

TOWN OF MONTVILLE
INLAND WETLANDS COMMISSION
REGULAR MEETING MINUTES
THURSDAY, APRIL 20, 2017 – 7:00 P.M.
LOCATION: MONTVILLE TOWN HALL, Council Chamber
310 NORWICH-NEW LONDON TURNPIKE
UNCASVILLE, CONNECTICUT 06382
TELEPHONE: (860) 848-6779 – FAX: (860) 848-2354

1. CALL TO ORDER

Chairman Brush called the meeting to order at 7:04.

2. ROLL CALL

Present: Chairman Brush, Secretary Philip Houk, Commissioners Sandra Berardy, Jessica LeClair, , Anthony Tufares and Howard V. Riske Jr. (7:08). **Absent:** Charles O’Bday III. **Also Attending:** Zoning and Wetlands Enforcement Officer (ZWEO) Liz Burdick

3. MINUTES: Approval of March 16, 2017 Regular Meeting

M/S/C (Houk/LeClair) to approve the March 16, 2017 Regular Meeting as amended by staff. Vote: Approved

4. PUBLIC HEARINGS-none

5. SHOW CAUSE HEARING (s)-none

6. REMARKS FROM THE PUBLIC (not relating to items on the agenda)-none

7. OLD BUSINESS:

- A. 314 Route 163 (Map 82, Lot 62)-Donny Jacobowitz-Update ongoing enforcement action- Cease and Desist Order-Unauthorized Activities in a Regulated Area. (Tabled from 03/16/17 meeting)**

L. Burdick updated the Commission. She stated the property owner submitted an existing condition and remediation plan. She noted that some of the grading fill had been pushed onto two other properties; Castle Realty and Rand Whitney. Both property owners were notified of the issue. Castle Realty responded that they are fine with the stabilized slopes and the loam and seeding plan. L. Burdick read letter from Tom Castle. It is unknown whether Mr. Jacobowitz contacted Rand Whitney as there has been no contact to date. L. Burdick stated that it was her opinion that the dirt should be taken out of the wetlands on the Rand Whitney property but without permission from the property owner (Rand Whitney) work cannot be done. It was suggested that if Rand Whitney does not respond then the Commission could issue a cease and desist.

There was discussion as to whether the plan should be reviewed by the Town Engineer to determine if the underlying fill is stable enough to support a parking area. L. Burdick stated that any fill work was done in 2014, was permitted by the IWC and stabilized at that time, but had been re-disturbed in 2016. There was discussion that now the owner is proposing concrete barriers around perimeter at the top & Chairman Brush was concerned that the town engineer had not looked

at the slopes for adequate stabilization in the event of a large rain event and it was the consensus of the IWC the Town Engineer should review the plan.

M/S/C (LeClair/Houk) table 314 Route 163 (Map 82, Lot 62)-Donny Jacobowitz until May 18, 2017 meeting and to have the town engineer look at the plans and uphold the cease and desist. Vote: Approved. In favor, Brush, LeClair, Berardy, Houk, O'Bday, Tufares. Opposed-none. Abstaining-Riske.

B. 216IWC18 - 1530 Route 85 (Map 5, Lot 29) – Applicant/Owner: Double Down, LLC/Matt Kobyluck – Regulated Activities for Site Improvements for Proposed Earth Materials Processing Facility. (Tabled from the 03/16/2017 Meeting - Received at 12/15/16 Meeting/ Orig. DRD 2/17/17, 1st 35-Day Ext. of Time to 3/24/17, 2nd 30-Day Ext. of Time to 4/24/17).

Ed Wenke III, PE., gave background on the project. They have installed concrete blocks around wetlands/sediment basin. The area of the slope above the sediment basin will be stabilized with jute netting, topsoil and seed. All the plans have been revised according to comments received and are addressed on the plan.

- DOT asked that the driveway just have one lane in and one lane out, this did not change the encroachment.
- Bob Russo's comments have been addressed i.e. jute netting, topsoil and seed
- Throat of the shoulder coming into site is opened up
- Jute netting on the slope of the shoulder
- Jute netting on the perimeter berm

Phase I Erosion control plan will last approximately two years. The excavation will start at the existing excavated area. The equipment will be portable to allow excavation. They need a temporary sedimentation basin which will be moved around as excavation goes on. It will be a fluid situation.

Phase II has been reviewed, all the comments have been addressed and there are no outstanding issues.

New London Dept. of Public Works have no issues. There will be no surface water diverted to the reservoir.

Dept. of Health (Uncas Health) no issues. Only concern was lack of fuel spill pad. The applicant will provide one, Dept. of Public health the owner to take it to the DEEP for review.

DOT has reviewed revised driveway design and they are happy with revisions. The project will utilize on site and offsite materials.

If the applicant plans on doing more excavation, then they will have to come back for a permit and a restoration plan.

L. Burdick stated that per PZC regulation only 5 acres at a time are allowed for excavation. Additionally, she reviewed Phase 1 & 2 work in regulated areas as outlined in her 4/20/17 staff report and that the plan set revised to 04/03/17 addresses all comments of Town staff including, Fire Marshal, Building Official, Zoning & Wetlands Officer, Soil Scientist and Town Engineer. Additionally, the

plan set has received preliminary approval of the STCT DOT and City of New London has no comments with regard to the project's location partially in the Lake Konomic Water Supply Watershed. Also, approval of a State of CT DEEP-WPED-GD-014 – General Permit for Discharge of Storm Water & Dewatering Associated with Industrial Activities is required prior to the start of work at the site and stated that Phase I

Staff recommends the following conditions for approval:

1. Phase-1 Initial Work Construction Sequence shall be adhered to
2. Phase 2- Final Construction Sequence shall be adhered to
3. Soil Erosion and Sediment Controls shall be installed and shall be inspected by the Zoning and Wetlands Officer prior to start of work
4. Any changes to the approved plan set, including, but not limited to construction sequencing, shall be submitted to staff to determine referral to IWC for further review and approval.
5. Soil Erosion and Sediment (E & S) Controls Bonds shall be posted prior to the issuance of a permit to start work.
6. Daily Site Watering/Dust Control logs shall be kept on site and submitted to the Town of Montville bi-annually or upon request of Town Staff.
7. Owner shall prepare and submit annual written E & S Maintenance report to the Town starting after the construction work as depicted on these plans is completed
8. Owner shall submit reports to the Town of Montville for all inspections required per Sheet S-11 "Sediment Basin Maintenance Requirements"

L. Burdick informed the commission that they should make a determination of whether the activity is significant or not.

Town Engineer Tom Cummings reviewed and approved the proposed bond estimate for Phase I at \$20,700 and for Phase II at \$5,700.

M/S/C (Houk/Riske) I move that the Commission find that the proposed activity as presented by the Applicant in its application, plans and a the presentation made to the Commission meeting did not meet the criteria of a significant impact activity as outline in Section 2 (Definitions-Significant Impact Activity) of the Town of Montville's Inland Wetlands and Watercourses Regulations.

L. Burdick read the definition of Significant Activity for members.

Vote: Approved Unanimously

M/S/C (LeClair/Berardy) After giving due consideration to all relevant factors, including those in Section 10 of the Montville Inland Wetland Regulations and Section 22a-41 of the Connecticut General Statutes, I move to approve the application of Double Down, LLC/Matthew T. Kobyluck for

Disturbance of 14,550+/- sf Upland Review Area for Construction/Improvements to an existing access driveway to the site to access a proposed Earth Materials Processing Facility at 1530 Route 85 (M5 L29), Oakdale, CT, as more fully described in the application, supporting documents and on a plan entitled "Special Use Permit Application, Proposed Earth Materials Processing Facility Site Plan, Tax Assessor Parcel I.D. #005-029-000, 1530 CT Route 85 (Hartford-New London Tpke), Oakdale - Town of Montville, New London County Connecticut, LI (Light Industrial Zoning District, Drawings No. S-01 to S-16, Prepared for Owner/Applicant: Double Down, LLC, Site Engineer of Record: The Winthrop Group. Project Land Surveyor: James Bernardo Land Surveying, LLC, Dated December 2016, Revised to 4/3/17," with the following conditions:

- 1. Phase-1 Initial Work Construction Sequence shall be adhered to.**
- 2. Phase-2 Final Construction Sequence shall be adhered to.**
- 3. Soil Erosion & Sediment Controls shall be installed and shall be inspected by the Zoning & Wetlands Officer prior to the start of work with an approved permit.**
- 4. Any changes to the approved plan set, including, but not limited to construction sequencing, shall be submitted to staff to determine referral to IWC for further review and approval.**
- 5. Soil Erosion & Sediment Controls Bonds shall be posted prior to the issuance of a permit to start work.**
- 6. Daily Site Watering/Dust Control logs shall be kept on site and submitted to the Town of Montville bi-annually or upon request.**
- 7. Owner shall prepare and submit annual written E & S Maintenance report to the Town starting after the construction work as depicted on these plans is completed.**
- 8. Owner shall submit reports to the Town of Montville for all inspections required per Sheet S-11 "Sediment Basin Maintenance Requirements."**

Standard Reasons for Approval:

- 1. The environmental impact of the proposed project does not have a significant effect on the inland wetland's and watercourse's capacity to support fish and wildlife, to prevent flooding, to supply and protect surface and groundwater, to control sediment, to facilitate drainage, to control pollution, to support recreational activities, and to promote public health and safety.**
- 2. The Commission has determined that the relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity will have no impact on the surrounding wetland system.**

3. The proposed activity will not have irreversible and irretrievable commitments of resources.
4. The proposed project will not change the character and or add degree of injury to, or interference with, safety, health, or the reasonable use of property, including abutting or downstream property.
5. The proposed activity use is suitable to the area.
6. The applicant has taken all feasible measures to mitigate the impact of any aspect of the proposed regulated activity.

Vote: Approved. In favor, Brush, LeClair, Riske, Berardy, Houk, O’Bday, Tufares. Opposed-none. Abstaining-Tufares

- C. 1530 Route 85 (Map 5, Lot 29) – Double Down, LLC/Matthew T. Kobyluck – Update ongoing enforcement action - Cease and Desist Order - Unauthorized Activities in Regulated Areas. (Tabled from the 03/16/2017 Meeting).**

M/S/C (Tufares/Riske) I make a Motion that upon approval of Application #218IWC 18, the Cease & Desist Order, dated 11/15/2016, shall be rescinded with the condition that no work shall commence until any additional required local and state permits have been obtained with the following exception:

1. Installation of 4” topsoil, application of “native seed slope mix with annual ryegrass” seed mix by N.E. Seed Co., or approved equivalent, and straw mulch on slope above wetland area for stabilization shall be implemented immediately.

8. NEW BUSINESS

- A. 217IWC5 - 152 Route 163 (Map 72, Lot 54-A) – Applicant/Owner: DW Holdings, LLC – Regulated Activities for Construction of an electric substation. (DRD 6/13/17).**

L. Burdick stated the property is a fully developed industrial site located at 152 Route 163 in the Industrial zoning district on 2.8 acres and is bounded by the Oxoboxo Brook to the west. There will be approximately 35 l.f. of new conduit installed to an existing manhole located easterly of the Oxoboxo Brook. The slopes within the limit of the URA are less than 1% and, therefore, sedimentation can be maintained by temporary sediment fence during construction (shown on plan). The proposed trench in the URA is located in an existing gravel area, which area will be restored to its pre-existing condition.

M. Healy PLS for the applicant stated that the work consists of electric infrastructure for the building and equipment on the property. The transformer and switch gear will be placed on a raised concrete pad. There will be a trench 35’ from the pad to a man-hole. Excavation material from the trench will be hauled off site, the trench will be filled with sand and then compacted gravel over trench. It is an industrial site which has been in use for over 100 years.

M/S/C (Berardy/Riske) to table 217IWC5 - 152 Route 163 (Map 72, Lot 54-A) until the May 18, 2017 meeting. Vote: Approved. In favor, Brush, LeClair, Riske, Berardy, Houk, O'Bday, Tufares. Opposed-none. Abstaining-Tufares

- B. 217IWC6 – 416 Old Colchester Road & Old Colchester Road (Laurel Heights) (Map 16, Lot 3 & Map 16, Lot 29) – Applicant/Owner: Jensen’s Inc. – Regulated Activities in Upland Review Areas in Conjunction with Age Restricted Manufactured Home Park Project. (DRD 6/13/17).**

The attorney for the applicant is on vacation. Plans have been given to staff for review. It is a proposed 46-unit age restricted housing project. There are two properties involved in the application because of storm water drainage from 419 Old Colchester Road across the street to property also owned by the Applicant. There are no staff comments at this point. Attorney Heller requested the IWC conduct a site walk.

M/S/C (Riske/LeClair) to hold a site walk on 416 Old Colchester Road & Old Colchester Road on May 13, 2017 at 9:30. Vote: Approved Unanimously

M/S/C (Berardy/Houk) to table 416 Old Colchester Road & Old Colchester Road until the May 18, 2017. Vote: Approved Unanimously.

- C. 217IWC7 – 1607 Route 85 (Map 5, Lot 15B) – Applicant/Owner: Alanson Cummings – Regulated Activities in Upland Review Areas in Conjunction with Proposed New Commercial Building and Associated Site Improvements. (DRD 6/13/17).**

L. Burdick stated that the owner has already started operating his dumpster business and she requested voluntary compliance in obtaining site plan approval.

David Cooley, P.E. informed the Commission the wetlands have been delineated on January 7, 2017 and a site survey has been completed as well as a hydraulic analysis. There was no detectable storm water increase. The applicant is applying best management practices for runoff. They are waiting for comments from Russo and Cummings from CLA. D. Cooley stated the wetlands on the property are typical, it is rocky with few invasive species and there is some human disturbance. There will be some modification to the swale and the only new impervious surface is the roof on the proposed building. They are probably looking to build a grass swale. The business is a dumpster rental operation and the proposed building is for the dumpsters and equipment.

M/S/C (Leclair/Riske) to conduct a site walk at 1607 Route 85 (Map 5, Lot 15B) on May 13, 2017 at 10:30. Vote: Approved Unanimously.

M/S/C (Berardy/LeClair) to table 1607 Route 85 (Map 5, Lot 15B) until the May 18, 2017 regular meeting. Vote: Approved Unanimously.

- D. 217IWC8 – Old Colchester Road from #859 to #875 – Applicant/Owner: Town of Montville - Regulated Activities for Culvert Improvements. (DRD 6/13/17)**

The project proposes 4700 SF of Wetland Disturbance, 60 LF of Watercourse Disturbance, 16,500 SF of Upland Review Area Disturbance and 110 SF of Creation of New Wetlands and involves Alteration, Construction, Deposition of Material and Removal of Material.

Additional permits required for the project include Army Corps of Engineers (ACOE), State of CT Dept. of Transportation (DOT) and State of CT Dept. of Energy & Environmental Protection (DEEP) as determined by the ACOE.

There is a lot of flooding in the area which is the reason for the proposed work by the Town.

L. Burdick read comments by Russo into the record:

“Town Soil Scientist, Robert C. Russo, C.S.S., in his report dated April 20, 2017, states, in part, “The watershed size of the larger stream (>1 square mile) indicates that there are significant resource values such as fisheries present and the Commission may require a public hearing.”

She stated the town engineer has been working on the culvert improvements since 2013.

LeClair asked if the engineers have looked at the size of the culverts and if they are engineered for possible long term rainfall increases.

L. Burdick will inquire about the size of the culverts.

M/S/C (Riske/LeClair) to table 217IWC8 – Old Colchester Road from #859 to #875 until the May 18, 2017 regular meeting. Vote: Approved Unanimously

9. CORRESPONDENCE-none

10. OTHER BUSINESS-none

11. EXECUTIVE SESSION-None

12. ADJOURNMENT

M/S/C (Houk/Berardy) to adjourn the meeting at 8:51.

Respectfully Submitted
Sue Spang, Recording Secretary