

INLAND WETLANDS AGENCY
MAY 14, 2008 - 7:30 P.M.
TOWN HALL ANNEX - COMMUNITY ROOM 1

I. ROLL CALL

Agency: Block, Scott, and Sutphen
Alternates: Ashworth
Staff: Jones and Silsby

The meeting was called to order at 7:30 p.m.

II. PUBLIC HEARINGS

1. Proposed Retail Development (Wal-Mart Super Center) 481, 489, 491, 495, 529 Gold Star Highway – Continued from April 9, 2008

The public hearing continued at 7:30 p.m.

Jones commented on procedural questions that were raised at the previous meeting held on April 9, 2008. She distributed and summarized a memo relating to the status of the previous permit granted in 2006, addresses listed on application, past procedures and suspension of permits. Jones stated that there have been several additions to the existing Wal-Mart file including documents from the Public Works Department about the drainage system, a letter from Robert Sonnichsen written on May 9, 2008, and a letter from Attorney Whitney regarding the last Inland Wetland meeting.

Attorney Diane Whitney, representing the applicant Konover Development, introduced Guy Hesketh, Michele Carlson, Robert Sonnichsen, and Dr. David Mitchell. Credentials were given. She referred to the addresses listed on the application, her memo to the Inland Wetland Agency (IWA) dated April 30, 2008, and a letter from Mr. Sonnichsen written on May 9, 2008 but accidentally dated April 9, 2008. She reviewed the limited area involved in this application, noting that this is the only activity that should be discussed tonight. She believes it would be prejudicial if the entire property is discussed tonight. She noted that conditions regarding site maintenance could be noted specifically on the approved permit. Lastly, she added that the interveners have not raised issues pertaining to this specific proposed application.

Guy Hesketh, P.E., F.A. Hesketh & Associates representing the applicant, summarized the application before the agency. He presented a copy of the latest plans dated 5/9/08. He reviewed the pond location, upland review area, vegetation, parking areas, pavement changes, the installation of drainage pipes, and the construction of a rock retaining wall. He referred to grading and landscaping, and spoke about roof

runoff. He noted that a comprehensive storm water analysis of the site had previously been done. He referred to peak runoff and wetland areas. He spoke about drainage areas and noted that there will not be an increase in drainage. He stated there are no direct wetland areas being impacted.

Chairman Scott inquired about the retaining wall and the depth of the soil behind it, to which Mr. Hesketh stated that the maximum height would be 4 feet with lower heights in various areas surrounding the wall. Discussion continued.

Robert Sonnichsen of Waldo & Associates LLC gave his credentials and explained that he has been asked to review the documents submitted by the interveners and to make comments on them pertaining to the proposed application. He stated that he had previously testified on behalf of the last Wal-Mart application that previously came before this agency. He referred to his letter dated April 9, 2008 and noted that that date was a typo because he wrote the letter on May 9, 2008. Amended copies were distributed. He referred to Mr. Trinkaus' statements about roof runoff, water quality, and spoke about the requirements of the storm water management manual plan. He explained about the high quality inert roofing material that will be used and stated that the runoff water will be clean and peak runoff will be controlled. He believes there will be no negative impact to water quality or quantity.

Attorney Whitney concluded her presentation by stating that there are no adverse impacts to the wetland areas and requested that the application be approved.

Chairman Scott stated that public comment will now begin but will start with the interveners. He requested that all speakers only speak about issues that are pertinent to this application.

Joan Smith, 58 Mohegan Road, Director of GOSA and an intervener, spoke against the application. She distributed a letter, which was summarized for the record. She referred to the storm water management design and explained why GOSA recommends that a new application be submitted, listing it as a "major activity". She spoke about storm water runoff, fire pond, harmful sediments from traffic, hydro dynamic separators, and the need to protect the town's watercourses and reservoir. She requested that the IWA review her letter before making a decision.

Attorney Whitney stated that fire pond is not part of this application. Chairman Scott agreed and hopes that from this point forward, no further comments are given which are not pertinent to the proposed application.

Attorney Marjorie Shansky spoke on behalf of interveners and noted the importance of evaluating the entire Wal-Mart project, for possible court related actions.

Sydney Van Zant, 3 Front Street, Noank, Director of GOSA, spoke against the application. She referred to the drainage basin and an article relating to the failure of a basin at a different Wal-Mart store.

Chairman Scott explained why that information is not pertinent to the proposed application. Sydney Van Zant explained why she believes her comments are pertinent and referred to heavy rains. Ms. Van Zant feels it is of great concern to have this information on the record. She continued to give comments about safeguarding the watershed.

Attorney Marjorie Shansky of New Haven spoke on behalf of several interveners. She referred to the memo that Jones read into the record at the onset of the meeting and feels that the memo does not address the issue of the redirection of water that runs off the roof. She explained why she believes the application should be amended. Shansky referred to her letter dated April 9, 2008 and gave additional comments about Jones' memo. She believes that the importance of this decision merits an extremely careful review. She spoke about the possible suspension of a permit previously issued by the IWA, relating to enforcement. Shansky submitted a new intervention petition by Mr. Zell Steever. She clarified any misconceptions about Mr. De Santos' credentials. She noted the cause and affect of the proposed amendments as it relates to the entire project.

Robert DeSanto, Director and Principal of the Institute of Environmental Stewardship LLC. in Waterford, summarized his credentials. He distributed documentation about his investigation into storm water contamination and explained why the information is relevant to the proposed application. He referred to water pollution and vehicle sediment contamination, and reviewed issues regarding runoff in other parts of the country. Additional documents were distributed while he spoke about the accumulation of massive contaminants. He gave his concerns about protecting the public water supply and watershed. He requested that the IWA review his findings about roof runoff. He noted that scientific information is available that indicates that roof runoff is contaminated with chemicals.

Chairman Scott explained that DeSanto's comparisons to other parts of the country are not pertinent to this case.

DeSanto explained why these comparisons are significant. He referred to chronic contamination, the reservoir, filtering, and reiterated by saying that roof runoff is not clean.

Ashworth inquired about the roof surface and water runoff, relating to rain. DeSanto explained that water falling from the roof and being filtered will be more

contaminated than if rain itself were collected. Additional concerns were given about protecting the reservoir.

Chairman Scott referred to the surface area now occupying the site and noted that atmospheric deposition currently occurs on leaf surfaces. This material is then washed off of the leaves from the trees and mixes with the rainwater. DeSanto said that was fundamentally correct. He spoke about the importance to avoid injecting contaminants into the watershed. Chairman Scott does not believe that the bacteria on the ground and in the pond will significantly influence the amount of materials that get through to the reservoir.

Stephen Trinkaus of Trinkaus Engineering LLC, a professional engineer in Connecticut, presented the most current plan and referred to wetlands areas, the gallery system, and discharge areas. He spoke of possible vernal pools, which he suggested be looked at by the IWA. He spoke about peak runoff and a lack of infiltration. Plans were submitted that outlined the changes to the 2006 approved plan.

Whitney stated that the issue before the agency is what is going on in regulated areas.

Larry Croxton, an intervener, 35 Knoll Dr., appreciates all the work that the IWA does but feels the entire proposal should be brought before the IWA again. He referred to the application that was approved in 2006 and believes there might have been something wrong with that application because questions have recently been raised. He requested that the agency consider revoking the original permit and to look at this project as a whole.

Peggy Burdo, an intervener, 434 Gold Star Highway, referred to a lack of filtration going from the roof to the pond and is concerned about runoff into natural brooks and water areas. She is also concerned about the volume of vehicle traffic which could create more pollution from roof runoff. She spoke about pond water and requested information on whether Tollgate Road would continue to have flooding problems. Her main concern is about runoff draining into the reservoir. She suggested creating an action plan in case something negative occurs.

Zell Steever, 81 Main St., Noank, a resident for 45 years, expressed his concerns about polluting the reservoir. He distributed documentation, gave a presentation, and clarified his remarks from the last meeting held on April 9, 2008. He is opposed to the IWA granting a permit for reasons as noted in his handout, which he read in its entirety. He referred to drawings submitted by him and Mr. Trinkaus and spoke of increased discharge areas. He referred to the document overlay and the original plan from 2006 and 2007, listed as Exhibit A. He explained why he believes it would be unfavorable to approve this application. He suggested that the IWA suspend

the 2006 previously approved application, that the applicant withdraw the current application, and then submit altogether in a full proposal to be considered as a "major activity". Additional information was given about wetland impacts, fisheries, water supplies, pollution, and long-term degradation to the water resource. Protecting the drinking water was of major importance to him. He requested that the IWA deny tonight's application for reasons previously stated.

Mamie Rutherford, 98 Leafwood Lane, Unit 179, believes it is wrong to consider giving Wal-Mart approval to be neighbors to the town's water supply. She explained about the importance of having quality water to drink.

Discussion followed about the location of borings and whether the basin is in a regulated area, to which Mr. Hesketh stated no.

Staff stated that the two discharges to the south of the building were permitted in 2006.

Upon Attorney Whitney's request, Chairman Scott called for a 5-minute recess at 9:41 p.m. The meeting reconvened at 9:48 p.m.

Whitney stated that this land is zoned commercial use and this use is allowed by the regulations. She explained that the changes before the IWA constitute a minor change to a previously approved plan. She stated that a very thorough review has been done and the residents should trust town staff and engineers that have approved the plans. She understands that there are water quality requirements/conditions that need to be followed. To answer Ms. Burdo's question, she stated that flooding will not be increased at Tollgate Road. She referred to the changes being proposed relating to the stone wall and drainage. She asked that the public hearing be closed tonight and for the IWA to approve the application.

Chairman Scott inquired about the balance of drainage going to various wetland systems related to this application and the previously approved application. Mr. Hesketh explained that the balance is close to what it was before. Discussion ensued about the underground, bedrock, and fill related to infiltration.

Ms. Burdo reminded the IWA that the woman on the IWA who is absent tonight had suggested that the town hold the applicant to higher standards than the state DEP.

MOTION: To close the public hearing at 9:55 p.m.

Motion by Sutphen, seconded by Block, so voted unanimously.

Chairman Scott stated that the IWA will not make a decision tonight but will defer until the next regularly scheduled meeting on May 28, 2008. He stated that no additional information can be submitted pertaining to this application.

III. PUBLIC COMMUNICATIONS – None.

IV. APPROVAL OF THE MINUTES of April 9, 2008

MOTION: To approve the minutes of April 9, 2008.

Motion by Sutphen, seconded by Ashford, so voted unanimously.

V. NEW APPLICATIONS

1. Groton Highpoint Subdivision, 245 Hazelnut Hill Road

Staff gave an overview of the application to allow several regulated activities made necessary by the Planning Commission's action on this subdivision. Activities include a revised water line location, placement of benches, open space markers, and trail improvements in the regulated area. The Agency tabled discussion to the next meeting.

VI. PENDING APPLICATIONS

1. Proposed Retail Development (Wal-Mart Super Center) 481, 489, 491, 495, 529 Gold Star Highway

The public hearing has closed and discussion will begin at the May 28, 2008 IWA meeting.

2. Burger King, 557 Long Hill Road

Staff stated that revised plans have not been submitted. This application will be on the next agenda.

3. North Woods Subdivision, 1299 North Road (CT Rte 117)

Staff reviewed this 5-lot subdivision north of Rt 184. It was noted that the applicant will be using the existing driveway for access to all of the lots. She noted that the lots have septic and public water. A 50-foot right-of-way has been left for possible future access to land located east of the subdivision. Discussion ensued. Jones noted that all activity is outside of the regulated area. The Agency tabled discussion to the next meeting.

VII. NEW BUSINESS

1. Report of Chair

Chairman Scott asked staff to inspect the clearing near the Moore Woodlands on Noank Road.

Sutphen reported brush being dumped in wetlands on Haley Farm Road. Staff noted that it may be tidal wetlands in this area and will inspect.

2. Report of Staff – None.

VIII. ADJOURNMENT

The meeting adjourned at 10:24 p.m.

Eunice Sutphen, Secretary
Inland Wetland Agency

Prepared by Robin M. Silsby
Office Assistant II