



CITY OF DANBURY
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Environmental Impact Commission

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MINUTES

April 14, 2004

Next regularly scheduled meeting date 4/28/04.

Meeting opened at 7:15 pm.

Members Present: Chairman Benjamin Chianese, Bruce Lees, Craig Westney, Kevin Russell, William J. Mills, Keith Prazeres, Sabrina D. Charney

Members Absent: Thomas Pinkham, Jr.

Staff Present: Corporation Counsel Robert Yamin, Senior Environmental Inspector Scott LeRoy, Secretary Patricia Lee

As of 4/6/04, new EIC Regular Member, **Sabrina Charney**, was appointed by Mayor Mark Boughton. Chairman Chianese welcomed her to the Commission.

PUBLIC HEARING: None.

OLD BUSINESS:

99 Federal Road,

Regulated Activity # 533

Stew Leonard's

Assessors Lot # L08031

Date of Receipt: 10/22/03 Extension ltr. rec'd. 1/16/04. *Public Hearing held 12/10/03, 1/14/04, 1/28/04, 2/11/04, 2/25/04, 3/10/04.* Chairman Chianese introduced this application at 7:45 pm. He thanked the applicant for their patience, and thanked the Public for their comments and concerns. Sabrina Charney said she will recuse herself from this discussion. Mr. Chianese said Sabrina Charney will not vote, since she was not on the panel for the EIC533 process. Craig Westney said, for the record, he has reviewed all the tapes, exhibits for Stew Leonard's, and he feels comfortable voting on the application. Scott LeRoy said that Jack Kozuchowski apologizes, but he cannot be here right now, but Jack is available by phone, if necessary, if the Board has any issues. Ben Chianese summarized the outcome of the Workshop held 3/24/04. Ben said, we'll review each condition, for approval and for denial, and we must discuss them for the record. He asked Scott LeRoy to read the conditions. Kevin B. Russell interjected that, to correct the record, he had been the one that had requested the conditions of approval and denial.

At 7: 50 pm, Scott said, he will “read all of them”, starting with the Proposed Conditions of Approval, which he did.

Proposed Conditions of Approval for Stew Leonard’s

The Environmental Impact Commission has determined that the application for a regulated activity submitted by Stew Leonard’s, the applicant, meets the standards of the regulations and that all short term and long-term impacts can be mitigated by the imposition of following conditions:

- 1) The terms of this permit shall apply to the alternative that limits the size of the parking lot to 1.0 acres, recommended by the Danbury Health Department in the document entitled “Stew Leonard’s Environmental Assessment Report”, dated February 5, 2004, by Jack Kozuchowski.
- 2) Prior to construction, the applicant shall prepare a “Conservation Easement” use restriction which specifies that the remaining undeveloped areas of the property shall be preserved for open space allowing only passive use activities. The applicant shall submit a draft of this Conservation Easement to the Danbury Health Department for review and approval by the office of the Corporation Counsel. The Conservation Easement shall be recorded on the Danbury land records. The Conservation Easement shall reflect that “passive use activities” shall be restricted to walking and observations only. Any other use of the property involving entertainment, agricultural or farm animal use, or other forms of activities that are beyond the scope of walking and observations shall be required to have a specific permit for such use by the Environmental Impact Commission. However, any development involving building or impervious surfaces shall be permanently prohibited from the balance of the property.

This Conservation Easement will not restrict use of the paved areas or the buildings on the property. Ben Chianese asked the difference between “open space” and a “Conservation Easement”. Attorney Robert Yamin told the Commission Members that they can make the Conservation Easement “as strict as you want”. Bruce Lees asked if they are abolishing the hayride. Mr. Chianese said no, but “stay tuned”. Scott LeRoy continued reading conditions 3, 4 (tape #1A flipped to side B), and 5.

- 3) A sedimentation and erosion control permit shall be secured from the Danbury Health Department prior to the commencement of construction. The erosion controls specified in the permit application shall include a contingency plan for securing/stabilizing all areas of the site for overflow storms and shall include a performance bond to cover the cost of materials and labor for all erosion controls.
- 4) Construction shall occur during the dry season of June through August contingent upon approval by the Danbury Health Department of the construction schedule

taking into consideration using meteorological data prediction by the U.S. Weather Service.

- 5) The parking lot shall be constructed in two (2) phases. In the first phase, fifty percent (50%) of the area of 1.0 acre parking area shall be constructed. As part of the first phase, a groundwater monitoring plan for documenting the performance of the paver system is required to be implemented. The groundwater monitoring plan is further specified in subsections a) and b), as follows:

- a) The groundwater monitoring plan, to be approved by the Danbury Health Department, proposed for documenting the performance of the paver system shall be prepared and modified, when necessary, by a Licensed Environmental Professional. The Licensed Environmental Professional, whose qualifications are to be approved by the Danbury Health Department, shall be retained by the Applicant to oversee the proper installation of the monitoring wells, to direct the collection of groundwater samples, to interpret all results and to prepare a contingency plan. At the conclusion of the monitoring period, the Licensed Environmental Professional shall prepare and submit a report to the Danbury Health Department with a definitive statement as to whether or not the paver system has achieved the performance standards for pollutant removal issued by the Danbury Health Department.

- b) If during the period of the monitoring study it is documented that the paver system has not achieved the performance standards for pollutant removal issued by the Danbury Health Department, the Applicant shall install all contingency measures in the "Contingency Plan" within six (6) months of this finding. The Applicant shall submit documentation satisfactory to the Danbury Health Department that the contingency plan was installed.

Following the conclusion of the monitoring period, the Applicant shall submit a report to the Danbury Health Department specifying: 1) the level of compliance with stormwater management measures that were achieved; 2) documentation of contingency measures that were installed; 3) additional stormwater management measures that are recommended by the Licensed Environmental Professional; and 4) an application for Administrative Approval to install the balance of the parking area. Scott LeRoy said "that's the end of number 5".

Ben Chianese said his concern is the long-term effects of the grass pavers. Can we allow them to do half now? It's a three-year testing period. If it works, we can allow them to finish the second 50%. If it fails, "that's it", Chianese said.

This is a phasing-in process. Are there any comments or questions?

Craig Westney asked, do I understand this? There are two phases over a 3-year period. Westney said, I raise the question, because we did not discuss the phasing on the record. Mr. Chianese said, that's correct, it was not discussed on the record. Scott LeRoy continued reading conditions 6, 7 and 8.

- 6) The parking lot shall be used solely for the personal non-commercial vehicles of employees (excluding mobile homes). There shall be no storage of merchandise, trailers or any equipment on the parking lot.
- 7) The parking lot shall be installed with a fence and a secure locking gate at its connection point with the existing driveway. Only employees of the Applicant shall be allowed to park in this lot. No vehicles shall be parked in the parking lot after the store is closed to the public.
- 8) If a significant storm event (i.e. greater than ½ inch of rainfall) is predicted by the National Weather Service, the Applicant shall designate a specific employee with the responsibility of monitoring the Still River throughout the duration of the storm event. When the Still River starts to overflow its bank, the Applicant shall immediately remove, or cause to be removed, all vehicles from the parking lot.

Bill Mills had a question on condition 8, because cars using the boat launch could not park on this lot; it is solely for the applicant's employees. Ben Chianese said then should we eliminate the boat ramp? Mr. Mills said, "yes", to comply with 8. Scott LeRoy read condition 9.

- 9) The Applicant has represented that there is no alternate location on site available for the location of the parking lot and that is a substantial basis for granting this approval. If at any subsequent time, the Applicant installs an additional number of parking places on its premises as a result of subsequent approval of on-site additional parking, or an off-site alternative for parking becomes available, due to circumstances that are deemed at the present time to be non-feasible or non-prudent, it shall be deemed to be a violation of the permit and the Applicant shall remove, at its own expense, that area of the parking lot approved herein which is equivalent to the area of additional parking that later becomes available. After said parking area is removed, the Applicant shall restore that section of the floodplain to its native condition at its own expense.

Benjamin Chianese said, basically, what it's saying is the intent of the condition; if they find out later that they need more parking, they must return this proposed lot to its native condition. Corporation Counsel says it's a novel condition, but a good one. Scott LeRoy read condition 10.

- 10) The Applicant shall designate a specific employee or contractor to oversee the ongoing monitoring and maintenance of the paver system, in accordance with the plan prepared by the Applicant's engineer for the paver system. The routine inspections shall include any recommendations for maintenance, which shall be immediately implemented by the Applicant. Documentation of the inspections and the maintenance actions shall be submitted to the Danbury Health Department.

Bill Mills suggested adding "yearly" to the end of condition 10. Ben Chianese agreed. Scott LeRoy read condition 11 and 12, saying that these are standard.

- 11) A modification to the composition of the sunflower garden shall be made in accordance with the recommendation of the Health Department's staff ecologist report (Appendix 1). The specific mix of species for the sunflower garden and the hummingbird/butterfly garden shall be reviewed and approved by the Danbury Health Department prior to installation.
- 12) A performance bond shall be posted by the Applicant equal to the costs of vegetative stock and labor required to install the planting plan that is proposed by the application. The bond shall be refunded three years after the vegetation has been installed, if an 80% survival rate has been documented by the environmental professional retained by the Applicant (Condition 13, below).
- 13) The Applicant shall retain an independent qualified environmental professional, to be approved by the Danbury Health Department, to monitor the installation of the planting plan and provide inspections of the performance of the plantings a minimum of twice per year, for a three-year period. Inspection reports should include horticultural recommendations and identify the survival rate for the newly planted vegetation. Any trees, shrubs and ground cover that have not survived in the first two (2) years shall be replaced with similar species.
Scott LeRoy asked if there were any comments on condition 13, and there were none. Scott continued with conditions 14,15,16,17,18 and 19.
- 14) The environmental professional retained by the Applicant shall direct the introduction of the Galurecella beetle to the Purple Loosestrife stand in the emergent marsh and shall monitor the performance of Purple Loosestrife reductions for a five (5) year period, following the guidelines of the University of Connecticut.
- 15) The Environmental Professional shall oversee the installation of the trail and boardwalk system, proposed on the Applicant's plan. The trail and boardwalk system shall include environmental education signs at specified locations along the trail and boardwalk. The text of the signs shall be reviewed and approved by the Health Department prior to installation.
- 16) The cutting of trees proposed by the applicant has not been approved. No cutting of any trees on the regulated area of the property is permitted without prior authorization from the Environmental Impact Commission.
- 17) The meadow on the property shall be cut once per year, after August 15th.
- 18) The Applicant shall review the paver design with the Fire Marshal's Office to ascertain whether the gravel base is sufficient to support emergency vehicles, so that they do not cause structural deformations of the paver system due to their weight. The depth of the gravel base shall be modified in accordance with any recommendations from the Fire Marshal.

19) The Applicant's failure to comply with any term or condition set forth in this permit shall subject the Applicant to all remedies available to the Environmental Impact Commission in law and equity, including but not limited to suspension or revocation of the permit in accordance with Section 13.3.b of the Inland Wetland and Watercourse Regulations of the City of Danbury.

Chairman Chianese explained that condition 19 is already in the regulations. We can do a Cease & Desist order; "we have the power". Mr. Lees asked, would we close the boardwalk or the parking lot with a Cease & Desist order. Mr. Chianese said "the parking lot". Scott LeRoy read conditions 20 and 21.

20) The Applicant agrees that this permit and all of its conditions shall be recorded by the City of Danbury on the Land Records. The Applicant shall reimburse the City of Danbury for all expenses incurred by the City of Danbury in the recording of this permit.

21) Each and every one of the conditions contained herein is an integral and essential component of the approval and if any one condition is deemed to be invalid, this approval shall be nullified.

Ben Chianese said we did add condition 22 to delete one boat launch (later stricken), and I want to add condition 23: the hayride needs an EIC permit each year. Bruce Lees asked, with all of the current budget cuts, can this be "policed" for compliance? Scott said that, as Ben said last week, the EIC members themselves, and the Public, can police it. That's how it could work. Mr. Mills asked, should we add that sanding and salting not be permitted? Bruce Lees said, "I want to talk out loud here": this lot was only to be used eight to ten times per year. Ben Chianese said, "We were advised that we do not impose that condition, by Corporation Counsel", as it cannot be enforced. So conditions do not prevent parking there 365 days a year. Kevin Russell said he has one or two questions: why remove one boat launch, condition 22? Bill Mills answered, on the premise that only employees park there. Mr. Russell said he does not think condition 22 is appropriate. Change the wording of condition 6 to allow people to use the boat ramp. He discussed this with Ben Chianese. Mr. Mills said, "Then strike condition 22" off. Mr. Chianese said to change condition 6, adding that people launching a boat or having educational use of the boardwalk may park there. Kevin Russell said he is not comfortable with condition 9 talking about the future, if Stew Leonard's comes back for more parking; "It's relatively finite". If it's appropriate, we approve it. It's not appropriate, we deny it, Russell said. Craig Westney agreed with Mr. Russell about condition 9: "I too have trouble with condition 9". We cannot restore this to its natural state. Mr. Lees said it will be very hard to enforce. What did Corporation Counsel say? Ben answered that Corporation Counsel said it is defensible; we can strike it after all conditions are read. Mr. Russell said, should we just go on then? Mr. Chianese said "yes", there will be more debate. Scott asked if they now want him to read page 1, the Conditions of Denial.

Proposed Conditions of Denial for Stew Leonard's

Environmental Impact Commission Minutes

Scott LeRoy read page one, at the microphone.

The Environmental Impact Commission has determined that the application for a regulated activity submitted by Stew Leonard's has not met the following criteria of Section 9.2 of its regulations:

9.2(a) The environmental impact of the proposed activity on wetlands and watercourses.

The project will result in a potential impact of discharge of fuel and automotive fluids that might occur if one or more vehicles is left in the parking lot during flooding conditions that could breach these fuel and fluid reservoirs and result in their discharge to the Still River.

Kevin B. Russell said he has a question with 9.2 (a), just to clarify: during non-flood conditions, what about spillage, drippage during non-rainy seasons? Mr. Chianese said we should add to that condition or re-word it, to delete "during flooding conditions", from the first denial condition. Keith Prazeres asked doesn't Federal Road drain into this too? What about that outfall, discharge we saw on the site walk? Mr. Lees said that grass pavers cannot filter out oil It's not cleaning it. It's not filtering it. Scott LeRoy reminded them "these are conditions of denial". Mr. Prazeres, Mr. Lees, and Mr. Chianese said okay, point taken.

9.2 (b) Feasible and prudent alternatives.

There are other feasible and prudent alternatives that the applicant can pursue to achieve the need for overflow parking, both on and off of the property.

Specifically, the applicant did not demonstrate that a parking garage is not a feasible alternative and did not consider smaller overflow parking areas or proposals that would phase in the project. Scott LeRoy said to the panel that Corporation Counsel said the more ideas you can give the applicant, the better. Ben Chianese said they could redesign their parking lot. Today, this parking lot is feasible to meet their needs with 734 spaces. Scott LeRoy said you don't need to spell it out, just give direction. Bruce Lees said how about off-site parking as an alternative. Ben said okay, and "no build" is another alternative. Scott LeRoy said that's what you're trying to say. (Tape 1B switched to 2A). Kevin Russell said that he did not think additional verbiage needed to be added. Scott LeRoy continued reading 9.2© denial.

9.2 (c) The relationship between short term and long term impacts of the proposed regulated activity and the maintenance of long-term productivity of such wetlands and watercourses.

The risk of fuel discharges to the Still River from vehicles abandoned in the parking lot, combined with the loss of habitat functions of the floodplain meadows are unacceptable in perspective of the existing long term productivity of the dry meadow alluvial wetland to the site ecosystems. Kevin suggested that they strike the word "abandoned" in this condition. Scott continued reading 9.2(d) and 9.2(f).

9.2 (d) Irreversible and irretrievable loss of wetlands or watercourses that could be caused by the proposed activity including the extent to which this activity would foreclose a future ability to protect, enhance or restore the wetland.

The applicant provided documentation that the area of the proposed activity occurs on regulated wetland soils. The loss of 1 – 1.5 acres of wetland soils provides an irretrievable loss of those regulated floodplain soils and their habitat functions.

9.2 (f) Impacts of the proposed regulated activity on wetlands and watercourses outside of the area for which the activity is proposed and future activities associated with or reasonably related to the proposed regulated activity which are made inevitable by the proposed regulated activity which may have an impact on wetlands and watercourses.

The application as presented will result in a significant impact to the adjoining wetland habitats by reducing the biological function of the regulated dry meadow and thereby reducing the size of this key habitat and the ecotone functions with the adjoining wetlands.

Ben Chianese asked if there were any questions or additions for the conditions of denial. Bruce Lees said that this is the last piece of information we will receive. Scott said closing the Public Hearing “made it complete”; you don’t have to vote to accept as complete. Bruce Lees made a motion to **deny** this application #533 as per conditions of denial discussed, at 8:42 pm. William Mills seconded the motion. Kevin B. Russell asked, as a point of order, if we vote now, can we refine these conditions of denial? Ben Chianese said “yes”, these are proposed and we can add to them. Kevin said, for the record, then, there are several that I would question. Scott LeRoy said, according to Corporation Counsel, they are appropriate. Kevin B. Russell said, “No, that’s fine”. Mr. Chianese said, we have to ask, where do we see this going? If we deny without prejudice, when can they re-apply? Scott LeRoy replied that the regulations state they can re-apply with revisions. Mr. Mills said, “I base my decision on the application in front of me”; I don’t go back; I’m going to vote on this application. Scott LeRoy said to Ben Chianese, the only way to find that out is to carry a vote. Mr. Russell, Mr. LeRoy, Mr. Chianese and Mr. Lees discussed the phrasing, and said that they can amend the conditions of denial. Mr. Lees said, “Why build that at all if we can’t enforce it?” That’s one of the reasons I’m opposing it. I don’t want a parking lot in the floodplain, Lees said. Mr. Chianese said, being no further discussion, a motion is before us; “all those in favor?” Four Commission Members (Chianese, Mills, Lees, Russell) voted to approve the denial, and two (Westney and Prazeres) voted to deny the denial. Ms. Charney abstained. Chairman Chianese said, “The application is **denied**” at 8:51 pm. The Board voted for a brief recess. The meeting reconvened at 9:05 pm.

40 – 42 Kenosia Avenue

Regulated Activity # 538

Kenosia Plaza, LLC

Assessors Lot # E17085, E17086

Date of Receipt: 1/14/04. *Medical & Business Office. Extension ltr. rec’d. 2/25/04.* First 65 Days: 3/12/04. Second 65 Days: 5/16/04. *Revisions rec’d. 4/7/04.* Stormwater

treatment information submitted by S. LeRoy, and report distributed to the Board Members. Scott announced that the applicant wishes to table this item, but “before we do”, he wants to discuss the pollutant loadings. “I simply asked you three questions, and I put it on paper”, Scott said. Mr. Mills said they wanted a rain garden in there. Scott LeRoy said, not only do you have to meet these standards, but you have to prove that you’re not increasing the pollutants leaving the site. A lot of those pollutant calculations, after development, after treatment, are greater. There are not enough BMP’s on the stormwater treatment system, LeRoy said. Bill Mills said, “You’re saying *post*, is greater than *pre*”. Keith Prazeres asked has this ever happened before? Has anyone on the Board ever seen it? Mr. LeRoy and Mr. Mills said that the applicant can reduce the impervious surface. Mr. LeRoy said he would share this report with the applicant, and have him come to the next EIC meeting. Bruce Lees made a motion to table this item. Mr. Mills seconded the motion. Ben Chianese abstained, and the motion to **table** carried by 6 votes.

17 Aspen Way

Regulated Activity # 540

Brookbury Estates Lot 35

Assessors Lot # L 04006

Date of Receipt: 2/25/04. *C. Mazza*. First 65 Days: 4/30/04. Second 65 Days: 7/4/04. Mr. Mike Lillis, P.E., of CCA, LLC in Brookfield, CT, took the microphone and identified himself at 9:09 pm. He said Mr. Mazza is also here tonight. Scott LeRoy reviewed his impact report, dated 4/14/04, stating, “It’s a pretty standard report”. In his General Comments, Mr. LeRoy said the proposal was revised to protect against the possible short-circuiting of septic effluent into the filled channel, improve the wetland characteristics of the new watercourse, and improve the planting plans for the watercourse. The Engineer shall provide oversight as to the abandonment of the existing watercourse channel to ensure the proper amount of impervious material for the channel. Mr. LeRoy proposed a Summary Ruling with ten conditions of approval. He said condition #8 was designed to make certain that the Engineer oversee and approve the filling of the existing channel and verify the presence of “impervious material” to prevent sewage from reaching the channel prematurely. Mr. Chianese asked if there were questions for Mr. LeRoy. Mr. Mills said you originally discussed six levels. Mr. LeRoy said that the slope doesn’t really allow for the addition of more levels. Ben Chianese asked if we were waiting for any more information from the applicant, and Scott said “no”. Mr. Lees made a motion to accept as complete, which was seconded by Bill Mills. The motion carried unanimously. The motion to **approve** summary ruling with ten conditions, as prepared by Mr. LeRoy, was made by Bruce Lees, per revised map submitted. This was seconded by William Mills. The motion carried unanimously with one abstention by Sabrina Charney.

33-41 Starr Road

Regulated Activity # 542

Sandpit Road LLC

Assessors Lot # K10012 & K 10013

Date of Receipt: 2/25/04. *Industrial Condominium Units. Revisions rec’d. 3/18/04 & 4/8/04*. First 65 Days: 4/30/04. Second 65 Days: 7/4/04. Dainius Virbickas, P.E.,

introduced himself at 9:15 pm, and displayed the new site plan on the easel. He said they had added signage, discussed the addition of the Conservation Easement, litter control, and how the billboards are accessed via the cleaned out area there. Ben Chianese asked if there were trails, and Dainius said “yes”, and he’d be happy to answer any questions. Bruce Lees said he had gone out and seen the site; he saw lots of garbage and debris. He could not determine where the property line is. Bruce said the neighbors are not encroaching on the site, and there is no fencing along that line. Scott LeRoy said maybe we should extend the fence; add it to the conditions of approval. Dainius Virbickas said the debris appears to be close to the property, but he does not think it is on the property. Scott said, “It’s up to you guys”. Bill Mills said he had questions on the site plan, the origin of the debris, and A/C unit and the couch. Scott LeRoy said we could require the landlord at least to flag his property line. Is the applicant amenable to that? Dainius said “yes”. Mr. LeRoy said, “Let me read my report”, and then you can make your decisions. Again, it’s pretty standard. He said the applicant has voluntarily made the revisions as requested by the EIC to this 5.14 acre site, including the addition of a large fence, Conservation Easement, wetland plantings, and improved stormwater treatment BMP’s, as per revised maps for Sandpit Road, LLC, by Artel Engineering Group, dated 2/4/04, and revised 3/12/04, drawing number D01409SDO, sheets 1 through 7. Mr. LeRoy then read his report, dated 4/14/04, Determination of Project Impact, into the record. Scott said I put # 8 in due to the discussion of expansion of the Conservation Easement. Mr. Chianese asked if the signs are in here, and Mr. LeRoy answered, it’s on the revised plan. Dainius Virbickas asked if comments were added to monitor and clean the Vortechnic unit. Scott LeRoy said the Vortechnic people will provide on-site counseling for free. Mr. Chianese asked to add another condition, that these be added to the Danbury Land Records. Scott LeRoy said okay, add the Town Clerk’s maps. (Tape 2A switched to side B). There was no further discussion. Bruce Lees made a motion to accept as complete. Keith Prazeres seconded the motion and it carried unanimously. Bruce Lees then made a motion to **approve**, subject to the maps and 12 conditions of approval. Keith Prazeres seconded the motion and it carried unanimously with one abstention by Ms. Charney, at 9:30 pm.

336 Main Street

Regulated Activity # 543

AutoZone, Inc.

Assessors Lot # I13032. Date of

Receipt: 3/10/04. *New retail building & parking.* First 65 Days 5/14/04. Second 65 Days: 7/18/04. Mr. John LaFonte, from Consultants & Engineers, Inc., of 9 Harmony Street, Danbury, introduced this application at 9:31 pm. He referred to the plan on the easel, saying we’ve added and made some revisions to the plans. The dumpster enclosure is shown; we will install a wooden 8 ft. high fence to contain any debris. Bill Mills said he’s uncomfortable with that dumpster that close to the Still River. Mr. LaFonte described that if they relocated the dumpster, the trash truck would have to access the site in such a way that they would lose some parking spaces. Ben Chianese asked, what if the container leaks? Is its purpose for garbage? Mr. LaFonte responded that the container is on a concrete pad, and drains to catch basins, and finally to the Vortechnic unit. There will be no service vehicles. It’s a store like Irving Levine’s or Napa Auto Parts. There are three spots where it’s pitched; it’s graded to three low points, LaFonte said. Mr.

Mills had a question on the wing wall. Ben Chianese said there is an AutoZone in Brookfield, part of a strip mall. Craig Westney said we have to get clarification on whether they accept oil for recycling. Where do they store it? I bring my oil to the one in Brookfield, Craig said. Do they collect and store old batteries? Mr. LaFonte said, I need 44 parking spaces and that's what's shown. Mr. Chianese asked, is that a standard size for an AutoZone? Can you make it smaller? John LaFonte said, "I'd have to check". Scott LeRoy suggested that the applicant himself come to the next EIC meeting, as there are lots of questions to answer. Mr. Chianese, LaFonte, Westney discussed the question of moving the parking, moving the building up, the location of the level spreader, the proximity to the River at it's closest point, and will they want to pave it. Mr. LaFonte said the dumpster is at about 40 ft. The alternative plan was shown in the initial application. Sabrina Charney said it would be helpful to see the alternative, so that we can see that it is consistent with the downtown character, and that they can filter out sand and silt and heavy metals. Mr. Mills mentioned the location of The News Times, the bank, and their setback from Main Street. Scott LeRoy, John LaFonte and Ben Chianese discussed the parking, the building placement. Sabrina Charney said, "Any impervious surface beckons" water pollution; we should see the alternative. Mr. LaFonte said, for the discharge, the plunge pool is provided; we have the Vortechnic unit's efficiency numbers, we revised the report, the demolition plan; the sedimentation and erosion control plans will be in place before demolition starts. Bruce Lees made a motion to **table** this item. Mr. Westney seconded the motion. Being no further discussion, the motion carried unanimously.

50 – 58 Payne Road

Regulated Activity # 544

Ray Boa & Arlindo Augusto, LLC

Assessors Lot # M12009

Date of Receipt: 3/24/04. *Facility for A & J Construction*. First 65 Days: 5/28/04. Second 65 Days: 8/1/04. Michael J. Lillis, P.E., Project Manager, of CCA, LLC, in Brookfield, CT, introduced himself at 9:53 pm. He said Ray Boa, businessman with A & J Construction, and owner of the property, is also here tonight. Lillis said this is a new site plan for the property on which there already is an EIC permit (EIC 154). Ray Boa intends to move his business from Brookfield to this site, with construction of a new facility. Mr. Chianese asked if this is the same property we reviewed which was withdrawn? Mr. Lillis said, "My client was reluctant to get a grade variance" the last time. The Bethel sewer will soon be installed in Payne Road, by "interlocal agreement", Lillis said, and this project relies on this sewer connection. The currently approved site plan (he held up the map) was shown to the Commission, and Mike Lillis enumerated the BMP's proposed with this application: the dry galleries on the south edge of the building for roof runoff, the existing detention basin, which will be converted to a dry basin, the catch basins to be directed to the new Vortechnic unit, and the dry galleries to a vegetated swale. We have kept the screening and all of those types of features, Mr. Lillis said. Mr. Mills asked, which lot? The old detention basin has not been repaired? Mr. Lillis said, we are going to scrap that concept. I'm not sure that the basin has ever been cleaned. Mr. Chianese asked, what's there now? Mr. Lillis answered, what's there now is basically the elements of this plan, and that's why we asked for an extension of that

permit. Mr. Chianese discussed with Secretary Lee and Mike Lillis the permit extension of EIC 154. Mr. Lillis said, we were supposed to deepen the basin, but nothings been done. Mr. Boa concurred, nothing's been done. Scott LeRoy said he has the permit EIC 154 conditions for approval (for all three lots), i.e., **2.** Materials that are to be stockpiled on the lot shall be limited to processed stone, topsoil, blue stone, Belgian block, fieldstone and trap rock; and **4.** No garbage shall be brought on to any portion of the property at any time in vehicles or otherwise; **7.** Mark the boundary of the wetlands with permanent monuments; and **8.** A list of wetland species to be planted in detention basins. Scott LeRoy said what he saw on the site was pipes, asphalt, no orange flagging showing monuments. "I want you guys to go to the site", Mr. LeRoy said. The violations should be corrected before a new application is presented. The stormceptor is not proven to have the efficiency of the other units we usually approve. They should also prepare a contingency plan, LeRoy said. Dry basins are one of the lowest forms of treatment. Mike Lillis said, let me clarify that for you. LeRoy said there are a number of things to take a look at. Mr. Chianese asked the applicant to comment on the violations on the site. Mr. Lillis said that we reported to Scott in March 2003, "There's some housekeeping that needs doing". Scott LeRoy said he's leasing the property to another tenant at present. Mr. Lillis read from his March 2003 letter to Mr. LeRoy, concerning recycling asphalt paving millings. Mr. LeRoy said, big, broken hunks of asphalt are not millings. Mr. Mills said, can we do a site walk before the next meeting? There's something wrong with it. I'll probably go out there myself, Mills said. Lillis answered, "Very well." Mr. le a site walk as a Commission, or you can go out there on your own. We'll discuss this later in the evening. Ray Boa stood up, and asked about the access road, and getting a machine in there, to access it from the back. Scott LeRoy said, we have asked, on the previous application, for the applicant to get a variance for the steep grade. Show me an existing conditions map. Mr. Boa said, I need to put this driveway in. Mike Lillis said, "I think he just said 'no'." Mr. LeRoy said, "no", I wouldn't go forward with that. Mr. Lees made a motion to **table** the item. Mr. Mills seconded the motion. Being no further discussion, the motion carried unanimously.

NEW BUSINESS:

Backus Avenue

Regulated Activity # 547

City of Danbury

Backus Avenue ROW, Portions of Assessor's Lots # E18003, E18004, F18001, E18010

Date of Receipt: 4/14/04. **Sanitary Sewer.** First 65 Days: 6/18/04. Second 65 Days: 8/22/04. This item was introduced by Ben Chianese at 10:20 pm. Scott LeRoy said, this is the Wooster School down at the end of the airport. I believe they are actually just revising the previously approved plan. Now the City of Danbury has taken over the project. I believe this is moved more into the center of the road. It's a better proposal that what was there before. Keep this as an Administrative Approval, Mr. LeRoy recommended. Mr. Mills had a question on the little bridge at Mr. Kaufman's Waterworks. Mr. LeRoy answered, we gave him approval for both, remember? Mr. Lees made a motion to **move this to Administrative Approval.** Mr. Mills seconded the motion, and it carried unanimously.

Crows Nest Lane

Regulated Activity # 495R

GRC Property Investments & Dev., LLC Assessor's Lot # L15009

Date of Receipt: 4/14/04. *Revised Site Plan*. First 65 Days: 6/18/04. Second 65 Days: 8/22/04. Mr. Benjamin Doto, P.E., spoke on behalf of the applicant, and referred to the revised plans on the easel. He gave a history of the proposal, the previous EIC approval, he quickly summarized the revisions, and he offered to answer any questions. He said, at the traffic engineer's recommendation, he has included a kids' walkway. For turning of emergency vehicles, the Fire Dept. had recommended moving one unit to a different building. For architectural reasons, a retaining wall has been added to the site, and also handicapped parking and a privacy fence. Mr. LeRoy asked about the location and height of the retaining walls, the grading for the patios. Mr. Doto referred to the original 39 conditions of approval for EIC 495, all of which are standard. He discussed a Conservation Easement versus Open Space; zoning regulations for Open Space require 500 sq.ft. per unit. The City of Danbury requires open space to be flat. A Conservation Easement does not have to be flat. Roughly half of the site will be left as undisturbed, Doto said. Mr. Chianese asked if this can go to Administrative Approval, and Mr. LeRoy answered "yes". Mr. Doto added that the limit of disturbance has not moved an inch. Mr. Lees made a motion to **move this to Administrative Approval**. Mr. Westney seconded the motion, and it carried unanimously.

12 Dixon Road

Regulated Activity # 548

Christopher & Donna Ryan

Portion of Assessor's Lot # J08127

Date of Receipt: 4/14/04. *Dwelling, well, septic, driveway*. First 65 Days: 6/18/04. Second 65 Days: 8/22/04. Scott LeRoy said he has forwarded this to Steven Danzer, Ph.D. for review. Mr. Lees made a motion to **table**. Craig Westney seconded the motion, and it carried unanimously.

16 Shoreview Lane

Regulated Activity # 549

Lakeview Development, Inc.

Assessor's Lot # H08079

Date of Receipt: 4/14/04. *Dwelling - Admin.Approval Requested*. First 65 Days: 6/18/04. Second 65 Days: 8/22/04. Scott LeRoy introduced the issue, and described the area. The original approval (Pine Ledge Subdivision approved as revised, 3/27/96) has lapsed. Scott said he has given this one to Steve Danzer, and recommended moving it to Administrative Approval. The house footprint has changed. Sabrina Charney said it is a "nice use of space". Mr. Mills motioned to **move this application to Administrative**

Approval. Mr. Westney seconded the motion, and it carried unanimously.

Padanaram / Pembroke Roads

Regulated Activity # 550

Corp. for Independent Living

Assessor's Lot # G07037

Date of Receipt: 4/14/04. *Stetson Place Water Mains* First 65 Days: 6/18/04. Second 65 Days: 8/22/04. Mr. Martin LeGault spoke on behalf of this application at 10:37 pm. He said, we are required to provide the water extension, and he provided four new handouts, including maps, to each Commission member. He described the "slip lining" of the pipes using the 3 maps, the location of the wetlands, silt fences, the temporary access road, which is less than 50 ft. adjacent to the wetlands, and the settling basin as a filter. The work will take approximately two to three weeks, and all disturbed areas will be returned to their original condition, LeGault said. He said, we are under "extreme time pressures", and we only got approval in March. We would be happy to provide a bond. He is requesting approval tonight, or requesting Administrative Approval. Mr. Chianese said, I doubt we'll approve it tonight. Mr. LeRoy said he has some questions: he said he'd like to have a report, as he'd requested earlier, on the sedimentation & erosion controls on the original site. There are lots of drop-offs there, pits, barrels, Scott said. William Lennon, Vice President, Construction Services for Corporation for Independent Living, interjected, we've repaired the silt fences along Route #39. Make the requirement for an environmental professional one of your conditions; we will provide a report and monitor the return of the area to its original condition. Mr. Mills asked, is it possible to enhance the area, not just restore it? Mr. LeGault said, "If it doesn't cost us a fortune." Mr. LeGault said one of the problems is that we don't own the property; "we're very happy" to improve the site. Mr. LeGault said, we'll have Mr. Kline report on the conditions of approval with the previous approval of the site; we'll have Mr. Kline address all of the issues. Scott LeRoy said, it can't be decided before the next meeting. Keith Prazeres made a motion to **table** the item. Mr. Lees seconded the motion. The motion carried unanimously.

23 Indian Avenue

Regulated Activity # 551

Cedars Property Owners Association

Assessor's Lot # K40183

Date of Receipt: 4/14/04. *Beach, Retaining Wall*. First 65 Days: 6/18/04. Second 65 Days: 8/22/04. *See 4/7/04 Notice of Violation*. Scott LeRoy introduced the Violation Notice and their excavation at 7:20 pm. He said the Health Department was called out in response to a complaint. They did not have proper erosion & sedimentation controls in, as of last week's inspection by Mr. LeRoy. He then read the Violation Notice into the record. Mr. Mike Mansfield, President of the Cedars Property Owners Association,

approached the dais and said he is here with Tom Carlson tonight. Mr. Mansfield said the Association is composed of 17 houses on Forty Acre Mountain Road, with one third of an acre of beach area, which has been eroding away for ten years. Most of the grass and topsoil are gone. Three years ago we contacted Bill Head at C.L.& P.; we went back & forth for a year as to how to do it right. We proposed a 65 ft. long retaining wall, made of Unilock blocks, not at the water's edge, creating a beach "sand box". The fill was taken to the top area, to be reseeded and planted. When the Association sent Donny to City Hall, Planning & Zoning told him that no permits were needed since the retaining wall was under four feet high. The Association neglected to talk to EIC. On Day 2, all construction stopped. Mr. Mansfield said, I've spoken to Larry Marsicano (Candlewood Lake Authority), and discussed his recommendations, plantings, shrubbery, woodchips, and he asked for an educational letter to distribute to other communities, which "I'll be happy to do for him". We are not landscapers or contractors; we did the best we could, Mansfield said. Bruce Lees asked where the high water mark is, and how high is the Lake now? Mr. Mansfield said that it's at the concrete curbing now; we will put in a three-foot buffer of woodchips and shrubs. Northeast Utilities drops the Lake. Mr. Mansfield clarified the map for Bruce Lees. Ben Chianese asked at what time did Donny ask the Building Dept. about the retaining wall? Why didn't you build out, into the Lake? Mr. Mansfield replied that people at the marinas, and Bob Head of C.L. & P., told him that one cannot reduce the size of the Lake. Only one neighbor objects, out of 17. Ben said, I know there are some beaches that extend out. Mr. Mansfield said, also, the boats are very close in. Chairman Chianese read the items from C.L. & P. discussing City permits. Mr. Mansfield said I "agree with your assumption". Ben said we want to preserve the wetlands around the Lake. Scott LeRoy said, if they don't tell us what they want to do, we can't make recommendations. Crystal Beach is an example; erosion can be controlled in other ways, other than moving the hill. Ben asked, can they put the property back into it's original condition? Mr. LeRoy said, I want to get a sense from the Board Members; discuss what else can be done to remedy this. Keith Prazeres asked, are you suggesting he take down what's done so far? Ben Chianese said "no", leave it as is, then come back. Sabrina Charney said, I think "we need a little more information" about the parking area, the grade, shrubs, etc. Why has it been eroding? Mr. Mansfield said, I apologize; this has happened so quick. It was so steep, so muddy; kids were slipping and falling, it was a danger for people. Docks are not installed yet, and cannot be until this is fixed. It's just not safe, Mansfield said. Mr. LeRoy said, they can meet with me in the field. It's a sizable area. They can do something other than taking out the entire hillside. Ben Chianese said, I would recommend they come back April 28th, and we continue the Cease & Desist order. Scott LeRoy said we can re-evaluate it; draw more accurate plans. Mr. Chianese suggested they get an engineer. Mr. Lees made a motion to continue the Cease & Desist order, and **table** this until the 4/28/04 meeting. Mr. Westney seconded the motion, and it carried unanimously at 7:45 pm.

APPLICATIONS FOR ADMINISTRATIVE APPROVAL:

Oil Mill Road – Lot 12

Regulated Activity # 389 R

Burton's Bridge Condominiums

Assessors Lot # H15066

Date of Receipt of **Revision**: 1/14/04. Administrative Approval Requested. First 65 Days: 3/12/04. Second 65 Days: 5/16/04. Extension letter rec'd. 3/12/04. Scott LeRoy said he is waiting for Michael Mazzucco's input.

ADMINISTRATIVE STAFF ACTIONS:

Eagle Road Center, LLC

Regulated Activity # 504R

Eagle Road Shopping Center

Assessors Lot # L09028, L10018, L10019, L10020, L10021,
L10022, L10024, L10025

Date of Receipt: 2/11/04. Ext.letter rec'd. 3/29/04. *Best Buy, Loews, Lowe's - Revisions*. First 65 Days: 4/16/04. Second 65 Days: 6/20/04. *Mr. LeRoy did approval letter on 4/6/04.*

9 Segar Street

Regulated Activity # 546

O & G Industries, Inc.

Assessor's Lot # G16008

Date of Receipt: 3/24/04. *Relocate diesel fuel tank*. First 65 Days: 5/28/04. Second 65 Days: 8/1/04. *Scott LeRoy did approval letter on 4/8/04.*

77 – 83 Mill Plain Road

Regulated Activity # 537

Shurgard Storage Centers, Inc.

Assessors Lot # D14032

Date of Receipt: 12/10/04. *Ext. letter rec'd. 2/5/04. Mitigation Planting Plan rec'd. 2/20/04.* First 65 Days 2/12/04, Second 65 Days **4/17/03**. *Scott LeRoy did Admin.Approval letter on 4/13/04.*

CORRESPONDENCE:

Aquatic pesticide permit application, for comments, from Connecticut Pond Services for 55 Backus Avenue, Miller-Stephenson.

CACIWAC's Winter 2004 "The Habitat" Newsletter distributed to Board Members.

EIC ADMINISTRATION, OPERATIONS & FUTURE AGENDA ITEMS:

Aunt Hack Road, Regulated Activity # **545**, **Neil Perone**, Assessor's Lot # C09009, Date of Receipt: 3/24/04. . *Application for single-family dwelling **withdrawn** 4/1/04.*

Scheduled workshop meeting(s) for **regulations update** on Wednesday 5/5/04 at 7 pm in the first floor conference room, and have Steve Danzer there.

Site Walk for EIC 544 at Payne Road scheduled for Wednesday, 4/21/04 at 1 pm, or Board Members may go on their own. Scott LeRoy requested Secretary Lee get EIC 154, previous conditions of approval, to each Commission Member (mailed4/16/04).

Bruce Lees asked if the Commission could get a Vortechnic unit that it could examine.

Sabrina Charney asked if the Commission can require that an applicant send monitor reports to the Health Department, inspection reports, something saying that they did the maintenance or monitoring.

ADJOURNMENT:

Bruce Lees made a motion to adjourn. It was seconded by Craig Westney. The motion carried unanimously at 11:05 pm.