

MINUTES
SPECIAL MEETING
ZONING COMMISSION
FEBRUARY 16, 2012 – 5:30 P.M.
TOWN HALL ANNEX – COMMUNITY ROOM 2

I. ROLL CALL

Present: Cady, French, Hudecek, Marquardt, O’Neill
Absent: Sutherland
Staff: Davis, Carey, Doolittle

Vice Chairman Hudecek called the meeting to order at 5:30 p.m. and seated Cady for Sutherland.

II. CONSIDERATION OF PUBLIC HEARINGS

1. Special Permit #321, 0 Yetter Road (Whittle Earth Products Facility, Applicant)

Staff noted that the Town Attorney had completed his review of the draft motion. The Commission and Staff briefly discussed the draft motion.

MOTION: To approve special permit application #321, Whittle Earth Products, subject to the following findings, conditions and modifications.

FINDINGS:

1. In acting on the application the Commission finds that the grading and excavation plan, as conditioned and modified herein, complies with the intent of CGS 8-2 (b) with respect to potential impacts on Long Island Sound and its associated coastal resources.
2. The commission finds that certain conditions and modifications, as authorized by sections 8.3-8 and 7.1-10 of the regulations, are necessary in order to render the application fully compliant with the criteria in sections A, B and C of 8.3-8 and the requirements of sections 7.1-10 B, 1 through 6 inclusive.

CONDITIONS AND MODIFICATIONS:

1. Property
Excavation, importation, processing, storage and sale shall be limited to lands identified by the Town as PIN #270015625780, consisting of approximately 77 acres. The permitted uses shall not in any way or at any time be extended to any other property located within the Town of Groton.
2. Permittee(s)
This permit shall issue jointly and in common to William T. Whittle and Richard A. Whittle, who per the application, owned the subject property at

the time of application. Any subsequent conveyance in whole or in part of the permit is governed by the limitations imposed by the stipulated agreement. Such limits shall not be included in this Special Permit and if enforcement of the terms of the Stipulated Agreement in this regard is deemed necessary by others, compliance with those limitations shall be enforced through other appropriate legal means.

3. Permitted Uses Generally

- a. Excavation, grading, processing, stockpiling and sale of 518,000 cubic yards of earth products imported to the site, subject to the limits of this permit. The permit shall be primarily for the purpose of earth materials processing and sale, and secondarily but necessarily, for the purpose of rendering the site more suitable for planting and harvesting crops, such as corn.
- b. The excavation, grading, processing, stockpiling and/or sale of no more than 50,000 cubic yards of naturally occurring earth material from the site.
- c. The location and use of equipment necessary to and associated with the permitted uses, as specifically disclosed and described in the application, and as further limited by the conditions of this permit.
- d. The temporary on-site fueling of permitted vehicles and equipment by mobile means and limited to the location depicted on the plans of record.
- e. Agriculture, specifically planting, growing and harvesting of crops such as corn.
- f. This permit shall not in any way be construed to allow any other use of the site.

4. Future Use

- a. Conversion of the property to uses other than agricultural fields and related irrigation ponds and drainage will require a modification of this special permit by means of approval of an application to the zoning commission, which approval may include requirements deemed necessary to remediate the site to a condition that is suitable for the prospective alternative use.
- b. In addition, the scope of this permit is limited to the use as permitted and does not imply any additional future modifications or expansion. Accordingly, any notes or references on the plans to “future expansion” or “future expansion area” shall be removed.

5. Special Permit Renewal

- a. The permit shall be subject to renewal every two years, commencing from the date of the initial approval or the lawful resolution of any appeals which may be taken of this approval. Permit renewal shall be administered through the Zoning Commission’s review of a complete

special permit application, which application shall include at a minimum detailed plans and a narrative describing the operation's actual compliance with all permit conditions and limitations, measures taken to address any prior compliance matters, and the volume and type of materials excavated, processed, stored and sold during the previous permit phase.

- b. In the event the permittee(s) fails to receive approval of permit renewal prior to the date of expiration of a current permitted phase, all operations subject this permit shall immediately cease and not be re-initiated until said extension approval has been granted and any conditions or stipulations relating thereto have been satisfied.

6. Site Access

- a. All vehicles shall access the site via the existing approved Route 184 "commercial access drive." The sole exception shall be that farm equipment not associated with the earth materials operation, such as tractors, trailers and cultivating and harvesting equipment may access the site via the existing "farm access road" off Yetter Road immediately south of and abutting land now or formerly of David Waikus and also via the existing "farm access road" immediately west of stockpile "H."
- b. To the maximum extent possible, all farm equipment and vehicle access shall be via the farm access road west of stockpile "H" which drive shall be designated as the principal non-commercial (farm) access drive.
- c. The existing farm access road adjacent to Waikus shall be an ancillary, subordinate "farm access road" and its use shall be limited to the minimum necessary. As part of the reclamation plan required in Phase I, the 50 foot section of the roughly 150 foot long southerly "leg" of this drive that is depicted as encroaching onto the Turner property shall be removed or abandoned in place and relocated a minimum of 20 feet north of the Turner property line. The former area of this leg shall then be planted with hardy evergreens 15 feet on center by extending the required planting buffer required to be installed west of Turner, easterly an additional 100 feet.
- d. If the relocation of this drive leg requires a wetland permit application, the owners shall submit such application within 30 calendar days of the recording of this special permit, and if that application is denied, access by farm equipment and vehicles to the "crop planting area" immediately west of Turner shall be made either via the alternative "main" farm access road or via the remaining portions of the ancillary farm access road (i.e. proceeding north of stockpiles "Q" and "R") and vehicular access to the southerly leg shall be prohibited by placement of physical barriers at its north end (where it connects to the main drive) and at its west end (where it connects to the "crop planting area").

- e. The existing drive adjacent (west) of lands now or formerly of Scott Turner shall be eliminated and the area restored as required herein. All use of this drive shall cease immediately upon recording of the approved special permit and concurrently, the drive's access to Yetter shall be physically blocked by means of a gate, chain, large boulders or some other appropriate barrier placed at the right of way line.

7. Noise

- a. For purposes of this special permit the term "daytime" shall mean 8:00 am to 5:00 pm. All other times shall be considered "night time."
- b. The maximum daytime decibel level at any property line from all operations shall not exceed 54 dBA.
- c. The maximum night time decibel level at any property line from all operations shall not exceed 45 dBA.
- d. Temporary and limited deviations from these maximum noise levels shall be allowed only in order to expedite and complete the phase I remediation work required herein.
- e. Prior to the operation of any processing equipment, the owner shall engage the services of a certified professional to determine the actual decibel levels at the property lines from the operation of the equipment. In the event this "baseline" does not comply with the maximum decibel levels allowed in this permit, the equipment shall not be operated until sufficient measures have been taken to meet the standard, as confirmed by subsequent testing and certification.
- f. There shall only be one portable rock "crusher" not exceeding the present crusher capacity (Lippman Milwaukee jaw crusher with secondary Cedarapids cone crusher or Town approved equivalent) permitted on site and operating at any one time and if other processing equipment is operating at the same time, the maximum decibel levels shall include all operations.
- g. The location of the portable temporary crusher shall be as indicated on the plans of record. All portions of the crusher and any equipment serving the crusher, shall be a minimum of 20 feet below the finished floor elevation of the existing Turner residence. In addition, the crusher shall also be surrounded by stockpiles and/or other noise mitigation structures.
- h. The crushing of earth material, including but not limited to rock, concrete and bituminous shall be limited to daytime hours up to a maximum of fifty total business days per year and only between May 1 to June 30 and September 1 to November 1. A "day" for compliance with this condition shall mean the nine hour period between 8:00 am and 5:00 pm, regardless of whether or not the actual crushing on a given day occurs during the entire permissible day. Absolutely no processing of

any kind shall occur during nighttime hours or on Saturday or Sunday, or on any national holiday.

- i. Access to the site by Town staff and their consultants shall be permitted for compliance review and such access shall not be unreasonably denied.

8. Management of Material

- a. The maximum overall material volume over the life of permit/use, including in the aggregate both onsite and offsite material, shall not exceed 568,000 cubic yards.
- b. No more than 115,000 cubic yards of materials shall be stockpiled on site at any one point in time.
- c. No stockpile shall exceed elevation 175 feet above mean sea level.
- d. Stockpile side slopes and any other cut slopes shall not exceed a 1 ½ to 1 slope and shall be temporarily stabilized if not actively being worked, in accordance with State DEEP and Town of Groton standards.
- e. Crushing shall only occur in the location permitted and subject to all of the limitations contained in this permit. Prior to the initiation of crushing, the owner shall notify the zoning official.
- f. The use shall at all times comply with DEEP Air Compliance standards and at a minimum, sufficient measures shall be taken to control dust from leaving the site, including but not necessarily limited to, application of water; stabilization of stockpiles and other denuded areas not being actively worked; reduction of stockpile volumes, height and number; planting of evergreens at key property lines; and retention of existing wooded areas around the perimeter of the site.
- g. Prior to initiation of any processing, the property owner shall provide OPDS with a copy of the completed and submitted DEEP Air Compliance application form 208, and any related documentation, including but not necessarily limited to, section IV of form 208 with respect to any processing equipment to be used on this property.

9. WRPD (Water Resources Protection District)

- a. A minimum of ten (10) acres of the northeast portion of the site located within the WRPD overlay zone shall be left undisturbed in its natural condition. This area shall be shown on the final approved plans and shall be located in a way that maximizes the protection of surface and groundwater resources.
- b. Prior to the excavation of onsite material within 250 feet of any adjacent property, the owner/applicant shall submit a report to OPDS, prepared by a certified professional and evaluating the potential impacts of the full scope of the approved excavation on potable water quality. As determined by the report, the owner shall implement any recommendations contained in the report intended to protect present and future groundwater resources.

10. Fueling, Maintenance and Storage of Equipment and Vehicles

Onsite vehicle and equipment fueling shall be limited to the minimum necessary and shall be accomplished by temporary mobile means located outside the WRPD portion of the site. No storage of fuel shall be permitted anywhere on the site. A scale detail of the designated and approved temporary fueling facility shall be provided on the final plans including an impermeable surface and sufficient containment. Any spills or discharges of fuel, oil, hydraulic fluid or like materials shall be immediately reported to the Office of Planning and Development Services Environmental Planner and to the State DEEP Spill Unit. A detailed "Spill Contingency Plan" shall be provided as part of the final post-approval submittals and at a minimum, the fueling station shall be equipped with materials to clean up and/or contain any inadvertent spills.

11. Phase I Remediation and Land Use Restriction (Easterly Area)

Phase I of the project shall include work to remediate conditions adjacent to the Turner property and to convert and limit this area to agricultural use. Material necessary to accomplish this requirement shall be taken from existing onsite stockpiles in a manner intended to further implement the requirements of this permit. A detailed plan drawn to scale showing the full extent of the crop field, means of access to this field for farm vehicles and equipment, changes required herein to screening and farm road locations/extent, additional required plantings, the extent and means of abandonment of the existing drive along the west property line of Turner, a construction sequence and project duration, planting details, notes, construction details and other typical information shall be provided for review and shall be approved as part of the required "check print" prior to recording the permit on the land records. The plan shall indicate that the area shall be restricted from all other uses, and appropriate means of restricting the use of this area may be required to be shown on the plan and to be installed and maintained in the field.

12. Bonding

Prior to recording of the special permit, the owner shall provide a surety to the Town, in a form and amount acceptable to the Town, for the purposes of funding noise studies by third party certified professionals; as a means of mitigating potential spills and related groundwater contamination; to assure sufficient stabilization and dust control; and to assure completion of phase I remedial work.

13. Blasting

Blasting shall be incidental and limited to the minimum necessary to provide access to natural onsite material approved for excavation as part of this

permit. No blasting shall occur within 250 feet of any property line until a report has been provided to OPDS by a certified professional, assessing the potential impacts of any such blasting on adjacent properties, included but not necessarily limited to, existing potable water supply wells, septic disposal systems and other structures that might be affected by the proposed blasting.

14. Agricultural Restriction

Prior to recording of the special permit and as a condition of approval of the special permit, the owner shall properly execute and record on the land evidence records of the Town, a legally binding land use restriction, with the Town of Groton as the beneficiary, limiting the use of twenty (20) acres of existing active farmland under his/her ownership and presently being used for agricultural purposes only, such as orchards or croplands. Recording of the approved, executed document shall be accompanied by a survey sufficient to depict the extent of the acreage so restricted and in addition, the boundary of such acreage shall be field marked by appropriate markers to be maintained by the owner in place for the duration of the special permit. In the event any land subject to this limitation is converted to any other use, such conversion shall result in rendering the special permit null and void for all purposes, and all use of the special permit property shall cease immediately upon written notification to the owners by the Town of Groton Zoning Official. The only exception shall be conversions which occur by virtue of a lawful action of a governmental authority, such as a taking of land for street right of way, utility easements, grading rights or for similar public purposes.

15. Permit Modifications

All proposed modifications to the terms of this permit shall be administered by means of review and action on a complete special permit application to the zoning commission, including a public hearing at the sole discretion of the commission, whether or not the proposed changes are deemed substantial.

16. Land Records and Post Approval Administrative Requirements

This permit shall not be valid until a copy is recorded on the land evidence records of the Town. The recorded permit shall include all conditions of approval in their entirety.

17. Plan Modifications and Post-Approval Administrative Matters

The final plans shall be revised as appropriate to address all of the above conditions and modifications, including but not necessarily limited to plan notes, details, annotations, and other information. Such plans shall be provided to the Manager of Planning Services for review, approval and

recording in mylar form on the Land Records, prior to recording of the approved special permit.

Motion made by French, seconded by O'Neill. Motion passed 4-1-0 with Cady opposed.

2. Special Permit #323, 231 Lestertown Road and 0 Military Highway (Odd Fellows Healthcare, Inc., Applicant) (CAM)

The Commission and Staff briefly discussed the draft motion.

MOTION: The Town of Groton Zoning Commission approves Special Permit Application #323, Fairview/Oddfellows, Lestertown Road, subject to the following findings and conditions of approval:

FINDINGS:

1. Pursuant to a decision on 10/12/11 and based upon a concept plan by Richter and Cegan, dated 10/6/11, the Town of Groton Inland Wetland and Watercourse Agency determined that no permit for regulated activities would be required.
2. The uses proposed and the unit yield are both consistent with and serve to implement important objectives of the Town's adopted (2002) Plan of Conservation and Development. In particular, the mix of uses and their programmatic and spatial relationships will meet the growing needs of the Town's and region's aging population.
3. Sufficient potable water, water pressure and public sewer capacity exist to accommodate the development scale and with the types of existing and proposed uses, based on assumed flows, pressure requirements, effluent discharge and other relevant factors.
4. The site's storm water management concept is based upon the ability to modify an existing culvert owned and/or controlled in part by the Providence and Worcester Railroad ("PWRR"). Pursuant to a communication from PWRR dated 7/14/11 included in the record, PWRR is agreeable to the applicant's design concept. The commission feels that this is sufficient for the purposes of this special permit application.
5. The project will be developed in phases, based upon spatial and programmatic relationships to be established between and among the proposed "neighborhoods." The commission finds that these relationships are essential in terms of the application's compliance with the criteria contained in section 8.3-8 of the regulations.
6. The footprint, scale, exterior treatments, location, orientation, height, articulation, massing, "roofscape" and other characteristics of the large independent living building, as depicted in the record, are essential to a finding of consistency with section 8.3-8 A of the regulations.

7. The provision of an emergency access drive at the north property line is also essential and the use of this drive will be physically restricted at all times to emergency vehicles. The timing of its installation and use can be determined through the site plan application process.
8. Approximately twelve (12) acres of contiguous area in the western portion of the site will be left undeveloped, primarily as a means of avoiding impacts on inland wetland resources and significant slopes. The preservation of this area and other areas (buffers) depicted on the record plans to remain undeveloped, as well as the landscape areas and exterior passive and active recreational amenities that will be distributed in general and relative proportion throughout the site, are all important and necessary project characteristics which serve to create appropriate development intensity and balance.
9. Physical testing was performed in southerly areas of the site by the applicant's archaeologist and the results interpreted to draw conclusions with respect to the remainder of the site. Based on this survey and the site's physical characteristics, it is unlikely that unique cultural resources will be discovered and/or impacted by the development.
10. The site contains three existing structures of potential historical merit including the main lodge, the existing barn and the "creamery" building. The applicant has represented that these three structures will be retained and incorporated into the project.
11. The applicant has indicated that LEED principles and low impact development concepts are being considered as part of the final detailed site plan.
12. The commission finds that the activity is consistent with all applicable goals and policies of Section 22a-92 and incorporates as conditions or modifications, all reasonable measures which would mitigate adverse impacts on both coastal resources and future water-dependent development activities.
13. As conditioned herein and pursuant to the above findings, the commission finds that the application is consistent with the requirements of sections 8.3-8 A, B and C and the applicable requirements of section 7.1-1 and 7.1-45.

CONDITIONS:

1. The permitted principal uses shall be limited to the following:
 - A. The existing 20 unit congregate facility ("Fellowship Manor").
 - B. The existing 120 bed skilled nursing facility.
 - C. The existing four unit active senior housing building.
 - D. Sixty-nine (69) additional units of active senior housing.
 - E. One hundred ninety seven (197) additional congregate units.
 - F. Twenty (20) additional assisted living units.

2. The project shall comply with design assumptions, calculations, and related conclusions with respect to fire flows, potable water service and public sewer service at full buildout.
3. The spatial organization of the main project components shall be generally consistent with the proposed project master plan of record.
4. The final design of individual project elements (neighborhoods) shall in general be as depicted on the project master plan of record, with the express exception of "neighborhood #2" which may or may not be substantially modified by the Planning Commission during site plan review.
5. The project and its operations shall include the programmatic and physical linkages depicted and described in the application, with particular emphasis on community transportation, common use of recreational facilities and access to common dining and healthcare facilities and programs.
6. The maximum impervious surface percentage shall be 30% of the gross site area and the twelve acre area to remain undeveloped in the western portion of the site shall be subject to a conservation restriction to be recorded on the land evidence records prior to initiation of construction of the first phase. The area subject to this restriction shall be shown on the final approved detailed site plan, regardless of project phasing.
7. The final design shall incorporate as many LEED design and/or operational features as practical but no less than five (5), as well as appropriate low impact development techniques. The final stormwater management plan and erosion control plan shall be developed in accordance with the record plans and shall use principles contained in the State DEP's 2004 Stormwater Quality Manual and 2002 Erosion and Sediment Control Manual, respectively.
8. One year following the full occupancy and operation of each phase, the owner shall provide a report to the zoning commission by a licensed traffic engineer, assessing the consistency of traffic operations with the findings and conclusions of the DLS Traffic report and any related supplemental DLS analysis of record.
9. With the exception of the initial construction of the main access drive, during construction of any phase, all construction vehicles shall use the main access drive from Military Highway for site access and egress. Subsequent to the completion of this main access drive, all employee and service vehicles shall also use this main access drive.
10. All new site lighting shall comply with applicable "Dark Sky" design standards.
11. The footprint, scale, exterior treatments, location, orientation, height, articulation, massing, "roofscape" and other characteristics of the large independent living building shall be generally consistent with the project master plan, architectural renderings and other related exhibits of record.
12. The project shall include a private emergency access drive connection to the north (to Virgo Drive). The timing of installation may be determined by the

site plan process however, the design shall assure its exclusive use by authorized personnel and vehicles.

13. The existing barn, creamery and Lodge shall be preserved and incorporated into the project and programming as appropriate.
14. The main access drive from Military Highway and the principal loop road surrounding the proposed independent living/congregate building should be constructed to generally meet the minimum Town design standards for a “residential access street.”

Motion made by French, seconded by O’Neill. Motion passed unanimously.

III. ADJOURNMENT

Motion to adjourn at 6:27p.m. made by French, seconded by O’Neill, so voted unanimously.

Mariellen French, Secretary
Zoning Commission

Prepared by Katie Doolittle, Office Assistant II