Map-Derby High school/Middle School-Nutmeg Avenue-Derby, CT", prepared for the City of Derby, prepared by Nafis & Young Engineers, Inc., dated February 5, 2008, scale 1"=100'.
  4. "Storm Drainage Report", prepared by Clark Engineering, dated 2/8/08 and revised 2/28/08.
  5. Correspondence from Connecticut Ecosystems, LLC, dated December 10, 2007
  6. Correspondence from Milone & MacBroom, Inc. dated March 12, 2008.

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

1. The plans shall be revised in accordance with the comments offered in correspondence from City Engineer Milone & MacBroom, Inc. dated March 10, 2008.
2. Plans showing the final sequence of construction for the site shall be submitted to the City Engineer prior to the start of construction.
3. Any significant 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.

4. 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. Arrange for the filing of this approval on the Derby Land Records.
  - b. Prior to any clearing or earthmoving activities, the proper installation of all sediment and erosion control measures indicated on the above referenced plans.
5. All disturbed areas on the site not directly required for construction activities shall be temporarily hayed and seeded until permanent vegetation is established.
  6. The Director of Public Works and/or City Engineer shall be contacted during construction when connections to existing city drainage systems are performed in order facilitate inspection of these systems by City staff.
  7. 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 0.5 inches or greater and until the City of Derby determines that inspections are no longer required.
  8. 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.
  9. The maintenance requirements for the proposed drainage systems shall be provided to the City of Derby Department of Public Works prior to completion of construction.
  10. 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 with 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.
  11. The Agency's decision to grant this approval makes no warranties or representations, either express or implied, that future regulated activities will be performed on this site.

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

10a. Engineering Fees Milone & MacBroom, Inc. for the City of Derby statement of February 29, 2008.

A motion to adjourn was made by Mr. Padilla, seconded by Mr. Birtwell and carried unanimously. The meeting was adjourned at 9:10 p.m.

ATTEST:

Maryanne DeTullio

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