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From: "Lynne Eckardt" <midfarm@bestweb.net>
Date: Sun Jan 2, 2005 1:37 pm
Subject: SE ConservationCommission Recap 12/28/04

Hi All,

Sorry for the delay but the holidays have thrown all scheduling off- Below please find a recap of the Conservation Commission's meeting last Tuesday evening. This was primarily the continuation of the Public Hearing on Terravest 3.

Before I continue here's the usual gratuitous disclaimer. As always these notes are unofficial and sometimes venomous. While I do my best to have the notes as unbiased as possible I make no such effort under commentary. Official minutes should be available on January 10th.

One important note. The CC secretary was not at the meeting and although a tape was running I'm not sure how much was recorded as it was difficult to tell when it ran out. I've FOILED for the tape which will tell me a whole lot more. Since fur flew and litigation was alluded to by Mr. Lepler's attorney, Don Rossi, this tape will probably play an important role. More below.

PUBLIC HEARING: Terravest Phase 3:

Terri Hahn, Landscape Architect, LADA, gave a brief overview of the project. Martha Shortlidge made the point that in fact 10% of the property would be disturbed because of wetland buffer incursion. She asked who would actually be responsible for the disturbance in the new town park. While the applicant is securing the permits for the incursion the town would be doing the actual work. It was mentioned that the Terravest subdivision of 4 lots was in front of the Town Board.

Chairman Fasano asked Ms. Hahn why the Planning Board didn't go along with 'Alternative 1' in the DEIS. No clear answer was given.

George Yourke read a letter regarding the lack of alternative plans offered by the applicant. And that 'economic hardship' was the reason usually given. Despite any reason given by the applicant Mr. Yourke felt that alternative plans with 'no buffer incursion' should be required. Ms. Hahn countered with, the wetlands 'rules' don't say 'no encroachment'.

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Dr. Marian Rose read a letter regarding problems with the proposed storm water basins. Terri Hahn responded that some of the Terravest 3 water would be going to Terravest 2. Mr. Rossi pointed out the extraordinary length of time that the approval process has taken.

Rebecca Rabinowitz said that she had seen overflow problems at the site along Zimmer Road and Route 312. Chairman Fasano followed this up by asking Mr. Lepler if these problems had been rectified. Mr. Lepler answered 'yes'. Ms. Rabinowitz also pointed out that the marsh at the end of Ice Pond Road had increased in size since construction had begun.

Bill Heath asked several questions regarding the proposed Town Park/Recreational fields. Mr. Fasano explained that NY State feels that Southeast needs more recreational space and that Councilman Honeck has been the 'front man' for this. He also asked if the 7 senior houses could be removed from the buffer area. Ms. Hahn replied that this wouldn't really help as the remainder of the Senior Housing was 'on a plateau' above said units thus eliminating some units wouldn't make any difference. To stay out of the buffer areas entirely would cut the units down from 60 to 33.

CRSE pointed out that no mitigation plan had been submitted re. buffer encroachment and that due to the unfortunate timing of the Public Hearing many people couldn't attend. Ms. Hahn and Mr. Rossi pointed out that mitigation plans were never necessary for buffer disturbance and that many people were able to be at the meeting so that the Hearing should be closed. CRSE also asked that if the Town chose not to build recreational fields if the applicant would need to disturb the buffer area. Ms. Hahn said, no, not unless the expansion fields were 'needed'.

Chairman Fasano read part of Bob Zubrycki's letter concerning the Atlantic White Cedar stand at Tonetta Lake. The applicant assured the CC that run-off would not drain to Lake Tonetta thus the Cedars would not be affected.

Chairman Fasano then discussed a letter sent by Riverkeeper to the Town Board regarding the 10,000 gallon sewage holding tank for Ace Endico. Concerns were raised as to the length of time (up to two years) that this temporary measure would be in place. The fact that this measure had not been specifically addressed in the EIS and that the wastewater would potentially be hauled to one of three waste water treatment plants now operating in Southeast, Mt. Ebo, Clocktower Commons or the Highlands.

Mr. Rossi vigorously objected saying that Mr. Wilde, watershed attorney for Riverkeeper, would have to retract these statements as none of them were true. That the 10,000 gallon sludge holding tank had been addressed in review and that the sludge would be trucked (approximately every 10 days to 2 weeks) by private carter to an appropriate facility.

The Commission then voted to close the Public Hearing. The vote to hold a 10 day comment period open was 5-1 with Mr. Hauser the dissenting vote.

Vita Subdivision, Brewster Hill Road:

Applicant did not show up.

Bucaj Pool, Turk Hill Road:

Applicant did not show up.

Waterview Estates, Allview Avenue:

Theresa Ryan of Insite Engineering presented the Commission with new plans. Chairman Fasano indicated that nothing could be done until the Board had some time to review these plans. Waterview will be rescheduled for January 25th meeting. Chairman Fasano asked that the wetland buffer areas be flagged.

Approval of Minutes

Some Commission members had never received minutes and thus could not approve them. Susan

Anthony mentioned that she had read them on the CRSE website.

COMMENTS:

Jeese- Where to begin...

Terravest:

The fireworks at the end of the Public Hearing were most enlightening and almost, but not quite, fun. Both Mr. Lepler and Mr. Rossi did an awful lot of posturing. I kept picturing two male dogs with their 'back up' yapping at some poor dog safely ensconced in a pickup truck. Lawsuits were alluded to if Mr. Wilde didn't 'Take it back'. But, of course Mr. Wilde was unable to attend the festive 'Holiday' meeting as were many others. All in all very unbecoming and, in truth, very 'Junior High'.

The mantra of the evening on behalf of the applicant was simply, 'Look we've been over this a million times and nothing's changed so pass it already'. Yeah, well, we have gone round the block on Terravest but it is an awfully large project that potentially affects a whole lot of people (9 million to be exact- well, maybe not exact, but more or less) as they drink the water and these buffers help filter this water. And I still have never seen the applicant prove economic hardship by eliminating all buffer disturbance.

In Southeast, why is it that some applicants have to walk across broken glass to demonstrate economic hardship? in fact, some even have to show more than their 'Quick books Pro' spread sheets while others (a-hem) seem to get a pass on this little technicality.

There's a whole lot more I could say regarding the 10,000 gallon Sludge Holding tank at Ace Endico but in light of the kinda, sorta, maybe, possibly, iffy, bullying and inferred litigation I think I'll give this one a rest. Information I have may come in handy at a later date.

A quick note about the Commission itself. Chairman Fasano was very professional and very impressive. He asked all the right questions and held Ms. Hahn's feet to the fire. It remains to be seen what he thought of her answers. It seems very clear from comments made that Mr. Tringali (and yes, the cell phone went off again- does the man not understand the function of an 'off' switch?) and Mr. Hauser love this project. Mrs. Anthony seemed to be pleased with Terravest as well at the last Public Hearing although she was not so vocal on this go-round. To be fair, Mr. Cuomo seems displeased with this project but, of course, he is a hydrologist and seemed almost apoplectic with claims of 'reduced storm water run-off' or 'enhanced water quality'. Mrs. Tiernan has said little but seems to listen intently. Mr. Langely was absent (oh right- Holiday Week) but also seemed to listen intently, albeit without much comment, at the last Public Hearing.

Finally, although Mr. Lepler mentioned the 'animosity in the room' regarding Terravest I did not see much in the way of acrimony at all. I found the audience to be polite but assertive just as I found the applicant and his posse (until the posturing at the Hearing's end) to be impatient but fairly courteous.

This is a project that will have a lasting impact on all of Southeast and Mr. Lepler et al would do well to understand that we need the latitude to 'agree to disagree'. While all of Mr. Lepler's projects have been going through the approvals process for years they've all been rubber stamped. Terravest has clearly run into a few snags undoubtedly cutting into profit margins and promises. Get used to it. It's not acrimony that you're feeling but rather outrage at our broken system. But the buck can stop at the Conservation Commission (Remember: the Town Board has the right to overturn ANY decision that they've reached) now let's see if it will.

Waterview Estates:

While coming to a meeting with plans in hand undoubtedly saves the applicant a few bucks on postage it's nice to see that this is no longer an acceptable practice. Here's hoping that all engineers will do away entirely with this lame attempt at 'streamlining' the process. Plans submitted by engineering firms in the eleventh hour are unfair, annoying and add billable hours that their client really shouldn't have to pay for. Fix it.

Double Bonus Points: It means we get to go home early and your client saves a few hundred bucks. See, win/win. Always trying to help...

Minutes:

This was a classic. There seemed to be some Commission members who receive minutes and other correspondence while other members do not. The highlight was that Mrs. Anthony read her's on the CRSE website.

That's it from here- Sorry so long but in light of 'pending litigation' it seemed prudent.

Happy New Year to all,
Lynne Eckardt

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