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CITY OF SHELTON
INLAND WETLANDS COMMISSION
SPECIAL MEETING MINUTES
Thursday, January 8, 2009
7:00 P.M., Room 302

Chairman Zahornasky called the Special Meeting of the Inland Wetlands Commission to order at 7:29 P.M.

I. PLEDGE OF ALLEGIANCE

All in attendance recited the Pledge of Allegiance.

II. ROLL CALL:

Gary Zahornasky, Chairman
Celeste Beattie, Commissioner
Jack Goncalves, Commissioner
Ken Nappi, Commissioner

Absent: Neil Hayes, Commissioner
Randy Szkola, Commissioner
Charlie Wilson, Commissioner

Also Present: John Cook, WCEO
Sophia Belade, Clerk

III-A. PUBLIC HEARING

“Aquifer Protection Area Regulations of the City of Shelton, CT”

Commissioner Beattie motioned to open the Public Hearing for the Aquifer Protection Area Regulations of the City of Shelton, CT at 7:30 P.M. Commissioner Nappi seconded the motion.

A voice vote was taken; motion passed unanimously.

John Cook: Basically, the Commissioners have either been mailed or been forwarded copies of the draft regulations for the City of Shelton which were followed exactly from the regulations of the State. Regis Dognin, from the GIS Department, affiliated with the Finance Department put the overlay together and it shows from the map that you see there, shows the two areas that affect Shelton, which is pretty limited. The purple shading, the smaller is Aquifer Protection Area #2 that coincides with the Birmingham Well Field located in Derby, which means that this land area has influence on those well fields. The green shaded area correspondence with the larger of the two which is Aquifer Protection Area #1. That is the land area that provides influence to the Birchbank Well Fields which is located in Shelton. That's a primary well field. The majority of the acreage of those two areas is in fact Indian Well State Park, Birchbank Mountain Open Space, other Open Space and also Water Company land. There are some cottages up in Birchbank that are affected and some residential neighborhoods by the Okenuck way and a few off the end of Far Horizons Drive and Golden Hill Lane. Essentially these Aquifer Protection Regulations is registration of uses or activities such as cleaning business, cleaning companies, gas stations, auto repair shops which are all spelled out in lengthy series of definitions of regulated activities. Essentially the Aquifer Protection Agencies are going to process applications to register those existing activities if there are any.

Chairman Zahornasky asked so what we have to do is adopt these regulations. John Cook responded yes, there really wasn't anything that would change the utilities, the way that those areas were mapped out transcends any of the local expertise hired by the then Bridgeport Hydraulic Company. First they had to do what they call Level B Mapping, which was the preliminary for the earlier analysis of the geology in order to map out those Aquifers, then that had to go to State and be adopted and then the Level A maps were then generated. Some people have asked why isn't Trap Falls involved, that's because it's based on service water supplies not part of the program.

Commissioner Beattie asked if this is going to involve more work with applications, should we be asking for additional help. John Cook responded potentially yes, but at the moment I don't believe it's going to be much of a burden only because I had mentioned before, the areas that are involved are so innocuous, I don't know off the top of my head if there are any registrations that are even going to affect Shelton. If the program expands and they refine it and those boundaries become more widespread or it starts to include surface generation, in other words they take the same type of program and over years it encompasses surface well supplies, then yes. It's not so much like in wetlands regulations, an application comes in for work, and it's a matter of registering what's there. Basically new activities are not permitted. There is a permit process. The short answer is it could happen, right now I don't see it having too much of an affect.

Commissioner Nappi asked if there was anyone from the public that would like to speak on this. Two things, it's not on the agenda so I wouldn't move to do any action on it and the second thing has it gone to Corporation Counsel. John Cook responded no, it has gone to DEP. Commissioner Nappi continued the protection area is also built in from my understanding to the Planning and Zoning Commission has it gone there. John Cook responded yes it has and there has been no correspondence. They did adopt the areas on their map which is posted so that they have executed the same mapping. Commissioner Nappi added I would request a formal transmittal as part of our record. The other thing that I would just ask, in that area that is defined on the Level A map, do we have any idea what the developmental acreage is as it currently stands. John Cook responded I don't know if that has been computed. I imagine that the GIS person that put this map together, even zoning may have that, to look at what pieces of those two shaded areas. I could probably give you a quick synopsis. Commissioner Nappi responded no, but it's something that I would be interested to know which would help us understand. John Cook asked so you're asking the acreage of the development potential in those shaded areas. Commissioner Nappi replied yes, and you mentioned expansion of that Aquifer Protection, how does that come about. John Cook responded that is sheer speculation in that as technology improves for mapping of geologic formation and it has been a work in progress by the State, it will probably continue to be a work in progress so additional data shows that, for example, this purple shade needs to be shifted, it could expand further into that area or there could be a reduction and it may be determined that this line should no longer be shaded because technology shows that it is not part, it doesn't have an influence on that well field. It's beyond my training. Those are generally in the same configuration in the Level B map. Commissioner Nappi continued another thing is there a Grandfather Clause, what we don't want to happen is that if there are pieces that have been developed or do have areas on them that may come in conflict with what the regulations that we are going to adopt. John Cook responded there should be something in there, I recall from the workshop, if there is something there and it hasn't been used for over 5 years and it was one of these regulated activities in those areas, but hasn't been used in that fashion for a period of 5 years, then they lost that ability to register that use for that activity. Commissioner Nappi stated that's why I want it to go to Corporation Counsel. The other thing is in this document there are fees and I was under the understanding that fee schedules were adopted by ordinance. That was another question for Corporation Counsel. If we adopt these regulations do we have the authority to adopt the fee schedule?

Chairman Zahornasky asked if there was anything in place that if someone came in with an application would you know if it was in those areas. John Cook replied if someone wanted it would be their obligation to register and I would, as agent for the agency, then process it as far as there is a determination to be made if there is activity. For instance, all along Bridgeport Avenue, next to Woodland Park there used to be a gas station, that's been there for years, if that area was in an Aquifer Protection Area, it would be their obligation to register it so it's on the book as a recognized activity. Commissioner Nappi added, my question would be if there is anyone there that owns property how will they come in for a permit. Otherwise someone might own some property and not be notified that they need to come in and register. The Maples was not included even though there is a well station? John Cook replied correct. The Maples is in here and there may be a pump station or a well there, it must be taken off the rolls apparently. There are also exemptions; an activity conducted at a residence without compensation. For instance, a person is working on their own, this would be page 11, because there is going to be a working understanding not only for the agency but for myself because it is a whole new program, on page 11 it states the following are not regulated activity: an activity conducted at a residence without compensation. If someone had an illegal garage that they are running as an auto repair business, 1 – it's not zoned for it, 2 – they can't get a grandfathering clause because its in use not a structure, but if they were using an auto repair business in the Birchbanks and doing that as their business then it would not be exempt and they would have to go through the process either to get it registered or to get a permit for it.

Commissioner Nappi continued the last question that I have done the regulated activities fall within the zoning allowances. John Cook responded actually most of these activities that we see on page 6-8 are not going to be permitted by Zoning in any event. There are always exceptions and I don't know if there is sufficient raw land, there is a P&Z technique that is called a PDD where they can change the zone, but most of those areas are pretty well calculated. Commissioner Nappi continued I guess a comment would be to make sure that Planning and Zoning is aware that our recommendations would be for them to adopt regulations in compliance with ours so that they know on those areas that it is a regulated area.

Chairman Zahornasky stated so we have requested some information from Corporation Counsel as well as Planning and Zoning.

Commissioner Nappi motioned to close the Public Hearing for the Aquifer Protection Area Regulations of the City of Shelton, CT at 7:51 P.M. Commissioner Beattie seconded the motion.

A voice vote was taken; motion passed unanimously.

III-B. OLD BUSINESS

1. PERMIT-APPLICATION #08-31, PRIMER AMERICA REALTY – 42-44 BRIDGEPORT AVENUE. Proposal to reconstruct a retaining wall along Burying Ground Brook and reconstruction of existing parking within regulated uplands and reconstruction/repair headwall discharge to Burying Ground Brook.

*Al Shephard
Professional Engineer
Nowakowski, O'Bymachow, Kane*

This is the property on Bridgeport Avenue. It was the Bondos Printing shop. My client would like to rehab the building, fix it up and he bought in under the speculation and probably didn't look at it too deeply. He's a good guy, I've worked for him before he's more of a land developer than builder. We went over the property; basically the wall in back is falling down into Burying Ground Brook. The building has some structural issues, lack of parking and he's trying to bring that up to rentable space. First thing we did is get a Structural Engineer and that's done, we came up with a plan that works to rehab the building so that we could do the structural stuff inside. On the outside we would like to put a wall in, it just drops into the brook. We'd also like to get some parking spaces because there are no parking spaces and just rehab this wall that's falling into the brook which has caused damage to the building. The State headwall has actually fallen into the brook and it's sticking out with a pipe in it out of the ground. The headwall is flat and the pipe is coming out. Talked with the State, obviously they have no money, no resources, it's not even on our property, it's on Abate's property but we talked to them, of course he has no money, so Sam Fischell, my client, agreed to fix that, Abate's would let him fix it because we're fixing our part of the wall. We'll already have the machinery there to fix up the wall and it only makes sense that we fix the headwall. The State is going to give us the supplies for the headwall but they won't get involved with the manpower. We plan to do a good job when we're there, with detailing of the wall, it's going to be a rubble wall, we would go down to the solid footings and re-build it, it's just the best way to do it. It would be awkward to not use the base that's there and just reset these stones. We'll put some stone in back of it, so it's a pretty minimal operation to be considered maintenance but John felt that we should come in for an application. John also asked us to also put in a hooded trap type of catch basin so we did put that on the property. We detailed that, it's what you call a Snout type of catch basin. What that does is return down any floatables, paper cups and stuff like that so that it doesn't go into the brook. And of course because it is a deep sump catch basin, it's a low type of thing. But we're only talking about a 6 car parking space, it's already paved and already asphalt. So I thought that was a fair compromise.

Chairman Zahornasky asked so the parking is going to be on this side of the repaired wall. Mr. Shephard responded we're going to have parking, this is going to be up above, this is going to be on Bridgeport Avenue at level. There is foundation of the old building here, we're going to take that and fill that in and put wall up here to bring these parking spaces to Bridgeport Avenue level. We're going to maintain this driveway that is existing right here, we'll have 2 parking there and a little garage door down here. Basically, we're going to maintain everything the way it is except for improvements. It's on Bridgeport Avenue, it's a good location, and he should be able to rent it out. It's not a money maker by any means but I think it's marketable.

Commissioner Nappi stated I have a couple of questions. On the southwest part of that building there is a severe building structural crack from the top of that building to the bottom of the building, you've had a Structural Engineer look at that? The City Engineer also recommended, did P&Z approve this yet? Mr. Shephard replied we're going to P&Z next. It was cleared with staff. One of the first things when IO found out that Sam bought the building, 1 is I wish you called me first, but the first thing I did was meet with staff. They stated we're not going to let you do anything unless you get a Structural Engineer. Basically what the Structural Engineer is going to do is put pilings in the center of the building and float the frame on top of that so we will have, and I think it's a pretty reasonable solution to the problem, the outside block wall won't be carrying much load. Everything will be on a grid system inside. It makes a lot of sense, basically what you do is as the building settles they just framed over it with different layers so if it settles 6 inches, then they put 6 more inches of floor on. We have to gut everything and level everything first, frame up a grid underneath and then from there you can do rehab on the inside once you get everything leveled up. Commissioner Nappi stated my concern is we don't know the type of renter or leaser is going to be in there because of the proximity to the brook. There is a garage back there with tires and parts down there. The other concern is the flood damage area to make sure that it's not restricting on the wall. Mr. Shephard responded what I did here was I checked the flood elevations and we have the 10 year storm it's at elevation 69 and the 100 year flood is 71.5. So our back parking lot is 73. So we're ok. I'm not going to encroach on the flood plane that there as it is, so when I did run the elevations down to the restrictive, down at the corner and I checked and double checked the elevation and it checks. I am comfortable with those elevations I did check into that.

John Cook stated according to the City Engineer's letter (as follows):

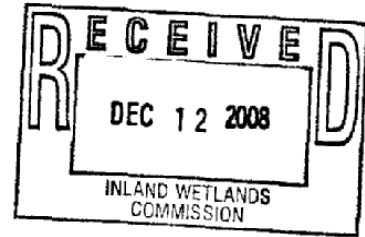


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City of Shelton
Office of the City Engineer
54 Hill Street
Shelton, Connecticut 06484-3207

Robert F. Kulacz, P.E.
City Engineer

Rimas J. Balsys
Assistant City Engineer



December 11, 2008

John R. Cook
Wetlands Coordinator
City of Shelton
54 Hill Street
Shelton, CT 06484-3207

Re: Primer America Realty Corporation, 42-44 Bridgeport Avenue;
Parking Plan Sheet 1 of 2 dated August 15, 2008, revised 10/16/08

Dear Mr. Cook:

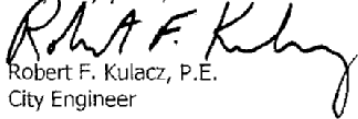
This office has reviewed the above referenced application to restore/repair the retaining wall along Burying Ground Brook. The entire width of Burying Ground Brook at this location is classified as "floodway" which severely restricts any construction activity.

The Flood Damage Prevention Ordinance requires any applicant to provide proof that any construction in the floodway does not reduce the capacity of the floodway and does not raise the base flood elevation. While this office has no objections to the repair of the wall, there is insufficient information to confirm the exact location of the repaired wall and whether it will encroach further into the floodway.

I recommend the Commission consider one of the two following options:

- Tabling the application in the event the property owner wishes to repair the wall before receiving Planning & Zoning approval of the site plan; This will give the applicant time to submit the required plan revisions and engineers certification regarding the floodway or
- Granting conditional approval with the stipulation that repairs of the wall cannot proceed until the Planning & Zoning Commission approves the site plan and the precise scope of retaining wall repair which must conform to the Flood Damage Prevention Ordinance.

Very truly yours,


Robert F. Kulacz, P.E.
City Engineer

CC: Richard D. Schultz, Planning & Zoning Administrator
File:

John Cook continued plus the Commission's regulations correlating with that second comment of his is under the Commission's regulations the regulated activity which would be the retaining wall repair and not proceed until if it required zoning approval therefore they cannot proceed. They will have to approve the site plan. Mr. Shephard responded I did have conversations with them and they were pretty clear. They said don't even come in to see us unless you have the Structural Engineer's sign off and if the client is willing to do what the Structural Engineer has suggested. They said don't waste our time with an application unless this building can be saved. We did what we had to do, that's why it took us a little bit longer to get that work done and we're fine with having the approval before we actually start any work.

Commissioner Nappi asked if we approve this application tonight without knowing who the renter might be how we will handle that. John Cook replied part of the past uses have been those that were potential pollutant generators that was the idea behind putting in the Snout type of catch basin which would handle oil that would go into the catch basin from the parking. Chairman Zahornasky stated you could make it as a condition based on when the building is ready to be leased they come back to us. Most of the time our structure is based on parking lots and drainage. Once we give approval usage has nothing to do with us. We could give conditional approval to repair the wall and then based on the usage of the building they come back to review by the Commission that the proposed Snout discharge treatment is acceptable. John Cook responded I'm not sure; we haven't had too many building that are being refurbished in this proximity. Mr. Shephard stated I don't think my client would mind that whomever rents his space be reviewed by staff. I envision the top floor will stay an apartment, the 1st floor is going to be used as office space, and the basement floor would be some type of contractor, electrical contractor or mechanical contractor who would need a spot to store piping and such. John Cook asked is it possible since this is going to be improved to hopefully what it's been for the last 100 years, is there a floor drain in that lower level, is it possible to restrict if there is no floor drain that would discharge directly to the brook.

END SIDE A – TAPE 1

Commissioner Nappi motioned to approve PERMIT-APPLICATION #08-31, PRIMER AMERICA REALTY – 42-44 BRIDGEPORT AVENUE. Proposal to reconstruct a retaining wall along Burying Ground Brook and reconstruction of existing parking within regulated uplands and reconstruction/repair headwall discharge to Burying Ground Brook with the following conditions: (1) subject to City Engineer's final review and satisfaction of the analysis of the wall reconstruction, (2) no drainage from the building into the Brook, and if there is a need to have drainage from the building, at that time it would be brought back to the Commission to demonstrate the method to address the discharge from that drain, (3) not to proceed until Planning and Zoning site plan approval and (4) preconstruction conference with staff. Commissioner Beattie seconded the motion.

A voice vote was taken; motion passed unanimously.

III-C. NEW BUSINESS

1. PERMIT-APPLICATION #08-35, TWIN LOTS ESTATES – BUDDINGTON ROAD. Proposal to create a two-lot subdivision involving driveway construction across an intermittent watercourse, discharge of stormwater and grading within the regulated uplands.

John Cook stated this came in just before the holidays. It's a new application. Basically what they are looking to do is pipe an intermittent watercourse to access the 2 home sites. They have some upland review work proposed for the septic systems. They are actually proposing to pump from the homes of the septic systems several hundreds feet. Oversized lots, it's a 6.7 acre site and they're doing 2 lots. The regulated activity was the piping of the intermittent watercourse with 1 catch basin off Buddington Road. As far as the application, it's in order and I have reviewed it.

Commission to review.

III-D OTHER BUSINESS

1. Open & Ongoing

- a. DiMarco Property – 11 Holly Lane VIOLATION, as of 1/09 Counsel provided memo stating Commission wishes for Mr. DiMarco to implement the plan that was approved by Board and conform to original plan. Conversations to be conducted by Counsel.

- b. Fortin Property – 220 Soundview Avenue VIOLATION, as of 1/09 client came in and submitted plan, fees and application. Application will be accepted for 09-02 and placed on February agenda.
- c. Mauretti Property – 324 Meadow Street VIOLATION, as of 1/09 folder left for staff, incomplete. Staff to send letter that client needs to contact staff for his or his designee attendance at next meeting.
- d. Gates Property – 24 Hunters Ridge Road VIOLATION, as of 1/09 Counsel advised of Commission wishes to have client remove slabs. Need to work with Gates attorney for completion. Corporation Counsel to cc Commission.
- e. Perry Property – 34 Sharon Drive – as of 1/09 Tracy Lewis to submit survey. Aware of gas line, there has been no written correspondence just verbal. Staff to advise surveyor needs to get out there ASAP and submit prints.
- f. Paiva Property – 49 Blacks Hill Road – as of 1/09 conversations with Joe Perreira and Mrs. Paiva, and engineer has been retained. As soon as there is a break in weather can complete. Staff to get verification that Muller and Perreira have been retained and will perform necessary work as soon as weather permits.

IV. MINUTES

Commissioner Goncalves motioned to approve the minutes of the December 11, 2008 Regular Meeting. Commissioner Beattie seconded the motion.

A voice vote was taken; motion passed unanimously 3-0 with Commissioner Nappi abstaining.

V. ADJOURNMENT

Commissioner Goncalves motioned to adjourn. Commissioner Beattie seconded the motion.

A voice vote was taken; motion passed unanimously.

MEETING ADJOURNED AT 8:51 p.m.

Respectfully submitted,

Sophia V. Belade

Sophia V. Belade
Clerk – Inland Wetlands

1 TAPE ON FILE IN TOWN CLERK'S OFFICE