

MINUTES OF THE MEETING OF DECEMBER 15, 1993

TIME: 12:10 PM to 2:30 PM  
DATE: Wednesday, December 15, 1993  
PLACE: Canal Commission Office  
Prallsville Mills, Stockton, NJ



ATTENDING:

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

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

GUESTS: Paul Stern, D&R Canal State Park  
Kay & Larry Pitt, Canal Society of New Jersey  
Joe Bird  
Deborah Herzog, Wyndmoor Associates  
Frank J. Petrino, Wyndmoor Associates  
Gary Dahms, T&M Associates  
Kevin Moore, Jamieson, Moore, Peskin & Spicer  
Frank Monti, Hopewell Valley Bd. of Education  
Richard O'Connor, PE, PP, Berson Ackermann  
Fred Brown, D&R Canal Watch  
Leo Laaksonen, Mercer County Planning Dept.  
Gordon Keith, Port Mercer Civic Association

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

MINUTES

Mr. Jones moved the approval of the minutes of November 17;  
Mrs. Nash seconded the motion and it passed unanimously.

LEASES AND PERMITS

Mr. Amon presented a lease renewal requested by Finkel's Hardware Store in Lambertville for land used for a warehouse and storage. Mr. Pauley moved approval of the lease renewal, Mr. Jessen seconded the motion and it passed unanimously.

PRALLSVILLE MILLS P.O. BOX 539 STOCKTON, NJ 08559-0539 609-397-2000 FAX: 609-397-1081

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James C. Amon

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

## REVIEW ZONE ACTIONS

Mr. Amon presented one "A" Zone project application for visual impact review:

93-2136 - Gest Residence - Delaware Township; proposal to construct patio and auxiliary building in rear yard.

Mr. Amon stated that the new building will be between Route 29 and the Canal Park and will be marginally visible from the park. He recommended approval. Mr. Jessen moved approval of the Gest additions, Mrs. Nash seconded the approval and it passed unanimously.

Mr. Amon then presented one "A" Zone project for concept approval. He said that the Trenton Department of Housing and Development is proposing to rip out existing concrete in the city park known as North 25, and replace the concrete with lawn, trees, and a circular walkway. Mrs. Nash moved approval of the concept plan, Mr. Jessen seconded the motion and it passed unanimously.

Mr. Dobbs presented a project application for stormwater management review ("B" Zone with one structure in the "A" Zone):

93-2191 - Canal Road Water Treatment Facility; Franklin Township, Somerset County.  
new treatment facilities on 98+ acres with 25% impervious surface.

Mr. Dobbs stated that 2 detention basins will provide for stormwater management and water quality protection. Mr. Amon said that the building's architecture in the "A" Zone would imitate a 19th-century barn. Mr. Jessen moved approval of the treatment facility; Mr. Pauley seconded the motion and it passed unanimously.

Mr. Amon then presented an application for waiver from strict compliance of the stream corridor regulations. He said that the developer Hovnanian set aside land for an elementary school on its recently approved residential development in Hopewell Township known as Mershon Chase and Smith Crossing at Brandon Farms. The Hopewell Valley Board of Education is requesting permission to encroach on a portion of a Commission-designated stream corridor in order to construct the school. Wooded areas would not be disturbed. Mr. Amon recommended waiving strict compliance from the stream corridor regulations in order to satisfy this specific request. Mr. Jessen moved waiving the project from strict compliance of the stream corridor regulations, Mr. Jones seconded the motion and it passed unanimously.

## PORT MERCER BRIDGE AND ROAD

Mr. Amon announced that he recently learned that Wyndmoor Associates is no longer a signatory to the Developers' Agreement which allows for the construction of the road and bridge. The Agreement states that if the right-of-way for the road could not be obtained from Wyndmoor, the County would condemn it. However, Mr. Petrino, representing Wyndmoor, wrote a letter stating that the application should not be presented before the Commission. Ms. Herzog read Mr. Petrino's letter into the record (attached).

Mr. Moore stated that since Wyndmoor has not satisfied a condition of the Developers' Agreement, the County is now obligated to condemn the right-of-way.

Ms. Blasi stated that there was nothing in the Regulations or the statute that said that the applicant must be the owner of the property.

Mr. Petrino said that although the Agreement states that the County can condemn the right-of-way, it has not condemned it yet. He said that the owner of the property is Wyndmoor, and that no one can apply for approvals to build on Wyndmoor's land. He said that every DEPE application requires the endorsement/consent of the property owner that is filing the application.

Mr. Moore said that the Canal Commission's statute does not require the consent of the landowner. He said that it was quite typical in governmental projects (the County is a co-applicant) whereby governmental agencies are seeking approvals when they have not yet acquired property through eminent domain.

Mr. Amon said that the Commission does not require government project applicants to complete the DEPE application form (CP-1) and agreed with Ms. Blasi that the regulations do not require the applicant to be the owner. She said the safest direction for the Commission to take would be to table the application for a month, request Wyndmoor to make an argument in writing, have Wal-Mart reply to that argument, and then the Commission and she could review the documents and make a decision at the next meeting. She said, however, that tabling the project may produce negative consequences. She said that Mr. Petrino's argument thus far did not convince her that the Commission should not act on the application.

Mr. Jones moved Commission review of the application, Mr. Torpey seconded the motion; Messrs. Barker, Kirkland, Jones, Pauley, Torpey and Mrs. Nash voted in favor of the motion; Mr. Jessen voted against. The motion passed.

Mr. Dahms presented plans for the road and bridge that were consistent with the concept plans approved in September.

Mr. Pauley left at 1:30 PM.

Alternatives of stone form liner vs. stone facing on the abutments were discussed. Ms. Shaddow asked whether more trees could be planted on portions of the banks; Mr. Dahms said that could probably be done. Mrs. Nash asked whether Lawrence Township approved the project. Mr. Laaksonen said that the plans were presented to the township but did not require township approval because it was a county project.

Mr. Petrino stated that this design does not accommodate Yorkshire Village and introduced Mr. O'Connor to respond to the issue.

Mr. O'Connor said that the outfall pipe would not be large enough. Mr. Dahms said they could increase the size of the pipe. Mr. O'Connor then said the present road design was not taking entrances to the proposed Yorkshire Village into consideration. Mr. Laaksonen said that minor modifications may be required by the County but that they are not significant with regard to the Commission's overall review and approval.

Mr. O'Connor said that a complete application requires sufficient information for the Commission to review, and that drainage calculations have not been submitted for the present road design for hydraulic purposes and water quality. Mr. Dobbs concurred. Mr. O'Connor, therefore, felt that this was not a complete application. He then discussed other aspects of the submitted plans that he felt were lacking in detail or were incorrect.

Mr. Jessen asked when the application had been determined to be complete; Mr. Amon replied that it was complete as of December 9th.

Mr. Dahms explained that the 24-foot wide temporary road's detention could be handled by "interim" swales, and that once the Yorkshire development was designed, the 36-foot replacement road's runoff would be handled by the development's detention basin.

Mr. Jessen expressed concern that swales would not be adequate detention for the road. Mr. O'Connor cited several minor flaws in the plans with which Mr. Dahms agreed. Mr. Dahms said that if the Commission wished Wal-Mart and the County to build a detention basin for the road only, that they would oblige, and would condemn the land necessary to build it. Mr. Laaksonen agreed.

Mr. Amon said that he had not realized that the interim aspect of this project changed the original stormwater design, and recommended tabling the project for action, because he did not think that it was a complete application. He said that there was not enough information for appropriate staff review, given the new development that Wyndmoor is no longer party to the Developers'

Agreement, and that the detention basin for Yorkshire may not be built.

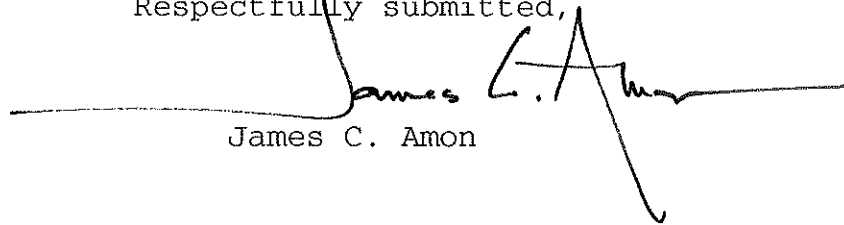
The project was tabled.

EXECUTIVE DIRECTOR'S REPORT

Mr. Amon presented the meeting schedule for 1994--the Commission would meet on the third Wednesday of each month at noon (no change). Mr. Jones moved approval of the meeting schedule, Mr. Jessen seconded the motion and it passed unanimously.

The meeting adjourned at 2:30 PM.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James C. Amon", is written over a horizontal line. The signature is stylized with a large, prominent "A" and a long, sweeping tail that extends to the right and then curves downwards.

James C. Amon