

INLAND WETLANDS AGENCY  
September 10, 2008 - 7:30 P.M.  
TOWN HALL ANNEX - COMMUNITY ROOM 1

I. ROLL CALL

Agency: Scott, Sutphen, Ashworth, Block, Furlong, Williams  
Staff: Jones, Silsby

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

II. PUBLIC HEARINGS

1. Konover Acquisitions, LLC, 481, 489, 491, 495, 529, 553, 571 Gold Star Highway

The Agency set a time limit of 10:30 p.m. Chairman Scott asked that all speakers state their name and address for the record. He requested that all speakers direct their comments to the Agency.

Staff stated that the mailings are in order. Sutphen read the Call of the Hearing.

Chairman Scott requested that any information, pictures, and maps presented to the Agency during the public hearing be submitted as part of the record.

Attorney Diane Whitney from the firm of Pulman and Comley in Hartford represented the applicant Konover Acquisitions, LLC. She stated that the applicant is requesting minor changes to the previously approved permit dated 2006, which was also considered a minor activity. She introduced her team of Michelle Carlson from Konover, Civil Engineer Guy Hesketh, Environmental Consultant Robert Sonnichsen, and Dr. David Mitchell, a Senior Ecologist with ENSR. She requested the opportunity to ask questions later on of those who oppose the application and would like to present a rebuttal to those in opposition. She stated that notice has been provided to 437 people for this application and proof of notice has been submitted and found to be accurate. She asked that all the technical data from the last application, including test borings and the review of the drainage analysis by the Town's Engineering Department, be included in this current application as well.

Attorney Marjorie Shansky for the petitioning interveners, requested that someone enumerate the titles and dates of the information to be entered into this record. Staff stated that she would do that at a later date.

Guy Hesketh, P.E., F.A. Hesketh & Associates, a licensed professional engineer in the State of Connecticut, stated that his firm put together many of the plans and studies that are before the Agency tonight. He presented a map showing the overall plan of the site and identified the three wetland areas that are the subject of this application. Within the upland review area of wetland 1, the proposal includes the construction of a retaining wall, the installation of landscaping, and drainage improvements. He stated that there are no direct disturbances to the inland wetland resource in the area of wetland area #1. He gave the specifics of his proposal to have storm water discharge to the receiving wetlands 1, 3, and 5 as identified in the maps presented. He noted that the new drainage will tie into the existing drainage structures. He reviewed the treatment of storm water for each area. He explained that roof runoff

would flow into wetland areas 5 and 6. The system will treat more than the minimum required water quality volume. Storm drainage analysis shows that receiving watercourse 1, 3, and 5 as well as the previous discharge points, have maintained no increase in peak rate of discharge to Goldstar Park or the other wetland areas for the 1, 2, 5, 10, 25, 50, and 100 year storm events. The total volume is equal to or slightly less than the existing total volume. He believes that the proposal is not a significant activity and there are no detrimental impacts to the receiving wetlands and watercourses.

In regards to the underground detention area that has the four feet of rock underneath, Williams asked if the bottom of that area is flat. Hesketh stated that the bottom is flat.

In regards to areas 1 and 3, Furlong asked if those areas would accept snow melt. Hesketh stated no. He explained that snow storage would be directed into a larger detention basin as shown on the map.

To answer Furlong's question about de-icing the parking lot, Hesketh noted that Groton Utilities requested that they use a non sodium base salt. In regards to the slope of the drain from the top of the retaining wall down to the parking lot, Hesketh referred to a cross section on the map and stated that it is a 2 to 1 maximum slope, which is two feet horizontal and a one foot vertical rise.

Furlong asked what the elevation difference is between the existing doctor's parking lot and the new retail parking lot. Referring to a 90 foot contour, Hesketh noted that the bottom of the wall is 82 feet, so there is approximately an 8 foot differential. The maximum slope would be 2 to 1. He explained that the 4 foot wall will taper down to 1 foot at either end.

In regards to the underground water quality system, Block inquired what measures will be in place to be sure that the water quality system is operating at its predicted rate, and how and who will be watching them to make sure that they function at their optimal level. The plan will include annual inspections at each location for each water quality best management practice.

Furlong had questions about pond/basin 4, as noted in the town engineer's memo dated August 25, 2008. She noted that the town engineer shows that basin 4 continues to show runoff volume increases averaging 300% for all storms which differs from her previous memo stating that this increase was 289%. Discussion followed about the data of the memo in relationship to the previous application. Furlong asked if any changes have been made to increase the water going into that basin. Hesketh explained that there will be less water going into that basin. He gave a synopsis of a report that he handed out to the Agency. He stated that this report shows that there will be less total runoff going into that basin than what was previously approved by this Agency. The report is a color schematic showing what runoff is going to what receiving watercourse for both the 2006 approval and the changes that have been submitted for the current application. He referred to the watershed map dated July 2008, showing the current proposal.

Hesketh explained where the drainage areas are located and into which wetland each area discharges. He explained that the current application shows a reduction in impervious areas compared to the 2006 application.

Hesketh referred to his reports that show the total watershed areas and what portion of that is impervious and what is not impervious. The total net being proposed now is significantly less than what was originally approved in April 2006. Furlong agreed but was wondering about the 300% average that was listed in the town engineer's memo of August 2008. Hesketh stated that he will have the town engineer clarify that.

In regards to filling in the upland review area by the doctor's office behind the stone walls, Scott asked what type of fill will be used. Hesketh stated that immediately adjacent to the stone wall, they are proposing a crushed stone layer, which will help with the under drain. The other material that will be used is a DOT specified granular fill material and the upper portion will be topsoil. No blacktop will be used.

Robert Sonnichsen, a registered professional engineer and Principal at Waldo and Associates, LLC in the State of Connecticut, spoke on behalf of the applicant in regards to water quality. He has reviewed the modifications to the plan and the impacts on water quality from the roof runoff, the roof runoff conveyance system, storage, and discharge systems. He stated that the roof will be a rubberized membrane roof, designed to be inert, and designed not to discharge any material from the roofing material. According to regulatory authority, those types of roof runoff are considered to be clean. This application will include storm water management features that exceed DEP requirements. He explained that they are providing an extra level of storm water quality protection from the roof runoff from the site. They stand by their position that roof runoff is going to be clean and does not require treatment even though they are providing treatment.

Dr. David Mitchell of ENSR Corporation gave his credentials relating to the assessment of water quality impacts. He spoke about wetland areas and stated that silt sedimentation (TSS), nutrients, and toxins are critical components that have been addressed. Even though roof runoff is not a concern because it is considered clean, the applicant is treating it as if it were a concern and setting forth extra precautions. He spoke about the different wetland areas and detention basins and water quality measures that are involved. He explained the process of roof runoff and the infiltration process. He believes that thermal impacts will be minimized because storm water will cool in the treatment areas. He is confident that the storm water discharge will not impact the three wetlands, will not lead to changes in the wetland function, and it won't diminish the capacity for aquatic plants and wildlife.

Scott asked about bacteria populations and materials coming off of the roof. Dr. Mitchell explained that dry deposition and airborne nitrogen and phosphorous are also calculated as well as some organics, etc. Scott asked if any heavy metal materials would be airborne to which Mitchell explained that there are always trace amounts. Scott asked if, over time, it could create a cumulative amount or concentration. Mitchell stated that there would be some accumulation but that cleaning the basin and routine maintenance should handle that.

Whitney stated that she would like to reserve some time for a rebuttal later on in the meeting. She referred to a statement submitted to Staff today from Groton Utilities which basically indicates that they had no problem with the application. The applicant would be happy to enter into a Memorandum of Understanding (MOU) with Groton Utilities and would agree to have that made a condition of approval. She explained that

the MOU would provide an enforcement mechanism that might be more effective than what the Agency can do.

Whitney asked for clarification from Furlong regarding her concerns about basin 4 as it is not part of this application.

Furlong stated that she just received this memo dated August 25, 2008 from the town engineer so she assumed there was some reason why the Agency was given this memo. She referred to the town engineers previous memo, which stated that post construction runoff volume would be 289% of the existing runoff. The memo dated August 25, 2008, notes that runoff volume increases continue at an average of 300% for all storms. The "300%" is a new word. The memo also states that "the study shows the capacity of the downstream structures should be adequate". The word "should" has not been said before. She is concerned about it because the storm water will flow into the reservoir.

Having met with the town engineer, Whitney stated that the town engineer was perfectly satisfied with the application and that she will ask for some clarification regarding the concerns about basin 4.

Staff referred to the various documentation that was included in the Agency's agenda packet. Also included was the Public Works full review of the drainage for this application as well as the GOSA intervention. Two additional interventions have been received from Clayborne Van Zandt and Kathy Ross, as well as a statement from Zell Steever. Copies will be made for the Agency. She stated that this application was referred to the Planning Commission and the Conservation Commission and both had no comment. She distributed a memo from Groton Utilities which was received this afternoon. The memo is similar to the one the Agency received for the 2006 application. She distributed a copy of the 2006 permit. Referring to a map from the 2006 application, she explained the drainage system as permitted in 2006. She noted that nothing was discharged in 2006 over to the Gold Star Office Park. She explained that since the last application in 2008, changes were made to accommodate a concern of the Planning Commission when they denied the site plan application. The Planning Commission had been concerned that the plan did not meet a regulation in the zoning regulations which states that "post development storm water should discharge to the same wetland/watercourse as pre-development". She distributed colored maps showing the proposed conditions for drainage calculations for the current application and explained where rooftop runoff would be discharged.

Furlong inquired about the loading area and whether it would have a curb in case any spills occurred. Staff stated that is correct.

Chairman Scott asked for comments from the audience, starting with the interveners and GOSA.

Joan Smith, 58 Mohegan Road, Board Member of Groton Open Space Association (GOSA), believes that there is a lot of confusion with the three different plans and suggested that the applicant submit a new plan that includes all regulated activities. She is concerned with the maintenance plan and would like it to be submitted. She doesn't believe that an environmental assessment of the property has been done and would recommend that it be done now. The possibility of vernal pools or cold water fisheries being on or adjacent to the property has not yet been determined.

She explained why she feels this is not a “minor” application, but a “major” one. She proceeded to read her statement into the record and submitted a copy for the record. She raised concerns about the erosion control plan, removing TSS from storm water runoff, roof infiltration, the fire pond, vernal pools, and detention ponds. She believes there is insufficient data to conclude that no harm will come from the proposed changes and requested that the Agency deny this application.

Sydney Van Zandt, 3 Front Street, GOSA member, opposes this application. She submitted her statement and attachments for the record. She noted that variations of this application have come before the Agency and has caused too much confusion. She explained the importance of including all the previous testimony into the current application. She felt strongly that no big box store should be located at the edge of the drinking water supply. She believes that this application should be denied and if the applicant chooses, they could submit a new application that would encompass the entire project, not just the changes submitted in the current application.

Attorney Marjorie Shansky of New Haven, representing the interveners, stated that Kathy Ross, Claiborne/Sandy Van Zandt, and Peggy Burdo are the three new interveners who have submitted petitions tonight. She referred to GOSA’s concerns as noted earlier tonight. She raised the issue that even though this current application has been determined a “minor” application, the applicant has submitted documentation that is required for a “major” application. She noted the importance of doing an ecological study, which has not been included in this application. After Steven Trinkaus and Dr. Robert De Santo speak, she will read into the record a summarization of a statement from Zell Steever.

Steven Trinkaus, a licensed professional engineer in the State of Connecticut gave his credentials relating to erosion sediment control and storm water quality. He summarized his four-page letter for the record and submitted a copy for the record. He explained his concerns regarding erosion control issues, storm water quantity and quality issues, and their potential impacts on the wetlands and reservoir system. He is concerned about storm water runoff from impervious surfaces and the potential for polluting the receiving wetlands. He believes that the erosion control plan and narrative are inadequate and the storm water management system does not reduce the volumetric changes in post-development runoff.

Dr. Robert De Santo, Director and Principal of the Institute of Environmental Stewardship LLC., Waterford, submitted his statement, supporting documents and exhibits into the record. He explained the long-term and short-term impacts that could be associated with this application. While referring to topography maps, he reviewed concerns about this property being at a higher elevation and the probability that this project will have a big impact on the reservoir. He spoke about contaminants accumulating from vehicles. He submitted snow melt residue diluted to various degrees in tap water to illustrate the potential for pollution from storm water runoff. Based on his considerations about water quality controls, he concluded that this intense land use is in a location that is too close to the reservoir and is inappropriate.

Chairman Scott referred to one of De Santo’s submissions and inquired as to where the rooftop runoff study was done. De Santo stated that that study was done mainly in Gdansk, Poland.

Scott requested trip generation information for Route 184.

Attorney Marjorie Shansky summarized Zell Steever's letter into the record. Steever raised concerns regarding storm water discharging and polluting the Groton reservoir system, impacting source waters, and adversely impacting drinking water in the Town of Groton and surrounding towns and communities. Steever felt that the Agency should deny this application if the developer cannot demonstrate that no water pollution of any sort will be discharged during the construction and the continual operation of this proposed facility. Steever referred to evaluation criteria referred to in Wetland regulations regarding and raised procedural concerns about the fragmentation of the application and the inability of the public to have had an opportunity to a full view of the requested regulated activity. Attorney Shansky urged the Agency to extend Mr. Steever the courtesy of reading all the materials that he submitted in support of rejection of the request.

Shansky stated that counsel for the applicant has requested that technical data from the previous application become part of this record. She asked that technical data from the petitioning interveners that challenges the technical data that was part of the record for the previous application also be included in the record. She stressed the importance of inspections, maintenance, and repair, which should be established prior to issuance of a permit. She noted that the public should be allowed to review the maintenance plan. She noted that the soil erosion and sediment control plan has not been changed to reflect the most recent changes to the plan. She referred to a Memorandum of Understanding (MOU). The interveners believe that this application has not met the standards in the Wetlands Regulations and asked the Agency to deny this application.

Michael Brown, 54 Spyglass Circle, spoke in opposition. He voiced his concerns about the polluted runoff and the close proximity to the Town's public watershed. He referred to the 2000 lawsuit against Wal-Mart for environmental violations in twenty-two stores in Connecticut.

Freeman Beal, 71 Leafwood Lane, Winding Hollow Condominiums, expressed his concern about the runoff and spoke in opposition to the application. He asked the applicant's team whether they would like to have a Super Wal-Mart facility built within 150 feet of their homes.

Robert Sommer, 136 South Rd, spoke in opposition to the application. He expressed his concerns about the public drinking water and the blasting that will be done, which will affect roads, homes, and possibly the water level.

Chairman Scott asked the applicant to answer some of the questions that have been asked tonight. Specially, he asked if any blasting would be involved in this project. Hesketh stated yes, blasting would be involved and that the applicant has worked closely with Fire Marshall Mike Richards in regards to the process and procedures that are required.

Chairman Scott asked the applicant to answer the other question posed by a speaker about wanting to live within 150 feet of a Wal-Mart Super Center. Whitney stated that it is not pertinent or relevant but if she lived next to a piece of property that was zoned for commercial development, she would certainly be aware of its development potential.

Sutphen referred to the maps that Hesketh submitted for the record and she reviewed the application. She asked why the change in storm water discharge to wetland 6 was not included in the application. Hesketh noted that the 2006 wetland permit allows discharge from the parking lot to wetland 6 and that this application shows a discharge of roof water. He noted that the roof will discharge cleaner water.

Whitney stated that the activities listed on the application were discussed with the Agency prior to submitting the application. Sutphen noted that she was not at that preliminary meeting. Whitney stated that the map showing wetlands 4, 5, and 6 were presented tonight in order for the Agency to use them for comparison purposes.

Whitney explained that an abundance of work has gone into the application process and lots of figures and calculations have been reviewed by numerous agencies in the town, who have signed off on all the calculations. It is difficult to come before the Agency and listen to public comment about intuition as well as a report from Poland and laboratory tests where the laboratory and test results are not identified. She hopes that when the Agency reviews all the information, they will weigh the evidence and determine what is considered relevant scientific information.

Dr. Mitchell referred to De Santo's testimony, and stated that those water findings are just potentials and the selective use of data from Gadnsk is not credible evidence. In the next rebuttal at the continuation of the public hearing, the applicant will talk about PAH's and TSS issues.

Chairman Scott stated that in consideration of the volume of material that has been submitted tonight, he would suggest to continue the public hearing until the October 8, 2008 Inland Wetland Agency meeting.

Staff submitted additional documentation including the revised erosion control plan to the Agency. She added that these were submitted by the applicant yesterday, September 9, 2008.

MOTION: To continue the public hearing at the October 8, 2008 Inland Wetland Meeting.

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

III. PUBLIC COMMUNICATIONS

IV. APPROVAL OF THE MINUTES of August 27, 2008

MOTION: To approve the minutes of August 27, 2008 as amended.

Motion by Block, seconded by Sutphen, so voted unanimously

V. NEW APPLICATIONS - None.

VI. PENDING APPLICATIONS

1. Konover Acquisitions, LLC, 481, 489, 491, 495, 529, 553, 571 Gold Star Highway and 0 Antonino Road

VII. NEW BUSINESS

1. Report of Chair

Furlong asked about drainage work that was to be done on Fishtown Road. Staff will discuss with Public Works.

2. Report of Staff

The Agency rescheduled the site walk at the Crandall property on Lambtown Road for Wednesday, September 17, 2008 at 11:30 a.m.

VIII. ADJOURNMENT

The meeting adjourned at 10:55 p.m.

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Eunice Sutphen, Secretary  
Inland Wetland Agency

Prepared by Robin Silsby  
Office Assistant II