

PLANNING COMMISSION SPECIAL MEETING
FEBRUARY 15, 2007 – 7:00 P.M.
TOWN HALL ANNEX-COMMUNITY ROOM 1

I. ROLL CALL

Regular Members Present: Sherrard, Steinfeld, Munn, Roper
Alternate Members Present: Fitzgerald, Kane
Staff: Davis, Glemboski, Murphy, Stanowicz, Town
Attorney Michael Carey, Esq.

Chairman Sherrard opened the meeting with roll call at 7:02 p.m.

Chairman Sherrard seated Kane for Pritchard.

Chairman Sherrard stated that the Town Attorney is present for this meeting.

II. SITE PLANS

1. Proposed Retail Development (Wal-Mart SuperCenter), 529, 553, 571 Gold Star Highway and 0 Antonino Road

Chairman Sherrard noted receipt of items for the record from the following parties:

- Diane Whitney, Pullman & Comley
- Trinkhaus Engineering, LLC
- Letter from Marjorie Shansky, Attorney
- A response from Groton Open Space Association (GOSA)
- A response from the Institute of Environmental Stewardship LLC (Dr. Robert De Santo)
- Letter and news article from Genevieve Cerf and Paulann Sheets
- Response from Groton Shellfish Commission
- Rivers Alliance of CT
- Michele King, Maxson Rd., Groton

Receipt of public comments, letters or email from the following were also noted:

- Wendy Eckholm
- Rebecca Roper
- Chris Roper
- Michele King
- Richard King
- Mamie Rutherford
- Robert Sommer
- Robin Clifford
- Mr. & Mrs. David Michaud
- J. Brooks
- Leon & Helen Gendron
- Pat Mitchell
- Linda Gunn
- Edward Kolar
- Mirhiam Johnson
- Larry Croxton
- Petition in opposition signed by 173 residents and owners of Winding Hollow Condominiums with names, addresses & phone numbers

- Petition from Groton citizens opposed to Wal-Mart, with names, addresses & phone numbers, 16 pages with approximately 12 names per page
- United States Sub Veterans, Inc.
- Cindy Garvey
- Richard Bruciati
- Nancy Pescatello
- Carl LeaFleur
- Savonne Mitchell
- Tiletha Nival
- Theresa Cole
- Pamela Nival
- Lucille Robbins
- Ray Belval (police reports)
- Mr. Sumner
- Pamela Plasse
- Zell Steever
- Kathleen Johnson
- Raymond & Cecilia LeCara
- Carmen White
- Ellen Pavent
- Jessica Pavent
- Betty Deleon
- Judith Barrett
- Rick Cady
- Dan Schkeeper
- Barbara & Marvin Van Rempt

Chairman Sherrard reviewed the process for tonight's meeting.

The applicant responded to questions from the Commission members.

Guy Hesketh, P.E., F.A. Hesketh & Associates, reviewed the stormwater design, DEP requirements and the status and nature of the applicant's discussion with Groton Utilities.

Robert Sonnichsen, P.E., Delta Environmental Services, submitted a memo in rebuttal of Dr. DeSanto's report. Mr. Sonnichsen gave technical details to the Commission regarding suspended and non-suspended solids in the runoff at the site, and his opinion that the dissolved solids will not result in any negative environmental or health issues.

Guy Hesketh detailed the drainage analysis report, pre- and post- development, including the specific watershed areas and points of discharge.

Ms. Whitney explained that the enforcement will be from the Inland Wetlands Agency, the local department of public health (Ledge Light Health District), the State Department of Public Health (DPH), and the Department of Environmental Protection (DEP). Ms. Whitney said that an independent environmental testing firm, approved and licensed, would do the testing and reporting to the DEP and the Inland Wetlands Agency.

Mr. Hesketh described details regarding interior areas, handling of waste, and various operational matters.

Mr. Hesketh explained the driveway area drainage, including hydrodynamic separators, trap hoods, and the sedimentation basin. Discussion ensued on enforcement in the watershed and the roles of Ledge Light Health District, DEP, IWA and G.U.

Conditions of the IWA permit were discussed including testing procedures and responsibilities.

Questions were raised concerning what the overall effects of pollutants from this development would have compared to the existing development in the area that drains into Hempstead Brook.

Traffic was discussed. Staff said the traffic is fully within the jurisdiction of the STC, and the Town Attorney and Planning staff can only make suggestions to the applicant. Scott Hesketh reviewed the traffic report.

The MOU, discharges and drainage areas pre- and post- development were reviewed. Staff discussed the DPH comments and DPH's role in the process as well as the MOU.

Staff reviewed the site plan objectives for the Commission.

Mr. Hesketh reviewed the lighting plan, the 28 ft. height of the poles and shielded fixtures.

Ms. Whitney said Wal-Mart has a very comprehensive training program on managing hazardous materials in the store, with periodic retraining.

Ms. Whitney said this plan has been through a very rigorous and thorough review. Mr. Trinkhaus' report does not state that the regulations are not met, and his suggestions would be covered in the DEP permit process. Ms. Whitney said that Dr. DeSanto's report asked for more than the Regulations require. The applicant cannot be required to comply with more rigid requirements which the Town does not have in place for this location. This land may be developed if the requirements are complied with. The applicant meets all the requirements of the DPH. The MOU has attachments to go along with it. Although it is not finished, it is more substantial. The DEP permits are a part of the Town regulations

Chairman Sherrard said a decision must be made by midnight Friday night.

Chairman Sherrard called for a recess at 10:30 p.m.

The meeting resumed at 10:43 p.m.

Chairman Sherrard asked Mr. Carey to review the responsibilities of the Commission.

Attorney Carey recommended that Ms. Shansky be allowed three minutes to address the Commission.

Marjorie Shansky spoke to the Commissioners regarding Dr. DeSanto's report and the Memorandum of Understanding between Wal-Mart and Groton Utilities.

Attorney Carey outlined the roles and responsibilities of the Commission. Attorney Carey said the filing of the intervention petitions does not change or expand the Commission's jurisdiction regarding environmental issues; the Regulations are the limitations of the Commission's responsibilities. Sections of the Zoning Regulations were reviewed for the Commission.

Staff distributed recommendations for the Commission. The Commission members read the recommendations, and staff reviewed each.

Staff addressed the drainage issue, receiving wetlands, and the existing conditions. Staff showed how each wetland area would be affected by the drainage. Staff reviewed Section 6.12-5(C)3, which states that all stormwater should end up in the same wetland or watercourse. Staff said this section was written to make sure the basic patterns of the watershed are not changed. The Inland Wetlands Agency has no issue with this.

Staff reviewed the best management practices and DEP standards for drainage. Staff explained that there is an additional permitting process with DEP for a stormwater permit. The Planning Commission is the last local approval. Staff said the building will be sprinklered to meet Town standards.

Staff reviewed the recommendations and took questions and comments from Commission members on the draft motion items.

The Commission members discussed various concerns with the draft motion items, including trucks on Winding Hollow, environmental bonding, water quality test monitoring, the MOU, a berm around the building, the use of calcium chloride, hazardous materials, bales, Connecticut certified professional, and site plan objectives.

Staff reviewed the findings. Staff feels that, with regard to intervention law and Section F, the test for unreasonable pollution was not met.

The Commission members discussed the findings.

Mr. Carey said the wetlands permit contains a fairly detailed stormwater quality monitoring plan which will go beyond three years.

The Chairman reviewed the voting status of each of the members. Staff distributed a copy of the wetland permit for the Commission members to review, specifically #5.

The Chairman called for a recess at 12:43 a.m.

The meeting resumed at 12:55 a.m.

Chairman Sherrard asked Mr. Carey to draft a motion to deny, which was copied and distributed, reviewed and modified by the Commission members.

The meeting reconvened at 1:53 a.m.

MOTION: To deny a site plan for Wal-Mart Superstore (a.k.a. Proposed Retail Development) at Gold Star Highway and Antonino Road for the following reasons and such other reasons as are supported by the record.

Based on its review of the application, plans and other materials and information submitted by the applicant as well as the observation, knowledge and experience of the Commissioners and the evidence and testimony submitted by the intervening parties and the public, the Planning Commission finds:

1. The application does not comply with the requirement of Zoning Regulation Section 6.12-5(C)(3) that following development all stormwater should be directed to the same wetland that received the stormwater prior to development.
2. The application does not comply with the requirement of Zoning Regulation Section 6.12-5(B)(1) that floor surfaces in areas where hazardous materials are used, handled or stored shall be impermeable to stored material and have containment dikes, sumps, or berms surrounding them.
3. The application does not comply with the requirement of Zoning Regulation 6.12-5(C) that stormwater management facilities be designed to manage site runoff to eliminate surface and groundwater pollution and control peak discharges and provide pollution treatment.
4. The application fails to meet the requirements of Zoning Regulation Section 8.4-5(G) that all public utility systems (stormwater management systems) are suitably located, adequately designed and properly installed to protect the property from adverse water and land pollution and to preserve and enhance the environmental quality of the surrounding neighborhood, including the City of Groton public drinking water supply reservoir, and that of the Town.
5. The application fails to meet the requirements of Zoning Regulation Section 8.4-5(I) that the location and size of the proposed use, building and structure and the nature and intensity of the proposed operation will be in general harmony with the climate of the surrounding neighborhood and will not be hazardous or otherwise detrimental to the orderly and appropriate development or use of adjacent land and buildings.
6. The application does not comply with Zoning Regulation Section 6.12-5(D) because it does not specify the types of fire retardants to be used to extinguish fires at the site or to provide adequate measures to ensure that they are captured at the site and not allowed to enter the stormwater system.
7. The application does not meet the requirement of Zoning Regulation Section 8.4-5 that the approved uses shall not impair the public health, safety and welfare because it does not make adequate provision for stormwater management or to protect the watershed and the Groton reservoir from pollution.
8. The uses and conduct proposed by the application are reasonably likely to have the effect of unreasonably polluting, impairing, or destroying the public trust in the water, including the City of Groton public drinking water supply reservoir, and there are reasonable and prudent alternatives consistent with the reasonable requirements of the public health, safety and welfare.
9. The application does not comply with Zoning Regulation 8.4-5(H) that requires that “the development of the site will preserve the sensitive environmental land features such as...wetlands...”.

Motion made by Sherrard, seconded by Roper. Motion passes 4 – 1, 1 opposed (Steinford).

III. ADJOURNMENT

Motion to adjourn at 2:19 a.m. Motion made by Roper, seconded by Munn, so voted unanimously.

Respectfully submitted,

Peter Roper