

November 10, 2010

Public Hearing

6:00 p.m. Land Use Meeting Room

MEMBERS PRESENT: Mr. Bedini, Mr. Bohan, Mrs. Hill, Mr. LaMuniere, Mr. Wadelton

ALTERNATES PRESENT: Ms. Cheney, Mr. Martino, Mr. Papsin

STAFF PRESENT: Mr. Ajello, Mrs. J. Hill

ALSO PRESENT: Mr. Allan, Atty. Olson, Mr. Szymanski, Mr. Klauer, Mrs. Hardee, Ms. Purnell, Mrs. Benn, Mr./Mrs. Solomon, Mr. Charles, Mr. Federer, Mrs. McDonald, Residents

Wykeham Rise, LLC./101 Wykeham Road/Request to Amend Permit #IW-08-31/Continuation of Public Hearing

Mr. Bedini reconvened the Public Hearing at 6:19 p.m. and seated Members Bedini, Bohan, LaMuniere, and Wadelton and Alternate Cheney for Mrs. Hill. Mr. Wadelton read the list of documents that had been submitted to the file since the first session of the hearing. In addition, Mr. Solomon submitted his letter dated 11/15/10 to the Inland Wetlands and Zoning Commissions in which he asked that all of the documents in the record for Wykeham Rise, LLC's Application #IW-08-31 be incorporated in this file. A 19 page list of all of those documents was attached.

Mr. Klauer said he hoped the Commission had reviewed his letter dated 11/12/10.

Mr. Szymanski, engineer, stated that since the last meeting to show "good faith" regarding reducing potential impacts to the resources, he had revised the proposed site plan. 1) Dorms #7 and #8 had been deleted. These had been located in the upland review area. 2) The service access drive to the northern end of the main building had been removed. Part of this driveway had been in the upland review area. 3) Landscaping had been added. This included additional plantings at the south end of the property to buffer the Solomon property. Also, in response to concerns raised by Mr. LaMuniere at the last meeting, the yellow area indicated on Sheet PL.1 of the Planting Plan would be left in a natural state to help reduce potential impacts to Kirby Brook. Mr. Szymanski noted these revisions resulted in a decrease of impervious surfaces in the upland review areas. He also noted that the plan for invasive species removal would not change. The map, OSD.1, by Arthur H. Howland and Assoc., dated 11/10/10 was reviewed.

Mr. Szymanski included the following points in response to some of the issues raised by Ms. Purnell in her 10/27/10 letter. 1) The area where the greenhouse is proposed had been approved as a balcony in Permit #IW-08-31 so this is not an increase in impervious surface. 2) The existing slopes behind the main building are 2:1 and would still be 2:1 after construction as the building orientation was shifted slightly. 3) The only regulated area currently touching the proposed main building is at the northwest corner where the wetlands are up hill. 4) A provision of the approved permit was that the septic leaching field be maintained as a meadow. 5) A grass paver emergency access was added to access Dorm #1. 6) All proposed walkways remained the same. 7) Other than the additional plantings already noted the planting plan remained the same.

Mr. Szymanski provided details regarding the 300 ft section of driveway at the northeast corner of the site. He noted that cross sections had been submitted so the Commission could see the buffer area. He said the existing lawn would be converted to a non disturbed area and a grass meadow planted. Except for a 5 ft. strip of lawn immediately adjacent to the driveway, he said the width of the buffer along Kirby Brook would increase in this area. Mr. Szymanski noted that when the Commission had approved the inn application one condition of approval had been that no more than 3 acres could be disturbed at a

time. He stated that due to the redundant erosion control measures proposed and the extensive monitoring requirements, an increase to allow 5 acres to be disturbed at a time was now proposed.

Mr. LaMuniere asked the following questions. 1) He asked about the swale shown on the plans as running through the area where the main building is proposed. Mr. Szymanski said this swale has no discernable flow during rain events and he thought it was to direct surface runoff away from the area. 2) Mr. LaMuniere noted Permit #IW-08-31 limits the construction to 3 acres of disturbance at any one time, but the revisions propose to increase this to 5 acres. He asked how the duration of construction would be changed if the area of disturbance was allowed to increase. Mr. Szymanski said he would have the site contractor comment. 3) Regarding driveway #1, Mr. LaMuniere asked why it could not be moved out of the 100 ft. setback area by moving it slightly to the south. He noted this was a very important issue for the Commission and that moving it to the south would be a feasible and prudent alternative. Mr. Szymanski responded that this move would result in .05% increase in lot coverage even though it would be constructed of porous asphalt. Mr. Bedini noted that was a Zoning, not a Wetlands, issue, and asked wasn't there a possible tradeoff. Mr. Szymanski stated the applicant had already removed two dorms and the service access. Mr. LaMuniere thought approving this driveway location when there is a feasible and prudent alternative would set a precedent. Mr. Szymanski submitted Sheet DR.1, dated 11/15/10, which showed the driveway moved further south, although he said he preferred to keep it as originally proposed.

Mr. Allan, consulting engineer, referred to Sheet SEQ.1, and the erosion control details. He noted that although Dorms #7 and #8 had been removed, he thought it would be a good idea to keep the sediment basin and swale that had been designed for Dorm #8. On Sheet OSD.1 he said the limit of disturbance line should be revised to bring it closer to the actual limit of grading.

Mr. LaMuniere asked if Mr. Allan would respond to Ms. Purnell's 11/10/10 letter. Mr. Allan said he would. Mr. LaMuniere specifically asked that Mr. Allan review how the level of groundwater would impact the proposed basins. Mr. Allan stated they were designed as wet basins so they would have water in them at all times and when the water level reaches the height of the outflow pipe, the water would flow out of the basin. Mr. LaMuniere noted that if the groundwater was higher than predicted, the stormwater level would rise higher than predicted and he asked Mr. Allan to comment. Mr. Allan stated the level of groundwater does not impact the storage and metering out of runoff in the basins. He said he had checked this for up to 100 year storm events.

Mr. Bedini asked Mr. Allan to comment on the articles Ms. Purnell submitted re: pervious surface driveways.

Ms. Purnell submitted a 2 page summary dated 11/16/10 re: the points she raised at the last session of the hearing. She said she thought the proper way to review the proposed changes would be to consider them as a new application. The points she raised included: 1) The property has a large percentage of steep slopes. 2) The sloped area where the main building is proposed is Charlton soils, which erode easily. 3) The Sutton soil in the vicinity of wet pond #1 has high seasonal groundwater, which could impact infiltration. 4) Although Mr. Szymanski did not see any flow in the swale that is located where the main building is proposed, Ct. has had two back to back dry years. 5) She asked that the total area to be disturbed at one time remain limited to three acres because it would be easier to manage the erosion and sedimentation controls on the steep property. 6) She said the proposed impervious cover was an important consideration in stormwater management. 7) She said the Commission is required to study the off site impacts to wetlands and watercourses. She noted wetlands and watercourses on the adjoining property and a flood zone further down along Kirby Brook. She noted the redirection of runoff away from the adjoining off site wetlands; both surface flow and shallow subsurface flow, which would be intercepted by the proposed driveway and catch basins. She noted, too, that this would result in a greater volume of water flowing to Kirby Brook in a shorter time, and this could cause downstream

flooding. 8) She questioned whether enough information had been submitted regarding the subsurface soils to know whether the porous asphalt proposed for the driveway was suitable for the site. She encouraged the commissioners to read the materials she had submitted re: porous asphalt. She noted it was not suitable for recently filled areas and pointed out the applicant proposed to use it to cross an old section of leaching field. She also noted it was not suitable to use over compacted soils. 9) She stated the sizing of wet pond #2 did not take into account a 3.4 acre drainage area along Bell Hill Road. 10) She asked if groundwater mounding and thermal impacts had been properly assessed for the site. 11) Ms. Purnell stated that her concerns about the erosion and sedimentation controls were not just speculative, noting failures that had occurred at the Walker Brook subdivision and at the Montessori School during construction. 12) Referring to what Mr. Allan had said about high groundwater not impacting how the wet basins would function, Ms. Purnell said it would mean that more water would flow through the outlet and possibly overwhelm the size of the downstream facilities. Mr. Bedini asked her if this was fact or speculation. Ms. Purnell said she could not say for sure because she did not know how high the groundwater would be. Mr. LaMuniere noted that groundwater runs as a sheet and so he questioned whether the basin would overtop more often. Ms. Purnell responded that she had submitted a chapter from a book by Barton on hydrology that demonstrated how groundwater levels differ from season to season. Mr. LaMuniere said he thought the basins as designed would handle short, heavy rain events. Ms. Purnell said she had a lot of concern about the size calculations for the basins and the fact that few test pits had been dug on the 27 acre site. She suggested groundwater monitoring for a few months to a year to determine whether the capacity and siting were correct. She said this would also help determine whether the porous asphalt would be installed in appropriate areas. Mr. Martino noted that due to the large size and weight of the proposed water storage tanks, they could not be displaced easily. Ms. Purnell noted they would not be full all of the time, but Mr. Martino and Mr. Bedini did not think 120 people would use 10,000 gallons per day.

Mr. Martino asked if drainage features were typically oversized. Mr. Szymanski stated they were designed to handle the first inch of runoff and 91% of storm events. Mr. Bedini asked if he had any objection to sizing them for the first one and a quarter inch of storm events. Mr. Szymanski said they were already slightly above the standards for the first inch.

Ms. Purnell explained the reasons she was concerned about the proper functioning of the rain gardens. She said they were not intended to continually drain and so when the water in them freezes, their capacity will be reduced. A larger issue, she said, was that the applicant did not test to determine whether there was a restrictive layer that would cause more water to flow through the system. Mr. Szymanski referred to Sheet PL.4, which showed the detail of the bottom of the typical rain garden was above the seasonal high groundwater level. He also noted the runoff flowing to the rain gardens was mainly roof runoff. Ms. Purnell noted she had provided data on pollutants, some of which could come from roofing materials. She also stated that if basin #2 was undersized it would overflow more often and impact Kirby Brook.

Mr. Szymanski said he would respond to Ms. Purnell's concerns in writing. He noted she had stated there were towns that did not permit development on slopes over 25% and asked if any were in Ct. Ms. Purnell said she did not know, but noted there are several towns in Ct., including Washington, that take slopes over 25% out of the density calculations for subdivisions. Mr. Szymanski asked for her references regarding porous pavement. He also noted that Ms. Purnell had been on the Commission when there had been enforcement failures during the construction of the Montessori School.

Mr. LaMuniere asked if 4 ft. of subgrade base was required for the installation of porous asphalt. Mr. Szymanski said 24 inches was required. Mr. LaMuniere questioned whether the porous material would function as a curtain drain or whether runoff would flow through it. Mr. Szymanski said runoff would flow through it. Ms. Purnell said there was not enough subsurface and groundwater data in the file to

know whether the porous asphalt would function as designed.

Mr. Federer advised the Commission that his appeal was now before the Ct. Supreme Court and so it was not yet known whether the applicant would be allowed to build anything in the deed restriction area. Mr. Klauer responded that a lower court judge had found the deed restriction to be clearly unenforceable.

Ms. Purnell paraphrased a statement by Mr. Wadelton as it had been reported in the 10/27/10 minutes that it was difficult for the Commission to refute the opinions of its engineer and consultant. She pointed out that for the inn application an independent peer review had been done and that engineer had also had many of the same concerns that she had raised. As for Land Tech's review, she thought it was limited to the questions asked by the Commission and the applicant's willingness or unwillingness to pay for a thorough review. Mr. Wadelton said he had been referring to a direct question to Ms. Chase and Mr. Allan about if the plans for the inn were implemented as designed, would there be any adverse impacts to the wetlands and watercourse. They had both said, no. In contrast, he said Dr. Klemmens, who had the opposite opinion, had not inspected the property. Later in the meeting it was noted this was because no one would pay for the site inspection.

Mr. LaMunier asked about the discrepancies between the Didona and Sabin planting plans. He asked Mr. Sabin to review and compare them. He noted the applicant said there would be no clearcutting along the brook, but Ms. Purnell said clearcutting was indicated in the plans. Mr. Szymanski said he would have Mr. Sabin address this in a letter for the next meeting. Ms. Purnell stated that according to the definition of clearcutting in the Regulations, clearcutting was proposed in the riparian corridor. She also noted that this area of disturbance was not included within the limit of disturbance line. She said that the trees that now line the main section of the driveway and the front of the Southwick building would be cut, but this is not included in the removal plan. Mr. LaMunier said clearcutting was not proposed there. Ms. Purnell said what was proposed met the definition of clearcutting in the Regulations.

Mrs. J. Hill noted the volume of documents submitted to both the Zoning and Inland Wetlands files and asked all who had made submissions to the Wetlands file to check to make sure all of their documents were, indeed, in the file.

Mr. Bedini noted the Commission had until December 1 to close the hearing without a request for an extension by the applicant. He said he hoped to close it on November 23. He asked Mr. Allan if that would be enough time for him to complete his review. Mr. Allan said it was hard to say because he did not yet have copies of all of the references or of Ms. Purnell's 11/16/10 list.

Ms. Purnell asked Mr. Allan if the answers he had given were based on the assumption that all of the information provided was accurate. Mr. Allan said, yes. Ms. Purnell then asked what percentage of projects of this scale and scope were implemented exactly per the approved plans. Mr. Allan did not know. Ms. Purnell asked him if Land Tech monitored many projects. Mr. Allan said it did. She asked if frequent changes were made to approved plans. Mr. Allan said there were frequent changes, especially to the erosion and sediment control plans.

Mr. Szymanski countered some points that Ms. Purnell had raised in her 10/27/10 letter. 1) The Ct. DEP had ranked schools as high risk re: water resource assessment reports, but had included schools in the same category as high density housing. He did not think this assessment was fair because only 10% coverage was proposed for the school. 2) The flood zones referred to by Ms. Purnell were approximately 400 feet downstream. 3) Even if some of the flow of the septic leaching field were intercepted by the driveway, only a small percentage would flow into wet pond #1 and its water level would rise only one quarter of an inch. 4) At least 11 acres of the property will be left undisturbed. 5) He noted that currently the impervious surfaces throughout the entire site drain untreated into Kirby

Brook, whereas as proposed, much of the runoff will infiltrate through pervious surfaces and all of the runoff will be treated prior to reaching Kirby Brook. 6) He disagreed with Ms. Purnell's statement that plowing is not recommended for porous asphalt surfaces. 7) Thermal impacts would decrease under the proposed plans because currently runoff is directly discharged into the brook, but as proposed, runoff would infiltrate and cool down prior to discharging into the brook. 8) He advised the new commissioners that many of Ms. Purnell's concerns had been fully discussed when Application #IW-08-31 was first considered and that this was a request to amend that permit, not a new application. 9) Mr. Szymanski stated the applicant now proposed to remove impervious surfaces that the Commission had already approved.

Ms. Purnell did not concur with Mr. Szymanski's assessment of thermal impacts to Kirby Brook. She said because the basins were 4 ft. deep, any groundwater at that level would be heated in the summer.

Ms. Purnell noted there are currently problems on the property, which are impacting Kirby Brook and she questioned why the Commission was not taking enforcement action. She noted the applicant had owned the property for two years, but would only address the existing impacts to the brook with a development application. Mr. Martino asked Mr. Klauer if he had undertaken any activities on the property since he purchased it. Mr. Klauer said, no, it had been in its present condition since 2004.

Mr. LaMunier noted that a petition for intervention had been received and he asked Atty. Olson if the Commission was required to rebut its claims and how should it respond to the petition. Atty. Olson said she would read it and then advise the Commission. She noted, however, that the Commission did not have to accept it if the complaint was not accurate. Mr. Waderton said the only references to support the claims made refer to the original application, which the Commission already considered and approved.

Ms. Purnell said she would try to send Mr. Allan a copy of a letter in the old file from Mr. Black to Mr. Szymanski regarding Judea Water Company information.

After a brief discussion it was the consensus to continue the public hearing to November 23, 2010 at 6:00 p.m. Mr. Szymanski stated the applicant did not want to grant an extension to continue the hearing.

As a point of clarification, Mrs. Solomon stated that while the applicant maintained that lot coverage had been reduced, the size of some buildings had increased. She noted Dorm #1 had increased by 827 square feet.

MOTION:

To continue the Public Hearing to consider the request by Wykeham Rise, LLC. to revise its Permit #IW-08-31 at 101 Wykeham Road to Tuesday, November 23, 2010 at 6:00 p.m. in the Land Use Meeting Room, Bryan Memorial Town Hall.

By Mr. Bedini, seconded by Mr. LaMunier, and passed 5-0.

Mr. Bedini continued the public hearing at 8:25 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,
Janet M. Hill
Land Use Administrator