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MINUTES

June 1, 2017

**PRESENT:** Liz Craig (Acting Chair), Tom Burgess, Kathie Mandel, Rick Stow, Mark Andrews

**ALSO PRESENT:** Mike Conklin, Director of Environmental Affairs; Liz Larkin, Recording Secretary; Marjorie Shansky, Attorney; Tom Harris, Intervener; Roger & Virginia Valkenburgh, Interveners; Theresa Brubeck, Property Owner

**I. CALL TO ORDER**

Ms. Craig called the meeting to order at 7:00 p.m.

**II. APPLICATIONS READY TO BE REVIEWED**

**A. WET#2429 (S) – DAVID W. BRUBECK TRUST, IOLA W. BRUBECK TRUST, DERRY MUSIC COMPANY – 221 Millstone Road (Assessors Map#94 Lot#1), Millstone Road (Assessors Map#79 Lot #40), 67 Hickory Hill Road (Assessors Map#94 Lot#9), 69 Hickory Hill Road (Assessors Map#94 Lot #10), 73 Hickory Hill Road (Assessors Map#94 Lot#11), 85 Hickory Hill Road (Assessors Map#93 Lot #16), & 87 Hickory Hill Road (Assessors Map#93 Lot #17) – (i) the renovation of an existing wetlands crossing; (ii) the construction of a new wetlands crossing; (iii) the development within upland review areas of six (6) lots that were subdivided in 1954 and resubdivided in 1968**

Ms. Craig opened the meeting with some remarks she had written. She raised frustration that the plans remain mostly the same since the initial proposal with 91,888 sq. ft. to be disturbed in the regulated area. She explained the area is equal to two football fields with much of the development in the regulated area east of the Comstock Brook which is an AAA stream and public water supply. She noted she was uncomfortable with the proximity of the road which is as close as 10 ft. at some points for a 500 ft. stretch along a critical stream. She confirmed once the road is built, it will never re-vegetate and without a biological evaluation of the waters, she does not know what fish are present. She asked the commissioners to pay special attention to Fact Sheet #8 and Fact Sheet #9 from SNEW as they note the importance of a riparian buffer along smaller brooks and streams and the headwaters are extremely fragile and a rich place for habitat.

Mr. Andrews stated that they should concentrate on looking at each lot individually. Ms. Mandel noted she is having a difficult time breaking the property into lots as she stated she wants to look

at it as a whole, not so much for the amount of disturbance, but how the areas contribute as a whole. Mr. Burgess stated they need to look at one lot individually and all the lots together as this project is very complicated. Mr. Andrews stated the buffer is lost with the driveway through the floodplain which can cause downstream issues. Mr. Conklin confirmed the driveway in the floodplain is being raised 6 – 7 ft. to take it out of the floodplain. He also noted Mr. McChord completed a flood study and any flood waters will be contained in the current stream channel. The commissioners agreed to look at this report as this item is not clear and will add this to the list of questions. Mr. Conklin explained how FEMA derives the broad-brush mapping and Professional Engineers can hone in and change the lines in a specific location. The commissioners agreed that some of the reduced size maps they received are illegible.

The commission looked at Lot 1B and the plans dated May 16, 2017. Ms. Craig confirmed there is a 50-55 ft. distance from the driveway to the resource and she does not want this driveway in the buffer. Ms. Craig also stated the location of the septic is problematic. Mr. Andrews confirmed the septic is 55 ft. from the resource and we should try to keep the buffer as large as possible. He also took issue with the location of the septic and suggested the house and the septic location be shifted. He then noted the loss of buffer has no compensation, even with plenty of time to make changes, to better this plan. Ms. Craig added this is an important area for shading and will be challenging to establish vegetation. Mr. Andrews stated 75% of the construction is outside the regulated area. Mr. Burgess added that McChord Engineering confirmed they are not within 50 feet of the high water mark. Mr. Conklin added the B100a is 40 ft. to the wetland and 56 ft. to the septic. Ms. Mandel asked if the commission can condition bringing the driveway away from the Brook. Mr. Andrews stated only minor revisions can be conditioned and raised concern about the water quality basins being in the buffers as this is not as good as natural buffers. Mr. Conklin asked if the commission thought the basins should be moved, especially with the steep slope. Mr. Andrews stated if this was just this one lot, it may be okay. Ms. Craig countered that the commission needs to push back on the buffer for this property while noting she is not saying they cannot build anything. She stated the basin should be placed outside the regulated area and the septic should be tightened up.

Mr. Conklin noted the septic location may be proposed in the specific location as it might have the most suitable soils and confirmed they need to abide by Health Codes. Mr. Burgess stated Dewberry did not have an issue with the placement of the facilities. Mr. Conklin noted there is a boulder retaining wall proposed to have some lawn as there is a steep drop. Ms. Craig noted that the previous subdivision maybe included smaller houses and no courtyard parking as is desired today. Mr. Conklin stated all turnarounds are permeable brick and the house is outside the 100 ft. setback. The retention system and driveway are the only items in the regulated area on this lot. Mr. Andrews stated the commission recently approved a driveway extension a few feet from wetlands.

Mr. Conklin confirmed the mitigation on Lot 1B shows plugs 18 inches on center with an over-seed but the applicant was amenable to make this 12 inches on center. Ms. Craig raised concern about the water being heated with no canopy present. The commissioners reviewed the trees and sizes. Ms. Craig asked if the existing trees will be protected and Mr. Conklin confirmed they would be protected while noting the drip lines have been moved outward. Ms. Mandel asked if the 10 year re-establishment of the canopy makes sense. Ms. Craig stated she thinks they are being optimistic and she questions the credibility of the statement with dogwoods showing as large as the oaks on the plan, which she stated was misleading.

The commission moved on to the review of Lot 8. Ms. Mandel confirmed the septic is not yet approved for this lot. Mr. Andrews confirmed 75% of this development is within the 100 ft. regulated area. Ms. Craig added that these activities are very close to the resource at 35 ft. Mr. Conklin explained the original proposal had them grading the driveway which impacted more of the stream buffer. His staff report asked them to reduce the grading and add hay bales which will be placed by the silt fence line to determine the limit of disturbance. Ms. Craig stated the limit of disturbance to the resource is 45 ft and gets narrower down to 32 or 33 ft. in some locations. Mr. Conklin measured the reserve septic to the wetland is 40 ft. and the septic is 50 ft. He also confirmed the stockpile area is outside the regulated area. Mr. Burgess added that SNEW was concerned about this lot and if the house was not there, the driveway could be moved out.

Mr. Andrews stated the question to test the other side of the stream is academic as the entire lot is within the regulated area. Mr. Conklin confirmed that Health can require the location on the other side of the brook. He then confirmed they would have to place fill on the lot to test the suitability and they cannot put fill there without a wetland permit.

Mr. Andrews asked if vernal pools were located on lot 8 or lot 9 as he did not know if this was confirmed. Mr. Conklin noted that Matt Popp testified that only one vernal pool was located. Ms. Craig stated she was disappointed the site walk was cancelled during the peak season. Mr. Andrews stated he empathized with the property owner as plenty of people have been visiting the site. Mr. Conklin asked the commission if they would be amenable to suggest a smaller home on this lot. Mr. Andrews stated no, as this lot is all regulated. Mr. Burgess reminded the commission that SNEW requested the commission deny development on lot 8. Mr. Andrews added he remembers Dewberry stating they should not utilize the jeep road. Mr. Conklin stated there are more physical impacts to the wetlands if they move the driveway.

The commission looked at the ALT2 plan which shows more damage to the wetland if the driveway is pulled out, including a large forested area. The distance to the wetland from the facility is 65 ft. but if the house is out of the way, the driveway is more feasible. Mr. Conklin reminded the commission that their charge is to evaluate activities within the regulated area of 100 ft. Ms. Craig noted the farther activities are from the brook, the better they are for the resource. Mr. Conklin advised to weigh the pluses and minuses for the entire area and offered an example of a charter oak in that this would be weighted higher than wetlands. He noted that Water Quality Basin 2 is in the regulated area which is not best management practice. In this case, the brook would be valued higher. Mr. Stow stated there is no way to move the driveway as it affects other wetlands. Mr. Burgess countered that putting it towards the wetlands is better than the brook which was the request of SNEW.

ALT1 shows permanent wetland impacts if the driveway is moved. This area has sedimentation so the improved drainage will keep the channel and minimize the erosion. Mr. Andrews stated they can create more wetlands to the left of the farther driveway. Mr. Conklin stated wetland creation can be tricky as the hydrology needs to work and the elevation is high. Mr. Conklin confirmed the plan has improved from the original pipe, then a box culvert, to an arch culvert with a 15 ft. radius. Ms. Craig asked if the driveway portion past the crossing can be pulled back. Mr. Conklin stated this would bring it into the wetland and suggested a smaller house, driveway, or septic.

The commissioners looked at Lot 9 with the wetland crossing. The driveway and the crossing are the only items within the regulated area. Ms. Craig asked if the commission has analysis on the wetland creation area. Plan MP3 shows the wetland creation in detail. This wetland creation is the first activity that will occur on the property. The commissioners agreed the plant list looks good for this lot. Ms. Craig asked that the driveway be straightened as she stated it could be shorter if it was on the other side of the wetland creation. She also asked how to confirm the wetland is functioning. Mr. Conklin responded that wetlands are defined by soil type which does not change overnight. Mr. Conklin confirmed the plan for this lot has improved due to the Dewberry comments, and the commission can bond for activities.

Commissioners looked at plan MP1 for Lot 8. The temporary disturbance was discussed and the members noted a significant amount of plants on this lot. Ms. Craig raised concern about the health of the trees on the brook side and stated we need to maintain the canopy. She also noted the road construction can push them down inadvertently and damage the roots. Mr. Conklin noted that the wetlands decision does not carry forever as the permit is only good for 5 years but noted they can require special tree protection for Lot 9. He added that there can be a site monitor during construction.

Mr. Conklin showed the area of lawn and boulders for Lot 9. Mr. Stow stated everything else is outside the 100 ft. area. Mr. Conklin confirmed the infiltrator, house, footing drain, and level spreader are not in the regulated area. Plan SK2 has the planting detail that shows that they expanded the area to include more planting as it is currently sparse in that area. Mr. Conklin stated the edge habitat creation is a positive enhancement. Ms. Craig asked if more trees are needed for the canopy cover. She suggested asking for 1 or 2 more trees in a buffer zone. Mr. Conklin confirmed the distance is 28 ft. from the silt fence to the edge of the house with a 15 ft. swath of lawn around the house. Mr. Andrews noted most of the activity is outside the regulated area. Mr. Conklin confirmed there are 2 swamp oaks proposed between the house and the Comstock Brook. Mr. Conklin also confirmed Ms. Throckmorton added boulder demarcation for all limits of disturbance.

The commissioners agreed to take a couple minutes to break and when they returned they ascertained they were too tired to continue.

Mr. Andrews stated he will not be able to attend the June 8<sup>th</sup> and June 15<sup>th</sup> meetings.

Mr. Burgess MOVED to MOVE the Special Meeting date up to June 14, 2017, SECONDED by Ms. Mandel and CARRIED 5-0-0.

### **III. ADJOURN**

Mr. Andrews MOVED to ADJOURN at 9:55 pm, SECONDED by Ms. Mandel and CARRIED 5-0-0.

Respectfully Submitted,  
Liz Larkin  
Recording Secretary, Environmental Affairs