

MINUTES OF THE MEETING OF AUGUST 23, 1995

TIME: 12:20 PM to 2:50 PM  
DATE: Wednesday, August 23, 1995  
PLACE: Canal Commission Office  
Stockton, New Jersey



DELAWARE AND RARITAN  
CANAL COMMISSION

ATTENDING:

COMMISSIONERS: Messrs. Jessen, Kirkland, Marshall,  
Pauley; Mrs. Nash

STAFF: Mr. Amon, Ms. Holms  
Mr. Lewin Weyl, Deputy Attorney General

GUESTS: Kay & Larry Pitt, Canal Society of New Jersey  
Thomas A. Price, NJ Water Supply Authority  
Fred Brown, D&R Canal Watch  
John Auciello, D&R Canal State Park  
Kevin Moore, Jamieson, Moore, Peskin & Spicer  
Doug McMurrain, Hendon Properties  
Jim Capizzi, Sorce Properties  
Russ Smith, Hopewell Valley Engineering  
Linda House, Canal Society of NJ  
Robert von Zumbusch  
Anthony Vaccaro  
John Vaccaro

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

Mrs. Nash moved approval of the minutes of July 19; Mr. Jessen seconded the motion and it passed without dissent.

REVIEW ZONE PROJECTS

Mr. Amon presented two "A" Zone applications for approval:

95-2231 - DOT Cable Crossings: Routes 1 & 295; Lawrence Twp. two fiber optic cables across the canal; 1) a 4" steel conduit strapped to the east face of the Route One concrete bridge, and 2) a cable attached to a steel beam in the understructure of the I-295 steel and concrete bridge.

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EXECUTIVE DIRECTOR James C. Amon	COMMISSIONERS Benjamin B. Kirkland Chairman	Martin D. Jessen Vice-Chairman	Winona D. Nash Treasurer	Stuart R. Zaikov R. William Pauley	Robert C. Shinn, Jr. Frank J. Torpey	Douglas H. Palmer Marfy Goodspeed
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NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Christine Todd Whitman, Governor Robert C. Shinn, Jr. Commissioner

- 95-2232 - Maslyn/Wittman Porch - Franklin Twp., Somerset County;  
 proposed porch on existing house that is about 200' from the canal in East Millstone.

Mr. Amon said that neither of the proposals would cause a harmful visual impact on the Canal Park and recommended approval. Mr. Jessen moved approval of the two "A" Zone projects, Mr. Pauley seconded the motion, and it passed unanimously.

Mr. Amon then presented five "B" Zone applications for approval:

- 93-2135 Pleasant View Farms Section III - Hillsborough Twp.  
 52 single family houses on 89+ acres with 11% impervious surface. Stormwater management requirements will be met by a regional detention basin; water quality requirements will be met by 2 swales. There will be a 100-foot stream corridor buffer.
- 95-0779E Greenbriar @ Whittingham Villages 1.5 & 3.1 - Monroe Twp.  
 100 detached homes and 30 duplex units on 24.9 acres--part of a much larger project; stormwater management is integrated with other phases of the overall project.
- 95-2204 Presidential Estates - Monroe Twp.  
 17 single family homes on 60± acres; one detention basin will manage stormwater runoff.
- 95-2208 Woodland Estates - South Brunswick Twp.  
 75-unit housing development on a 49.9 acre lot, with one detention basin to handle water quality and stormwater management requirements.
- 95-2217 Marketsource - South Brunswick Twp.  
 warehouse addition with parking and drives; a new detention basin will manage stormwater runoff.

Mr. Amon said that all five projects met Commission standards for stormwater management and water quality and recommended approval. Mrs. Nash moved approval of the five "B" Zone applications; Mr. Pauley seconded the motion and it passed unanimously.

Mr. Amon then presented a sixth "B" Zone application:

- 95-1518A Ewing-Mercer Commerce Center - Ewing Twp.  
 2 office/warehouses and parking.

Mr. Amon said that DEP's Stream Encroachment division would be reviewing this project's stormwater management plans and therefore

recommended that this part of the Commission's review be waived. He also said, however, that portions of two detention basins were proposed to be constructed in a Commission-designated stream corridor, which is a conditional use according to the regulation. Mr. Amon felt that there were alternative locations for the basins; he said that the applicant did not make an effort to comply with the Commission's regulations, and recommended that the Commission deny the request to approve this conditional use within the stream corridor.

Mr. Smith, engineer for the project, said that an earlier plan for a residential development had already been approved by the Commission in the early 90's. He said that the area by the stream had become a dumping spot, and that the vegetation was second growth. He said that the reason one of the basins was located in the stream corridor was because it would tie into an existing pipe, installed as part of the earlier project. He said the second basin would tie into an existing swale. He also said that the site was constrained by floodplain and wetlands.

Mr. Amon said that although the vegetation was second growth, he had visited the site and that it was mostly mature trees. He recommended deferring the application until September's meeting so that he could meet with Mr. Smith and try to work out a solution. The Commissioners and Mr. Smith were agreeable to this suggestion, and the application was tabled.

#### PARTIAL RELEASE OF CONDITION OF APPROVAL FOR A PORTION OF THE NASSAU PARK RETAIL CENTER

Mr. McMurrain asked the Commissioners to consider a request by the owners of the Wal-Mart property and the Sam's Club property in the Nassau Park Retail Center in West Windsor to be released from the required completion deadlines of the road and landscaping. According to Mr. McMurrain, New York Life Insurance Company is the mortgage lender for the project, and because of the Commission's approval condition regarding the completion of the road and bridge, the company is impeding the advancement of funds to construct the road and bridge. Mr. McMurrain maintained that if Sam's Club and Wal-Mart are deleted from the approval condition, New York Life would surrender control over the funds required to build the road and bridge.

Mr. McMurrain went on to say that Home Depot and 6 smaller retail stores would still be held to the approval condition.

The Commissioners agreed that it was in the Commission's best interest to have Wal-Mart build the road and bridge as opposed to anyone else. It was also agreed that the first priority was to get the road and bridge built without impediments.

Mr. Weyl then outlined five options that the Commission could take, from declining the request to accepting it as presented. After discussing the various options, Mr. Amon recommended the option whereby the Commission grant the request upon the property owner's submission to the Commission of proof that the Commission is a named obligee on the performance bond(s) and is in the same position of security as the County and the Yorkshire Village developer. He also concurred with Mr. Weyl's recommendation that the approximately \$2.2 million required for the road and bridge construction be placed in an escrow fund to be administered by the law firm of Jamieson, Moore, Peskin & Spicer.

Mrs. Nash moved the following resolution:

Wal-Mart and Sam's Club will be removed from the obligation to fulfill the conditions of the Certificate of Approval issued by the Commission for the project known as DRCC #91-1986 upon submission of evidence that the Delaware and Raritan Canal Commission is a named obligee on the performance bonds posted for the construction of the realigned Provinceline Road and the new Port Mercer Bridge. The removal from obligation is further conditioned upon the submission of evidence that funds sufficient to cover the cost of constructing the road and bridge are placed in an escrow account to be managed by the firm of Jamieson, Moore, Peskin & Spicer.

Mr. Kirkland seconded the motion and it passed unanimously.

#### REQUEST BY ANTHONY VACCARO TO MOVE HOUSE INTO CANAL PARK BUFFER AREA

Mr. Amon reviewed the position previously taken by the Canal Commission about the moving of existing houses from the proposed Yorkshire Village development. The Canal Commission had approved a request by Mr. John Vaccaro to have his house moved to the village of Port Mercer. They based their approval on the fact that the house was an important historic structure and would not have a negative impact on the historic community of Port Mercer.

Mr. Anthony Vaccaro also requested to have his house moved to Port Mercer or to a site closer to the canal. This house is not historic, however, and the Commissioners felt that they would be setting a dangerous precedent by allowing the house to be located in the area currently restricted by Commission regulations. After hearing Mr. Vaccaro's request, the Commission reaffirmed that they could not approve the request.

#### CANAL BOAT RIDE

Mr. Amon asked the Commissioners what steps should be taken to proceed with a canal boat ride on the D&R. Mr. Jessen and Mrs. Nash both agreed that a location should be selected. It was also agreed that a motorized pontoon boat should be considered,

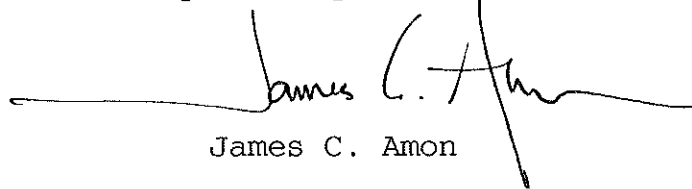
because of the high cost and other problems associated with a mule-driven boat. Mr. von Zumbusch said that although a motorized boat would be easier and cheaper, it would be a completely different experience from a mule-driven boat. He suggested thinking of the pontoon boat as an intermediate plan, but to not completely dismiss the longer-range plan of a mule-driven boat. Mr. Jessen suggested coming up with three to four sites for a pontoon boat. Mr. Price asked that Mr. Amon coordinate the selection of sites with the Water Supply Authority.

#### CANAL PARK SUPERINTENDENT'S REPORT

Chief Ranger John Auciello reported that the campground was very busy this summer, but noticed that the Canal Park itself had reduced visitor numbers as temperatures increased. He said that the increased duties of managing Six-Mile Run Reservoir has added to the burden of an already reduced park staff.

The meeting adjourned at 2:50 PM.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James C. Amon". The signature is written in a cursive style with a long horizontal line extending to the left and a vertical line extending downwards from the end of the signature.

James C. Amon