

MINUTES OF THE MEETING OF JUNE 23, 1993

TIME: 12:10 PM to 4:50 PM
DATE: Wednesday, June 23, 1993
PLACE: Canal Commission Office
Prallsville Mills, Stockton, NJ



DELAWARE AND RARITAN
CANAL COMMISSION

ATTENDING:

COMMISSIONERS: Messrs. Barker, Jessen, Jones, Kirkland, Pauley, Torpey, Zaikov; Mrs. Nash, Ms. Shaddow (representative for Mayor Palmer)

STAFF: Mr. Amon, Mr. Dobbs, Ms. Holms
Ms. Carol Blasi, Deputy Attorney General

GUESTS: Carolyn A. Cummings, CSR
Joe Bird
Kay & Larry Pitt, Canal Society of New Jersey
Gabe Sasso, Gale & Wentworth, Inc.
Jim Schemmer, NJ Water Supply Authority
Fred Brown, D&R Canal Watch
Deborah Herzog, Wyndmoor Assoc.
Sam Herzog, Wyndmoor Assoc.
Brian Mulligan, Petrino, Skey, Dumont, Matejek & Roskos
Maren King, Hanna/Olin
Kevin Moore, Jamieson, Moore, Peskin & Spicer
Deborah Poritz, Jamieson, Moore, Peskin & Spicer
Karl Pehnke, Raymond Keyes Assoc.
Doug McMurrain, Hendon Prop. Assoc.
Edwin W. Schmierer, Princeton Twp. Attorney
Sharon Bilanin, Princeton Twp. Committee
Lawrence Glasberg, Mayor, Princeton Twp.
Robert Kiser, Princeton Twp. Engineer
Chris Truelove, Trenton Times
Leo Laaksonen, Mercer County Planning Dept.
Gordon Keith, Port Mercer Civic Assoc.
Richard Collier, Princeton Reg. Planning Bd.
Gary Dahms, T&M Assoc.
Richard Moralle, T&M Assoc.
Bill Guhl, Lawrence Township Manager
John McAlpin, Princeton Packet
Marvin Reed, Mayor, Princeton Borough

Mr. Kirkland opened the meeting and announced that this was a special meeting of the D&R Canal Commission and that all provisions of the Open Public Meeting Law of 1976 had been met.

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EXECUTIVE
DIRECTOR
James C. Amon

COMMISSIONERS
Benjamin B. Kirkland
Chairman

Martin D. Jessen
Vice-Chairman

Donald B. Jones
Treasurer

Stuart R. Zaikov
R. William Pauley

Scott A. Weiner
Frank J. Torpey

Winona D. Nash
Douglas H. Palmer

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND ENERGY
James J. Florio, Governor Scott A. Weiner, Commissioner

Mr. Dobbs presented two "B" zone projects for approval:

93-2096 - Beekman Manor - South Brunswick Township.
315 single family houses on 139+ acres with 10%
impervious coverage; 59.8 acres of open space, of
which 15.4 acres will be dedicated to the Township.

93-2100 - Riverside Farms Section IV - Montgomery Township.
24 single family houses on 34+ acres with 16%
impervious area.

Mr. Dobbs stated that Commission requirements for stormwater management and water quality had been met for both projects and recommended approval. Mr. Jessen moved approval of the two "B" Zone applications, Mrs. Nash seconded the motion; Messrs. Barker, Jessen, Jones, Kirkland, Pauley, Torpey, and Mrs. Nash voted in favor of the motion; Mr. Zaikov abstained. The motion carried.

Mr. Amon presented the application known as Nassau Park Retail Center Phase I for approval. The project has two co-applicants--Wal-Mart, Inc. and Mercer County. Wal-Mart proposes to construct 600,000 square feet of retail stores; the county proposes to make improvements to Quakerbridge Road between Route 1 and the Canal Park. The Commission will be reviewing the application for stormwater management (the project is partly within the "B" Zone), as well as visual impact for that part of the project that is within the "A" zone (part of Quakerbridge Road). The Commission will also be reviewing the project for traffic impact. The applicants have proposed to construct a new road and bridge off-site as a solution toward mitigating adverse traffic impact. The new road and bridge, however, are not part of this project.

Mr. Amon said that Mr. Dobbs had reviewed the stormwater management plans and found that they meet the Commission's standards. Mr. Amon said that the landscape plan submission for the portion of Quakerbridge Road that is in the "A" Zone was also deemed satisfactory by the staff.

Mr. Dahms briefly described the stormwater management plan.

Mr. Pehnke then discussed the proposed road improvements, including a discussion of the new bridge and its ramifications. He stated that with the construction of the new road and bridge, the intersection that is now located at the Port Mercer canal bridge would be relocated further away from the canal. He showed a graph displaying current and projected traffic counts, and concluded that the construction of the new bridge would reduce traffic flow on the Port Mercer bridge, even with the construction of Wal-Mart. He also described the Quakerbridge Road improvements which include

realignment of the approach--a bow in the west bound lane, and landscaping.

Mr. Jessen thought the traffic numbers looked too low; Mr. Pehnke explained that the numbers referred to "new" visits--as opposed to "pass-by" or "diverted link" traffic. Mr. Jessen asked whether the present bridge could handle the projected traffic (increased traffic generated by regional growth). Mr. Pehnke said it could not. Mr. Amon felt that the graph did not adequately reflect the numbers of the proposed Yorkshire Village or the rest of Nassau Park. Mr. Pehnke said that even if the numbers were in error, the two-bridge solution will still yield an overall decrease in traffic on the Port Mercer bridge. Mr. Torpey questioned numbers on page two of the traffic report; Mr. Pehnke said that after looking at subsequent data, the number to which Mr. Torpey referred was incorrect.

Ms. King described landscape plans for the berm separating Wal-Mart and Port Mercer, and the Quakerbridge Road approach to Port Mercer. She said that there would be three hedgerows comprised of native deciduous plants--the median would have some trees and many shrubs that will grow 6 to 10 feet tall. At Mr. Amon's request, more saplings were added. Ms. King said that specialty paving (blocks) would be installed on a portion of the road to discourage speed. Mrs. Nash asked how it would be determined when to use flood control gates. Mr. Dahms said it would be the same procedure currently in place (contacting the police). Mr. Pauley asked whether the light could be programmed to flash. Mr. Pehnke said he would look into it.

Mr. Laaksonen reminded the Commissioners of their previous conceptual approval for a road through Yorkshire Village and second bridge. He said that the original application by Nassau Park contained only minor improvements to the intersection in Port Mercer. Although the construction of Yorkshire Village has been delayed, Mr. Laaksonen felt that the new road and bridge should be constructed, and worked with both developers to agree to fund the road and bridge construction. He said that he expected the developers' agreement to be executed shortly.

Mr. Kirkland asked if any county funds would be involved. Mr. Laaksonen replied that the County would pay for the financing and inspection of the improvements, plus the county would pay for improvements for 1500 feet of Province Line Road west of the canal.

Mr. Jessen asked how long it would take to get State permits for the road and bridge construction. Mr. Dahms replied from one to one and one half years. Mr. Kirkland asked about DOT's involvement. Mr. Dahms answered that DOT must review anything related to Route 1, plus the new bridge over the canal. Mr. Jessen asked when Wal-Mart would open; Mr. Dahms replied it would open in March of 1994. Mr. Torpey said that this sounded like a disaster.

Mr. Pehnke said they were exploring an interim solution of installing a 3-way stop sign at the new intersection until the new bridge is completed. Mr. Torpey asked how long would the area be burdened, from the time the stores are opened, to the time that the bridge is completed. Mr. Dahms said that the amount of time needed is dependent upon the permit review time, but he anticipated that construction of the bridge would begin August of 1994, and that it would take twelve to fifteen months.

Mr. Jessen asked what was the guarantee that the bridge would be built. Ms. Poritz replied that a potential condition of the Commissioner's approval is that until the Developers' Agreement (obligating Wal-Mart to fund the bridge) is signed, the Approval is not operative. Mr. Jessen asked whether Wal-Mart would tie the bridge construction to a Certificate of Occupancy. Mr. Moore replied that the C.O. tie was weaker than the Developers' Agreement. Mr. Torpey asked again when the bridge would be completed, assuming there were no bureaucratic obstructions. Mr. Dahms replied that the bridge could be completed by November, 1995.

Mrs. Nash asked Mr. Laaksonen who would be responsible for the road. Mr. Laaksonen said the road from the new intersection to the canal would be under municipal jurisdiction, although it was unknown presently whether Lawrence Township or West Windsor Township would assume responsibility.

Mr. Torpey reiterated his worry that traffic would be a disaster during the time from when Wal-Mart is built to when the new bridge is completed. Mrs. Nash asked whether Nassau Park would consider not permitting access to the intersection of Quakerbridge Road and Nassau Park Boulevard during this time period. Mr. Pehnke stated that DOT would not permit it because of their highway code.

Mr. Pauley asked about restricting turns at the intersection toward the Port Mercer bridge. Mr. Pehnke said that it would be impossible to enforce those restrictions. Ms. Poritz said it would be unsafe.

Mr. Amon reviewed a list of ten conditions that the staff drew up, should the Commission agree on the two-bridge solution. Mr. Amon said that in addition to the ten conditions, it had been suggested that a further condition stipulate that the applicant monitor traffic over the existing bridge on an annual basis for the next ten years and report to the Canal Commission. He also supported Mr. Pauley's suggestion of restricting traffic on Nassau Park Boulevard from turning right, and on Quakerbridge Road from turning left, as a means of alleviating the adverse impact on the bridge during the twenty months while the bridge is being built, providing that DOT permits it. Mrs. Nash also suggested as a condition that an agreement be made between Mercer County, West Windsor and Lawrence, as to whose jurisdiction is the section of road between

the new intersection and the canal. Mr. Laaksonen said that the county would not vacate the road until a new assignment had been made.

Ms. Blasi stated that there are no guarantees in the draft resolution, and that there is no guarantee as to the outcome of potential lawsuits should the approval be violated. She said that the draft resolution with conditions does provide some safeguards for the Commission should the Commission decide to approve the application.

Mayor Glasberg presented Princeton Township's position on this matter and asked that the Commission consider several conditions should they approve the project: that the new bridge be built before Wal-Mart receives a Certificate of Occupancy, that the new bridge construction include improvements which will serve to raise the road above the 100-year floodplain north to Princeton Pike, that Canal Pointe Boulevard be required to be extended, and several design details for the new approach to the existing bridge be imposed to help preserve the character of Port Mercer.

Mr. Laaksonen said that the Canal Pointe Boulevard extension, although on the county Master Plan, was removed from the West Windsor Master Plan, and has not been resolved.

Mr. Kiser said that as a result of the proposed shopping center, traffic going over the existing bridge would increase by 32% before the new bridge is built. He stated that the interim stop signs would not be an adequate solution, and the increase would further impact an already failing intersection. He discussed the design details for the new approach that the Township asked the Commission to consider.

Mr. Collier spoke of the adverse impact that the traffic would have on the largest tract of open space in Princeton Township.

Mr. Schmierer said that the Township has looked into the possibility of making a cul-de-sac on Quaker Road and has found some precedent for permitting the township to do it. Mr. Schmierer felt the Commission's approval of Wal-Mart was premature, because of the delay in building the new bridge. He reminded the Commissioners of their mandate that "the Commission shall not approve projects that include any new vehicular crossings of the Canal unless the applicant demonstrates to the satisfaction of the Commission that the project conforms with the following goals...that a new major road crossing shall relieve congestion on existing local vehicular crossings." He said this would not occur until the new bridge is built. He felt that the estimate of 20 months for the time between the building of the shopping center and the new bridge was too optimistic, that it would be more like 40 months.

Mayor Reed concurred with the Princeton Township representatives. He felt that the County Planning Board and the County Freeholders should mediate and approve this project before the Canal Commission gives approval.

Ms. Poritz maintained that closing Quaker Road would require DOT approval. Mr. Pehnke disputed Mr. Kiser's number of a 32% increase, and said he would take into consideration some of the design details that Mr. Kiser suggested for the new approach.

Ms. Poritz said that if the project does not go forward prior to receiving State permits for the new bridge, then the bridge will not be built, for economic reasons.

Mr. Guhl said that he supported the two-bridge solution but not if traffic was discouraged from using the existing bridge. Mr. Jessen asked if he would be in favor of a new four-lane bridge; Mr. Guhl said he would not.

Mr. Jones said he would not vote to approve the project unless there was a condition that a Certificate of Occupancy would be granted after all approvals for the new bridge had been acquired.

Mr. McMurrain said that the developer would not be able to carry out the project with that condition.

Mr. Torpey moved the following resolution:

Whereas the Open Public Meetings Act provides that a public body such as the Delaware and Raritan Canal Commission may meet in closed session to discuss any pending or anticipated litigation in which the public body is or being made party, as well as to discuss legal issues with their attorney that fall within the purview of attorney-client privilege,

Whereas the Commission desires to retire to Closed Session to discuss these matters,

Now therefore be it resolved that the Commission shall at this time meet in closed session to discuss the above-mentioned matters. The substance of the closed session will be disclosed publicly only when it will not impede the state's ability to participate in the litigation or breach an attorney-client privilege.

Mr. Zaikov seconded the motion, and it passed unanimously. The Commission met in Executive Session at 3:50 PM.

The public session reconvened at 4:35 PM.

Mr. Amon made a final recommendation to the Commission. He recommended that the Commission approve the Wal-Mart/Mercer County application with the conditions outlined in the draft resolution,

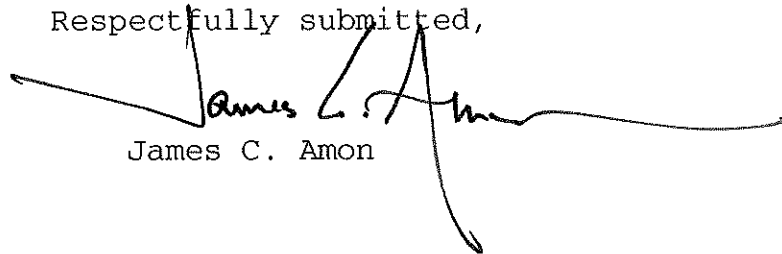
with two additional conditions: 1) that Wal-Mart will count all traffic on Quakerbridge/Province Line and Quaker Roads at Port Mercer at least once per year for ten years following the approval of this application and report to the Canal Commission on the quantity and direction of traffic; and 2) that the intersection of Nassau Park Boulevard and Quakerbridge Road not be opened until the new road and bridge be built, with the proviso that if the Department of Transportation determines that this is not an acceptable solution, then there be a prohibition of right turns coming southward on Nassau Park Boulevard and left turns going into Nassau Park Boulevard for traffic going eastward on Quakerbridge Road, until the new road and bridge are built; and that Wal-Mart provide a policeman at the intersection to enforce the prohibition.

Mr. Amon said his recommendation was based on his opinion that this was the best way to mitigate traffic impact on Port Mercer due to inevitable development in the area, and that although there was a risk that the County may not reliably perform in accordance with the meeting's presentation, the risk was not great.

Mr. Torpey moved to approve the Wal-Mart/Mercer County application with the twelve conditions referred to by Mr. Amon; Mrs. Nash seconded the motion. Messrs. Torpey, Barker, Pauley, Jessen, Kirkland, Zaikov, and Mrs. Nash voted in favor of the motion; Mr. Jones voted against. The motion carried. Mr. Jones stated that he opposed the motion because the Commission does not have any assurance that the new bridge will be built.

Mr. Zaikov moved to adjourn; Mr. Barker seconded the motion and it passed unanimously. The meeting adjourned at 4:50 PM.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James C. Amon", with a long horizontal flourish extending to the right.

James C. Amon