

CONSERVATION ADVISORY COUNCIL
Meeting Minutes
Monday, July 15, 2013
Delancey Hall

Members Present: **Lori Tripoli, Co-Chair**
 Pam Pooley, Co-Chair
 Nancy Welo
 Alan Towers

Also Present: **Janice Will, Secretary**

Lori Tripoli opened the meeting. Noting that a quorum was present, she asked the Council to approve the minutes of the June 17 meeting.

The minutes were unanimously approved.

CAC Comments – Highgate/Woodlands

Ms. Tripoli said she attended the Town Board public hearing on June 25 and there were about 100 people present, several of whom are owners of properties neighboring the Highgate/Woodlands site. She stated that there were no favorable comments from members of the public. The developers did not present anything, but they did help people with the site map. Cynthia Curtis, Chairwoman of the Planning Board, did most of the talking. Ms. Tripoli said run-off is a real issue, as the area already floods when there is heavy rain. There was also discussion of school bus access and child safety, partly because the entrance is long and steep/many parents would probably drive their children to the bus stop. Potential for increased traffic on Reed and Hardscrabble Roads was also a concern, and members of the Ambulance Corps were present to raise the issue of emergency access via steep roads. Ms. Tripoli said a neighboring property-owner had a well-test and the well was dry, which may or may not be related to Highgate/Woodlands.

Alan Towers asked if the property-owner thought the developer caused the well to go dry.

Nancy Welo said she thought there was just concern that there is not enough water on the hill.

Mr. Towers said he attended one Planning Board meeting, but they discussed Highgate/Woodlands amongst themselves. He asked if the other CAC members received the e-mail from “concerned citizens” regarding Highgate/Woodlands, and they had received it.

Ms. Tripoli stated that local environmental groups attended the Town Board public hearing, so it seems people are very aware of and concerned about the proposed development. She said one thing discussed at the July 3 Planning Board meeting was that much of the data in the draft EIS appears to be several years old. She commented that traffic, weather, etc. have changed.

Mr. Towers asked if the purpose of the Town Board public hearing was just to open the development application up for comments.

Ms. Tripoli said that Mr. Towers was correct; the Town Board is the Lead Agency.

Mr. Towers asked if the developers spoke at the meeting.

Ms. Tripoli said they were not present to make a case for themselves or to refute evidence. She added that a geologist prepared the EIS. When the comment period closes (extended to August 26), the applicants must then respond. She said some of the CAC's concerns are addressed in the draft EIS, but they should see if it goes far enough or if more detail should be included.

Mr. Towers asked what the Planning Board spoke about at their meeting.

Ms. Tripoli said they were concerned about the steepness of the site and potential run-off. Later in the meeting, they split up areas for responsibility. Ms. Tripoli added that the Planning Board had a draft document, but she did not see it. She stated that the developers will have to respond to all comments; usually, comments will be grouped together in categories for response. For this reason, she thought it was important to be able to make specific suggestions as to what should be done about issues raised in the CAC's comments so they will stand out from general comments.

Mr. Towers asked if, after attending the meetings, Ms. Tripoli had any kind of sense of what is happening. He remarked that no one seems to be in favor of the development.

Ms. Tripoli agreed. She stated that after litigation in the 1990's plus an additional settlement reached in 2004, the Town agreed to the proposal for housing as opposed to an earlier application for a hotel, subject to all the Town's approval/permit processes.

Mr. Towers said it seems that the Town may not prevent the proposed development.

Ms. Tripoli explained that there needs to be a rational nexus; people have a right to develop their property, and the Town has permit requirements, etc.

Pam Pooley said it appears it will take a long time for a development of this type/size to reach the point of approval; there are many requirements to be met and permits to be applied for. She said she thinks the process is really just beginning for Highgate/Woodlands.

Mr. Towers commented that these developers have already persevered for a good period of time. He said he wondered if this project is a certainty or is it possible that it will never be executed.

Ms. Pooley remarked that there was no way to know/there are so many variables.

Mr. Towers said that given the past litigation, it would seem that the project will go forward.

Ms. Pooley suggested the Council go over the draft comments prepared by Ms. Tripoli, adding that she thought Ms. Tripoli had done an excellent, erudite job.

Ms. Welo agreed, saying she was glad to see that Ms. Tripoli had kept the document concise and not too long.

Ms. Pooley said she feels the CAC comments will be taken seriously; she wants to see the document submitted to the Town Board and cc'd to the Planning Board.

Ms. Welo remarked that some people feel any available land should be developed, so the CAC's concerns are certainly worth pursuing.

Ms. Tripoli told the others about a Supreme Court decision regarding development in a Florida town where the Town decreased a property-owner's total developable area to only 2-3 lots out of approximately 11 acres by continuing to put more restrictions and conditions on the agreement. The Supreme Court found in favor of the developer/owner, ruling that a town may not prevent development and may not abrogate a property-owner's rights. Ms. Tripoli said this could be taken as a pro-development stance.

Mr. Towers said he thought it was more an issue of protecting property-owners' rights.

Ms. Welo said there was also a debate about land that has already been impacted in some way; people sometimes feel that once it has been impacted at all, they should be able to continue to do things that will have additional impact. She said the CAC should consider this re an old foundation on the subject property/they should not accept the premise that the land should be developed because of the existence of the foundation which may be in a completely inappropriate location for development.

Ms. Pooley said good points are raised in the draft comments, noting the inclusion of changing storm patterns. She added that she thinks the project will require a Storm Water Pollution Prevention Program and wetland permits.

Ms. Welo stated that sometimes the State misses things, but the Town may be more careful/restrictive. She said the highway across from the subject property already impacts the watershed, and some people will see that as a reason not to be concerned about run-off from Highgate/Woodlands.

Ms. Pooley said she thought the draft statement was very concise, clear and detailed.

Mr. Towers said he had 2 points to bring up. First, he mentioned that Ms. Welo previously referred to a law about land-use, and he asked if it has any standing.

Ms. Tripoli said she looked into it, and it is just a map for use by Towns in developing their own plans.

Mr. Towers said he assumed there is no law against developing something that is out-of-character in North Salem, and Ms. Tripoli said that was correct.

Mr. Towers said his second point was Ms. Tripoli's reference to the possibility of taking no action on the site at all. He said he thought inclusion of such a statement could be going too far.

It was agreed to including something about alternative uses.

Mr. Towers asked what other uses were considered in the past, and Ms. Tripoli said there was discussion of a proposed hotel and an office complex.

Ms. Pooley said she was confused about why the area is being considered for development at all, given how steep it is.

Ms. Welo said it is because that is the land the property-owner has.

Everyone agreed to changing the language in the draft comments to something along the lines of, " ... including alternative uses more suited to the terrain and the rural character of North Salem."

Ms. Tripoli asked the others if they wanted to include any suggestions of what would be appropriate.

Mr. Towers did not think so, and Ms. Welo also thought it would be better not to make suggestions.

Mr. Towers thought he remembered a hotel planned for the corner of Routes 6 and 121, where an explosion occurred (Kelty's Bum Steer). He said it seemed the developers put in the foundation and then never went ahead with the project. He remarked that it would have been a better location for a hotel than the Highgate/Woodlands property.

Ms. Welo said she assumed the developer likes the Reed Road site because it is convenient to one of the rare north/south entrance/exit situations on 684.

Ms. Pooley said she thought the draft was ready and asked if Ms. Tripoli intended to submit it that week.

Everyone agreed that the draft was ready to be submitted.

Ms. Tripoli read the following paragraph: "Because of the unmitigated environmental degradation associated with the proposed project and the deleterious impact of the proposed project on the rural character of the Town of North Salem, the Conservation Advisory Council opposes the project as currently proposed and suggests that more viable alternatives, including uses more suitable to the terrain and the rural character of North Salem, be given more serious consideration."

Ms. Tripoli said she would send an e-mail with the CAC comments as part of the e-mail text and also as a PDF attachment.

Ms. Tripoli asked what they should do about signing the document.

Ms. Welo thought it would be enough for Ms. Tripoli to sign it/they don't all need to do so.

It was agreed that the secretary's phone number should be provided as a contact number. The secretary will forward the document to the Town Board, Planning Board, Board of Appeals and Historic Preservation Commission with a bcc to the CAC members.

Status/Vacant CAC Position

Ms. Tripoli said she doesn't know that many people in Town yet.

Ms. Pooley offered to look into it, adding that she thought there were 1 or 2 applicants.

WP13-04 Moreo, 12 Nash Road

Ms. Pooley stated that she and Ms. Tripoli had gone along on the site inspection, and Dr. Joe Bridges saw no problem with the application. The applicant wants to fill in an area next to his driveway that is 60 ft. from the wetland buffer area. The wetlands inspector was agreeable to the use of fill as long as silt fences are employed. Ms. Pooley said the home-owners association that the subject property is part of owns part of the land where the applicant wants to do some post-storm work, but the land is maintained by the Town.

Ms. Welo remarked that it sets a bad precedent to have the Town maintaining private land.

Ms. Tripoli said the home-owners association is not a formal organization and the subject land is not private property but it is common land. She went on to say that the neighbors didn't want the responsibility of caring for the land around the lake; one man started doing the maintenance and made arrangements with the Town to take it over.

Ms. Pooley said it is not a big piece of land and that she noticed a broken drain in the vicinity. She commented that there was a lot of storm damage, and one area is in the wetlands.

Ms. Tripoli stated that the applicant said the driveway has always been a problem, and someone fell there recently.

Ms. Pooley said the site visit had been a good experience and informative.

Mr. Towers asked if the applicant will get the wetland permit.

Ms. Pooley said he will, and it will not require Planning Board review.

Ms. Welo commented that the area requiring the wetland permit is not large enough to be sent to the Planning Board.

Two residents arrived at the meeting at this time; it seemed they were interested in the Highgate/Woodlands project which the CAC had already discussed, but Ms. Pooley said they were welcome to stay if they wished.

WP12-14 Edmonds, 141 Baxter Road

Ms. Pooley said she knew the others want to walk this property, and she already has. She commented that the proposal is for a big project on a large piece of property, and the CAC

should be guided by someone if they are going to visit the subject property. Ms. Pooley proposed that the CAC wait until then can walk the property with the wetlands inspector. She explained that it is an equestrian property, and the owners want a new access driveway.

Site Visit Checklist

Ms. Tripoli said she got a copy of the list used in White Plains which she will forward to the other CAC members, and she will continue to look into what is used by other towns. She thought they should plan to discuss the list at the next meeting and added that they can try out a list and amend it if necessary.

Clearing Invasive Species

Ms. Tripoli explained that people need a wetland permit to do anything within a wetland or wetland buffer area, and the CAC has been asked to see if there is some way to make the process easier for people looking to rid wetland areas of invasive plants. She asked if all invasive species should be eradicated.

Ms. Pooley said the CAC should suggest some easier ways to deal with invasive species, the most problematic of which are phragmites, which just take over and prevent the growth of other species. She wondered if the CAC could go out and look at problem areas and make suggestions, or perhaps they could invite Joe Bridges to a CAC meeting to discuss the problem/advise them.

Ms. Welo suggested talking to Dr. Bridges at their next site walk.

Ms. Pooley remarked that both Bruce Thompson (building inspector) and Dr. Bridges are in favor of cutting back on paperwork and helping people to contain invasives, even possibly using herbicides in some instances.

Ms. Welo said some people want to fill in wetland areas.

Mr. Towers said he would like to know more about invasives.

Ms. Welo stated that they reduce food for wildlife and phragmites are themselves inedible. She explained that cattails provide shelter for birds and have edible leaves, tubers and flowers; crowded out by phragmites, they disappear.

Ms. Pooley said she is working on a property whose neighbors have phragmites, and she has put in buffer plants to try and keep them back.

Mr. Towers asked if phragmites are endemic to wetlands.

Ms. Pooley said they are also found in other unstable areas.

Ms. Welo added that they will grow right to the edge of farmland and steal moisture from the ground.

Ms. Pooley said some other invasives are Japanese knotweed, multiflora rose and barberry, which is not necessarily a wetland plant, but it is very invasive.

Mr. Towers said he has planted barberry because it is attractive.

Ms. Pooley said that, due to its invasiveness, it will probably not be available to purchase at nurseries much longer.

Ms. Welo said barberry is also a host for cereal rust, which is dangerous for food crops.

Ms. Pooley said she thought educating would be a good role for the CAC/perhaps they can put together a brochure in the future. She asked if Supervisor Warren Lucas is waiting for a response from the CAC.

Ms. Tripoli said he is, but there is no specific deadline.

Mr. Towers said a lot of people in Town are interested in gardening; if the CAC held a meeting to tell people about invasive species, they would come.

Ms. Tripoli said the issue is that people might start pursuing the plants in wetland areas.

Ms. Welo agreed, saying a handbook or brochure would be better because it could be e-mailed and people could also keep it for reference.

Ms. Pooley liked the idea.

Mr. Towers said he didn't think people were gardening in wetlands.

Ms. Pooley said sometimes they are. She described a garden on Bonnieview Street that is right on Peach Lake, where the property-owner took out the phragmites and put in a garden that is lovely. She added that a lot of knowledge is needed to successfully do this sort of thing. She thought a new Ordinance would be required regarding removal of invasive species from wetland areas.

Mr. Towers asked if, aside from depriving wildlife of nutrition, invasives influence aquifers or the watershed.

Ms. Welo said they suck up water but also shade out other plants that take in water.

Ms. Pooley added that they limit the diversity of wildlife.

Mr. Towers asked if invasive species reduce the water supply, and Ms. Welo replied that they could do so in a shallow water table.

Ms. Pooley said they could follow up with Supervisor Lucas and suggest that the CAC propose an ordinance recommendation so that people may consult the CAC about removing invasives without having to call on Joe Bridges. She commented that writing an ordinance would be a lot of work.

Ms. Welo thought it would be good to provide a more organized approach to this kind of thing, adding that it would be helpful to have Dr. Bridges available on a monthly basis to look quickly at several sites.

Mr. Towers said that when people know they are going to have to deal with the Town and representatives of the Town and will eventually have to get some kind of permit, they will be apprehensive.

Ms. Pooley liked the idea of suggesting an ordinance and having Dr. Bridges come every month to advise the CAC on what to do, but she said there would still have to be some kind of follow up.

Ms. Welo agreed, saying there must be a way for the Town to keep track of things. She added that the CAC must not be seen to be providing a way around the permit process.

Ms. Pooley said they should speak to Dr. Bridges the next time they go on a site walk with him.

Mr. Towers asked how big a problem invasive species are in Town.

Ms. Welo remarked that it is getting worse/there are phragmites everywhere. She explained that phragmites resemble ornamental grasses.

Ms. Pooley commented that they may be cut down but they grow back; digging them up is more effective, but people would not be permitted to use machinery in a wetland area.

Ms. Welo said dropping/distributing seeds in the clean-up process is also a problem.

Mr. Towers asked if what the Supervisor wants is to know if the CAC can/should make the permitting easier.

Ms. Pooley said that was right.

Mr. Towers remarked that a concern would seem to be that once given permission to do the work, a resident who does it irresponsibly can make the situation worse.

Ms. Pooley stated that the CAC should also ask Joe Bridges when it is acceptable to use Rodeo.

Mr. Towers asked what the permit-process entails.

Ms. Pooley replied that there is a specific time-frame, silt-fencing is usually required, \$1000 escrow is paid, the wetlands area has to be surveyed and flagged, and the work is inspected and must be maintained. She said she will follow up with Supervisor Lucas and let him know that the CAC will speak to Joe Bridges about dealing with invasive species.

Exterior Lighting

Ms. Tripoli said a problem is light fixtures on existing properties, adding that there is an ordinance to cover the issue with new development.

Mr. Towers was not aware of any kind of ordinance re lighting.

The secretary said she believes that "down-lighting" is merely regularly recommended; if one needs a variance from the Board of Appeals, they will make it a condition of granting the variance that any lights be aimed downward/not visible at their source.

Ms. Welo said that candle-type light fixtures installed on either side of driveways create glare on the road and the light goes in drivers' faces if the lights are positioned incorrectly.

Ms. Tripoli said another aspect of the problem of existing properties is the issue of enforcement; who is responsible for enforcement if a neighbor complains about the lights on another property.

Mr. Towers said that based on discussions of an issue in Town, he had the impression that the Supervisor would like there to be a lighting ordinance, given that there is no clear solution in the law right now.

Ms. Welo said "quality of life" and "rural character" can be used to explain the reasoning for such an ordinance.

Mr. Towers said the issue he was referring to was one of an invasion by a neighbor's lights on someone else's property.

Ms. Welo stated that lighting that brightens the sky is contrary to rural character/it would prevent one from seeing the stars. She added that she will look at example ordinances to help the CAC work on one.

Mr. Towers said he thought he remembered that the gentleman from Bedford who spoke to the CAC said they have a lighting ordinance.

Ms. Pooley said the issue should be looked at in terms of energy-use also.

Ms. Welo remarked that that would be difficult; it may be desirable to use less energy, but a Town is not likely to try and tell people they must do so.

Other

Ms. Tripoli asked if there was anything else the others thought should be on the agenda for August, but no one suggested anything.

After some discussion, it was agreed to change the scheduled meeting to the third Tuesday of the month. The next meeting will be held on August 20 at 7:00 pm.

Adjournment

Ms. Welo moved to adjourn the meeting at 8:46.

Respectfully submitted,



Janice Will, Recording Secretary