



DELAWARE AND RARITAN
CANAL COMMISSION

MINUTES OF THE MEETING OF OCTOBER 20, 2004

TIME: 10:10 AM – 12:00 PM
DATE: Wednesday, October 20, 2004
PLACE: Canal Commission Office
Stockton, New Jersey

ATTENDING:

COMMISSIONERS: Messrs. Albert, Fernandez, Jessen, Loos, and Weingart; Mayor Marchand

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

GUESTS:

Ron Bond, D&R Canal Watch
Peter Lanfrit, Esq.
Tom Gale, Franklin Township Historic Preservation Committee
Mike Marquis, HACBM, LLC
Curt Emmich, Princeton Forrestal Center
Dimitry Levitsky, Bristol Myers Squibb Co.
Steve Ellis, Division of Parks & Forestry
Susan Herron, D&R Canal State Park
Vicki Chirco, D&R Canal State Park
Joe Shepherd, NJ Water Supply Authority
Robert Elkins, Briad, LLC
James Ardizzone, Briad
Joseph Tyrroll, Star-Ledger
Rob Freud, Bohler Engineering

Mr. Weingart 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 OF THE MEETINGS OF SEPTEMBER 15, 2004 AND OCTOBER 4, 2004

Mr. Jessen moved approval of the minutes of both the meetings of September 15, 2004 and October 4, 2004; Mr. Loos seconded the motion. The motion passed unanimously.

LEASES AND PERMITS

Mr. Amon presented a lease application by the Borough of South Bound Brook to maintain a Canal Park access area next to the South Bound Brock Lock. The Borough would be responsible

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
James E. McGreevey, Governor Bradley M. Campbell, Commissioner

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for mowing the adjacent picnic area. Mr. Jessen moved approval of the lease application; Mr. Loos seconded the motion, and it passed unanimously. Mr. Amon then presented a permit application by the Elizabethtown Water Company to make improvements to the Canal Park as mitigation for installing a large water pipe under the canal in South Bound Brook. The improvements include installing a new driveway and parking area as well as planting trees at the South Bound Brook Five-Mile Lock.

REVIEW ZONE PROJECTS

Mr. Amon presented the following "A" Zone project for review and approval:

01-2729 – Homewood Suites – Plainsboro Township

Mr. Amon said this is an application to build a 4-story hotel on Route One. He said the project is in conformance with the Commission's regulations for visual impact, traffic impact, stream corridor impact, and drainage impact. He said one of the two stream corridors on this site parallels Mapleton Road and recommended that the Commission approve the project with the condition that the conservation easement for the stream corridors allow a recreational path to be built by the State within the corridor, should it be needed. Ms. Holms recommended that the approval also be conditioned upon receipt of a revised plan delineating metes and bounds of the two stream corridors. With those conditions, Mr. Jessen moved approval of the application, Mayor Marchand seconded the motion, and it passed unanimously.

Mr. Amon then presented the following "B" Zone project for review and approval:

04-2436Q – Bristol-Myers Squibb Section of the Lawrence-Hopewell Trail – Hopewell Twp.

Mr. Amon said the trail was reviewed by the Commission's engineer who determined that it was in conformance with the Commission's regulations. Mayor Marchand moved approval of the application, Mr. Jessen seconded the motion, and it passed unanimously.

04-2436R – Bristol-Myers Squibb Stream Corridor Boundary Revision – Hopewell Twp.

Ms. Holms said a stream corridor on the BMS office campus is presently protected by a conservation easement held by the Canal Commission. The applicant is requesting to change the boundaries of the corridor because they would like to use a small portion of the present corridor as an area for fill while utility work is being done. The applicant is proposing to preserve additional land adjacent to the corridor in exchange for this use, then re-vegetating the area once the work is completed. A farmer presently leases part of the campus for cow pasture--the cows will be prevented from entering the stream corridor with an electric fence. Mr. Jessen moved approval of the boundary revision, Ms. Marchand seconded the motion, and it passed unanimously.

Mr. Amon then presented the following "A" Zone application for waiver from setback guidelines, and approval:

04-1570C – Wendy's Restaurant – Franklin Township

Mr. Amon said the applicant is proposing to build a fast-food restaurant on a site where most of the land is within the 200-foot setback guideline of the Commission's regulations. The proposed building is 148 feet from the Canal Park, and the applicant is proposing to build a six-foot board-on-board fence surrounding the entire site. The applicant proposes to plant 87 Red Cedars and 19 Red Maples to help screen the building from the park. Mr. Amon said that with leaves still on trees the building would not be visible from the Canal Park, and during winter, it probably would not be visible. He reviewed the history of the application, explaining that although the Commission had granted the waiver and approved the project in 1999, the approval had expired.

Mr. Freud said that 4.6 acres of the 5.5-acre site would be preserved by a conservation easement to be held by the Canal Commission. Mr. Lanfrit asked the Commission to waive the setback guideline based upon economic hardship, because only 10,000 square feet of land on this site would be developable under the present environmental restrictions. Mr. Lanfrit also suggested that a monetary contribution for improvements to the Canal Park could be made as mitigation for the waiver. Mr. Loos noted that the Canal Park Master Plan called for a pedestrian bridge in this part of the Park. Mr. Weyl said that an informal contribution should not be part of the approval.

Mr. Jessen moved waiver of the application from the regulation's setback regulations, and approval; Mr. Albert seconded the motion, and it passed unanimously.

Mr. Amon then presented the remaining "A" Zone applications for review and approval:

04-3101 – Cane Residence Addition – Hopewell Township

Mr. Amon said the proposed one-story addition would be screened by many trees from the Canal Park and recommended approval.

04-3108 – Sassman Swimming Pool – Franklin Township

Mr. Amon said this was an application to install an in-ground swimming pool, and that it was unlikely that it would be visible from the Canal Park.

Mr. Loos moved approval of the two "A" Zone applications; Mr. Jessen seconded the motion, and it passed unanimously.

Mr. Amon presented the following "B" Zone applications for review and approval:

03-2823A – Hun School Athletic Facilities – Princeton Township

03-2971 – Lackland Self Storage – South Brunswick Township

04-2546A – Veronica I Medical Arts Building MRI Addition – Franklin Township

04-3048 – Medical Society of New Jersey Parking Expansion – Lawrence Township

04-3087 – Otto Kaufman Community Center – Montgomery Township

04-3097 – Cedar Grove Lane Widening – Franklin Township

03-3014 – Conair Warehouse – East Windsor Township

02-2824 – True Jesus Church – Hillsborough Township

03-2974 – Sterling Pointe – Franklin Township

04-3026 – Raritan Computer Parking – Franklin Township

Mr. Amon said the Commission's Review Zone Officers had reviewed the applications and determined that they conformed to the Commission's standards for stormwater management and water quality. Ms. Holms presented requests for waiver from strict compliance with the Stream Corridor Regulation for Lackland Self Storage and True Jesus Church. She said the applicant for Lackland Self Storage was proposing to plant a dense row of native trees in exchange for allowing a grassed access path to a detention basin in the stream corridor. She said the applicant for True Jesus Church is proposing a 2:1 averaging plan for approximately 3,000 square feet of encroachment into the corridor. Mr. Jessen moved waiver of the True Jesus Church and Lackland Self Storage applications from strict compliance of the Stream Corridor Impact Regulation, and approval of the "B" Zone applications. Mayor Marchand seconded the motion, and it passed unanimously.

Mr. Jessen moved the following resolution:

Whereas the Open Public Meeting Act provides that a public body such as the Canal Commission may meet in closed session to discuss personnel matters and matters subject to attorney-client privilege;

Whereas the Commission desires to retire to closed session to discuss such personnel matters and matters subject to attorney-client privilege;

Now therefore be it resolved that the Commission shall at this time meet in closed session to discuss personnel matters and matters subject to attorney-client privilege, the substance of which will be disclosed publicly only if it does not constitute an unwarranted invasion of individual privacy and will not breach attorney-client privilege.

Mayor Marchand seconded the motion and it was approved without dissent. The Commission entered Executive Session at 11:30 AM.

At 11:50 AM, the public meeting resumed. Mayor Marchand left the meeting at this time.

WATER SUPPLY AUTHORITY REPORT

Mr. Shepherd described three damaged areas along the canal as a result of the flood in September. At Bull's Island, the stems of the feed gate were destroyed. At Station 122, the center barrel of a stone five-barrel waste gate washed out; the Authority is presently installing a temporary plug. In Stockton, a portion of the floodguard bank was scoured, resulting in damage by uprooted trees.

CANAL PARK SUPERINTENDENT'S REPORT

Superintendent Herron reported that interpretive walks were well attended on October 2nd and 16th; she said the Canal Park Naturalist would be giving after-school programs in Delaware Township. She said she expected over 100 children to attend the Halloween Fest at Bull's Island.

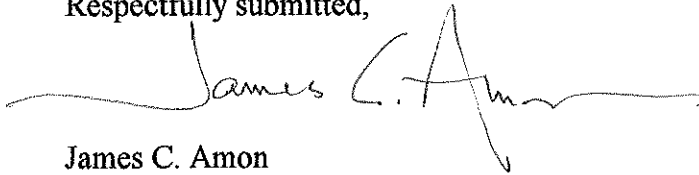
OLD/NEW BUSINESS

Mr. Amon reported that Ms. Palius submitted a draft resolution for Commission adoption, recommending the Millstone Valley in Somerset County be designated a "Special Resource Area" in the State Plan. He said he conferred with Ms. Armstrong about the designation and was informed that the "Special Resource Area" designation is intended to be applied to an area when special regulatory programs to protect that area are simultaneously created. Since that is not the case with the Millstone Valley, he recommended not taking action.

Mr. Amon presented a request by the Delaware Riverkeeper to pass a resolution encouraging the Delaware River Basin Commission to adopt "Special Protection Waters" designation for the Lower Delaware River. He said he recommended this action because it would actively bolster water quality protection for the river, the canal's water source. Mr. Albert explained in greater detail the meaning of the designation. Mr. Albert moved approval of the resolution as prepared by Mr. Amon; Mr. Jessen seconded the motion, and it passed unanimously.

The meeting adjourned at 12:00 PM.

Respectfully submitted,

A handwritten signature in black ink that reads "James C. Amon". The signature is written in a cursive style with a long horizontal flourish extending to the left and right.

James C. Amon