

Wetlands in dispute at Klockner Woods

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By DARRYL R. ISHERWOOD

HAMILTON -- State environmental regulators have told a consultant studying Klockner Woods that the 51-acre property may contain more wetlands than the company initially reported in April.

Regulators from the state Department of Environmental Protection have asked the consultant, Van Note Harvey, the Princeton-based firm studying the land on behalf of the township, to take another look at sites in the property's northern section. Once the consultant has revisited the property, a new report will be submitted to the DEP.

"We have asked them to re-evaluate certain areas," said Louis Cattuna of the DEP Bureau of Inland Regulation. "There are additional wetlands on the property, but they are not substantial."

Township officials were not surprised by the DEP's request.

"This is not unexpected," said spokesman Rich McClellan. "There is always a back and forth with these types of situations."

Van Note Harvey, the environmental consultant completing a wetlands study of the tract, which township officials have proposed to purchase for \$4.1 million from owner Fieldstone Associates, submitted a report in April that showed about one third of the property was covered in wetlands. The wetlands delineation was ordered by the DEP after questions were raised about the land's value. Township officials had agreed last year to purchase the property for \$4.1 million. According to township officials, the price was based on the number of homes -- 41 -- the land could hold.

But several sources, including the former owner of the property and a Realtor who tried to sell it, said the tract is far too wet to build that many homes on and may be too wet for any development. The DEP was scheduled to pay for the majority of the purchase through a grant and a low-interest loan but officials balked after the questions about the properties' worth arose.

Van Note Harvey's original delineation showed the planned sites of at least 10 of the 41 homes, as well as a stormwater basin, were covered by wetlands. It is unclear how many home sites the additional wetlands might cover, but Cattuna said they were in the back portion of the site, where a concept plan submitted by Fieldstone in 2004 showed 12 houses. Of those, the initial delineation showed eight already covered.

And while the DEP awaits the consultant's reply, township officials continue to make interest payments to Fieldstone on the \$4.1 million purchase price. The 8 percent interest was negotiated as part of the deal to purchase the land, signed by the township last year.

The township had originally sought to take the land by eminent domain after Fieldstone proposed a large age-restricted development on the property. Residents of the nearby neighborhood opposed the development and lobbied the township to save the land. The agreement, which called for a September 1, 2005 closing, settled the eminent domain suit.

To date, the township has paid more than \$245,000 in interest.

In October, Fieldstone sued the township for the interest payments and Judge Linda A. Feinberg ordered officials to begin making payments. At the time, Feinberg left open the possibility that if the wetlands study showed the property was substantially covered, as critics of the deal have contended, she might lower the price. She also hinted that she could allow the interest payments to be credited toward the \$4.1 million.

But Fieldstone's attorney has said repeatedly that the \$4.1 million was not based on a specific number of homes. The price was negotiated between the township and the developer and the 41 homes was simply a concept of what might be built there if the township did not purchase the land, attorney John Buonocore said last fall.

The issue became a flashpoint in November's council election and both the victorious Republican slate and their Democratic opponents pointed to the controversy as a factor in the GOP sweep. Two incumbent Democrats had voted in favor of the purchase and the Republican challengers hammered the point throughout their campaign.

The back and forth continued yesterday.

"I think it's clear that the township overpaid for the property, and if we are still paying interest, that we probably won't get it back," said Republican Councilman Dave Kenny, who won election in the fall. "It goes back to the same thing, the township never did its homework on the property to determine what can be built."

But McClellan countered, saying despite the DEP's request there is still far less wetlands on the property than was portrayed by the GOP during the campaign.

"Clearly there is a lot of buildable land out there," he said.

Cattuna said Van Note Harvey would likely respond to the DEP's request quickly. Once the two sides agree on the total amount of wetlands on the property, the DEP will issue a letter of interpretation, which will allow the sale to finally go forward.