

**CHENEY BROTHERS NATIONAL HISTORIC DISTRICT COMMISSION
OCTOBER 7, 2010
LINCOLN CENTER HEARING ROOM
4:30 P.M.**

Members Present: Vivian Ferguson, Bettye Kramer, John Malone, James Quaglia, John Wilks, Rita McParland, Lynne Ferrigno, Leslie Frey, Mike Stebe, Susan Barlow,

Also Present: Mark Pellegrini, Director of Neighborhood Services and Economic Development

Members Absent: Robert Shanbaum, Dan Bebyn, Barbara King, John Dormer

Adoption of Minutes of May 6, 2010 Meeting

Mr. Quaglia moved to adopt the minutes with a correction on page 1 (change to remove Bettye Kramer's name from the list of members present). Mr. Malone seconded the motion and all members voted in favor.

Discussion of Options for Preservation of Great Lawn - Presentation by Representatives of the Connecticut Trust for Historic Preservation

Ms. Ferguson introduced Brad Schide and Christopher Wigren, the representatives of the Connecticut Trust for Historic Preservation. She noted the importance of the landmark designation that has been entrusted to the Cheney Brothers National Historic District Commission and the separate and unique zoning designation of the Cheney district mansion area. She explained that in the 1970s when the Cheney Commission was formed a survey was conducted by Anderson Notter Finegold Inc., a well respected group that worked on the revitalization of Ellis Island, and in their report they stated that the preservation of the Great Lawn was important.

Brad Schide, Circuit Rider for Connecticut Trust for Historic Preservation, explained that the Connecticut Trust for Historic Preservation (Trust) is a statewide preservation organization that works on a variety of issues including saving buildings from demolition and working on economic development projects. Chris Wigren handles the Trust's preservation easements.

Mr. Schide said approximately two months ago they met with the Administrative Staff Attorney for the Town and Ms Ferguson about the possibility of protecting the Great Lawn. The landmark status does not ensure the permanent preservation of the Great Lawn, which Mr. Schide understood to be the concern of Ms. Ferguson.

He said there are two approaches for the preservation of the Great Lawn: one is a preservation easement and the other the establishment of a local historic district commission that would have the ability to review projects and make decisions instead of merely acting in an advisory capacity.

Mr. Wigren, Deputy Director & Senior Architectural Historian for the Trust, spoke about other projects involving the Great Lawn in which the Trust was involved. The Trust secured a grant to hire a consultant specialized in historic landscapes who reviewed the Cheney Historic District guidelines and made some suggestions on how they could be improved. Nothing happened with the development due to the issues with the real estate market. Ms. Ferguson added that since then the zoning in this district has changed.

Mr. Wigren agreed and noted he believed that, due to this experience, the Town bought this land to add some level of protection. However, there is always a threat that the Town could decide this land is suitable for a municipal parking lot, library, school etc, so the Trust was asked for ways on instituting additional levels of protection, he said.

Mr. Wigren said a preservation easement is a legal agreement between a property owner and another entity, usually a nonprofit organization like the Trust, which gives that organization the ability to review and approve any changes to the property. These easements usually apply to buildings but can work for landscapes as well. The organization works almost like the Cheney Commission; it must give approval for changes, has a set of guidelines by which to judge these changes, etc. That process puts the enforcement of the easement in the hands of a neutral party with expertise and commitment to preserving the resource. Easements are filed on the land records so it becomes a permanent restriction on the property. The Trust holds easements currently on over 20 properties across the state, he said.

The other idea Mr. Schide discussed was the creation of a local historic district. He noted that the Cheney Commission is not guided by the State regulations and is an advisory body only. If established through a Town ordinance as a local historic district commission, the Cheney Commission would have some regulatory powers.

Ms. Ferguson explained the single property to be subject to the local historic district commission would be the area the Town purchased for open space. Some people assumed it would be preserved, but there are no safeguards in place to ensure permanent preservation of the Great Lawn.

Mr. Schide said between the two ideas, the preservation easement had more permanency. He said a local historic district presumably is forever, but it is possible 50 years from now the ordinance that established the district could be changed and the Cheney Commission could cease to exist or lose its regulatory powers. Mr. Wigren explained that another difference would be that setting up a local historic district meant a decision making body would be a Town commission, which allows an opportunity for political pressure. With the preservation easement, the final decision making authority is outside the Town and perhaps a stronger kind of protection of the resource in question.

Ms. Ferguson said the Town would still own the property, and the Trust would, as the grantee, monitor the property and make sure the Town maintained it appropriately.

Mr. Tim O'Neil, Administrative Staff Attorney for the Town, explained the overriding concept that one cannot do anything permanent with the public property. The Board of Directors cannot do anything permanent because they are not permanent, and as they change, so can the policies they implement. He believes similar is true for a local historic district commission. The local historic district commission is established by an ordinance and ordinances can be repealed. For the last tool discussed, the preservation easement, there is a cost to the Town, one percent of the value of the property. Ms. Ferguson noted that this is a one-time fee, and Mr. Schide added that this is not a fee meant to provide profit to the Trust, but to ensure the Trust's staff costs are covered.

Mr. O'Neil asked if the Town of Manchester decided to grant this preservation easement to the Trust, and then wanted to, for example, install some park benches in the Great Lawn area, would they need the approval from the Trust, and the answer was in the affirmative. He then asked if it was possible to have the release of the easement at some point in the future. Mr. Wigren said conceivably the easement could be released but it would be difficult. Mr. O'Neil agreed and noted that he was raising unlikely hypotheticals in an attempt to make a point that an easement is an interest in land that is less than ownership, and that in itself does not with one hundred percent certainty guarantee permanency of the preservation of the Great Lawn.

Mr. Wigren explained the main similarity between conservation and preservation easements is one protects the land as the natural resource and the other as an historic resource. The end result of both is permanent preservation, he said.

Ms. Ferguson asked if any members of the Cheney Commission had questions.

Mr. Wilks asked who would draft the agreement and if the Board of Directors have to approve it. Mr. Wigren replied the Trust has a standard agreement that they would modify to work with the Town staff. The Board of Directors would have to approve it. Mr. Quaglia asked if the Cheney Commission would retain its advisory charge and Ms. Ferguson replied that it would.

Mr. Stebe followed on the question by asking the Board of Directors if there would be a need to change the charge of the Cheney Commission as well. Mr. O'Neil replied that it would be necessary if the Cheney Commission wanted to be the official advisory group to the Trust. Mr. Stebe further asked if the one percent fee was based on current appraisal cost and the answer was affirmative.

Ms. Ferrigno asked if the fee was one time only and Mr. Schide responded yes.

Ms. Barlow asked how many local historic districts have been established in the state. Mr. Schide said he did not know the answer but there is a map on the Trust's website. Mr. Wigren explained the difference between local historic districts and local historic properties.

Ms. Pelletier, speaking as a resident and not as a member of the Board of Directors, had a concern that this was never done before with a public property. Secondly, Ms. Pelletier was concerned that this property was purchased through Town referendum at which time the voters were not informed of this involvement of the Trust. She also asked why the Town could not have its own preservation easement on the Great Lawn with the Cheney Commission acting as an advisory board instead of the Trust.

Mr. O'Neil said that could be done by designating the Great Lawn a local historic property and the Cheney Commission a local historic commission. He said the only problem would be with the permanency of the easement because the Town could, hypothetically speaking, terminate its own easement easier than if there was a third party holding it.

Ms. Ferrigno asked Ms. Pelletier if it was mentioned during the referendum that the Great Lawn would be preserved for open space. Ms. Pelletier replied she would need to review the language but she believed it was left fairly wide open. However, she believed there was intent of preservation, which may not have been written in the referendum.

Ms. Kramer noted that it appeared the Cheney Commission wanted to see this land preserved, and while the Cheney Commission cannot tell what the voters thought when the Cheney Commission bought the land; it appears it was bought because people did not want to see it developed. If all the parties are interested in preserving the Great Lawn in perpetuity, then it seems that an historic trust is the safest of the options. If there was a way to make this work legally through the Town that would probably make the citizenry more comfortable.

Ms. Ferguson asked if the Town decided to deed the preservation easement to itself, could the Trust get involved anyway and Mr. Schide responded yes, in an advisory capacity.

Mr. Wilks asked how the Cheney Commission should proceed from this discussion.

Ms. O'Neill said she would like to see the original referendum question but would like a recommendation from the Cheney Commission to proceed with granting a preservation easement to the Trust.

Mr. Kissman spoke as a resident and not as a director and said he could go either way, supporting a preservation easement held by either the Town or by the Trust after he better understood how the Great Lawn became the public property and if the Great Lawn was promised to the voters to be open space.

Ms. Frey indicated she had confidence in the Trust.

Ms. Frey moved to make a motion that the Cheney Commission asks the Board of Directors to review the preservation of the Great Lawn in conjunction with the potential preservation easement to be held by the Trust. Mr. Quaglia seconded the motion. Mr. Stebe would like to amend the motion to request that the Board appoint the Cheney Commission as the advisory body that would work in dealing with the easement. There was a discussion on the expansion of the written powers of the Cheney Commission, and if an amendment to the motion was necessary.

Ms. Frey moved to make a revised motion that the Board of Directors proceed with the potential preservation easement in conjunction with the Trust to preserve in perpetuity the Great Lawn and that the Cheney Commission be allowed as an advisory body with regards to the matters involving the Great Lawn. Mr. Quaglia seconded the motion and all members voted in favor.

Review and Recommendation: Clearwire LLC – Telecommunications Antennae: 150 Pine Street (Ribbon Mill)

Mr. Mark Richard, from Maxon Technology presented on behalf of Clearwire LLC. Mr. Richard described the location of the proposal on Ribbon Mill smokestack on Pine Street. There is an existing Sprint/Nextel installation on this smokestack. The smokestack is 127 feet tall. Sprint/Nextel has 116 feet above ground level and is a majority owner of Clearwire, and Clearwire would like to install three panel antennas at the 116 feet elevation. In addition they would like to install three microwave dishes. One of the microwave dishes will be installed at 120 feet with the top of the dish reaching 121 feet, and the others below the panel antennas will be installed at 113-114 feet. The cables will be run within the existing tray that is on the smokestack and all the equipment will be painted to match.

Ms. Ferguson asked about the discrepancy on the installation height indicated in the Senior Planner's memo.

Mr. Richard explained that there was an error on the construction drawings. The top of the smokestack, he said, was 127 feet 6 inches, and the top of the highest dish that Clearwire would like to install will be 121 feet and 0.5 inches, so roughly 6 feet below the top of the smokestack.

Ms. Ferguson asked what material the dish antennas are made of and if they looked like residential dish antennas. Mr. Richard said that these will be 30 inch dishes, painted to match the back of the stack, and made of some type of plastic material.

Ms. Kramer asked if the antennas, bands, cables and any covering will be painted to match the existing brick and Mr. Richard answered in the affirmative.

Ms. Ferguson asked Renata Bertotti, Senior Planner, if the addition of these antennas would overcrowd the smokestack considering there are other antennas currently installed on the smokestack. Ms. Bertotti replied that there are nine existing antennas and she did not think at this elevation the addition of three panels and three dish antennas would make much difference. She added that the existing installations were visible from the street. Ms. Ferguson noted that there has never been a complaint about these that she is aware of and this type of installation takes the place of stand-alone towers.

Mr. Quaglia noted that this was less intrusive than big, metallic, stand alone towers that stick out like a sore thumb. These antennas are at the higher elevation and someone would have to know to look for them because as one drives around, one's attention would not be drawn to them at that height especially when they are painted to match the smokestack. There are some already there and Mr. Quaglia did not think adding some more would make a big difference.

Mr. Stebe asked why Clearwire could not use the existing antennas belonging to Pocket Wireless, a company leaving the state. Mr. Richard explained that Pocket Wireless has a lease with the owner at the specific height, which they would need to terminate, remove their equipment, and then Clearwire would need to negotiate the lease for that same height. Sprint / Nextel is a majority owner of Clearwire, so Mr. Richard explained they are simply asking to install on their existing RAD center at 120 feet. If Pocket Wireless leaves they would remove their equipment and there would be one array instead of two that are there now.

Ms. Kramer moved to recommend that this application be approved as long as the applicant installs the antennas below the smokestack and paints their equipment to match the existing brick. Ms. Frey seconded the motion and all members voted in favor.

NOTICE: THE CASSETTE TAPE RECORDING OF THE BUSINESS MEETING CAN BE HEARD IN THE PLANNING DEPARTMENT.

OFFICIAL TAPE NO. 31

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