



CITY OF DANBURY
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Environmental Impact Commission

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MINUTES

August 10, 2005

Common Council Chambers

Next regularly scheduled meeting date 8/24/05.

Members Present: Chairman Benjamin Chianese, Bruce R. Lees, Craig Westney, William Mills, Thomas Pinkham, Kurt A. Webber (for Russell).

Members Absent: Kevin Russell, Matt Rose

Staff Present: Scott T. LeRoy, MPH, MS, Health Director, Patricia Lee, Secretary

Chairman Chianese called the meeting to order at 7:07 pm. The Board Members self-identified themselves from right to left. Bruce R. Lees motioned to accept tonight's agenda as written. Bill Mills seconded the motion, and it carried unanimously.

EXECUTIVE SESSION: 7 pm, Richard & Deborah Mikelic vs. Environmental Impact Commission and Inland Wetlands Commission (**EIC 573**), regarding 9/22/04 denial and Notice of Violation. Staff has been working with M. Mazzucco, PE, on mitigation plans. Revised drainage improvement plan rec'd. 8/9/05. William Mills motioned to into Executive Session for this matter. Lees seconded the motion and it carried unanimously at 7:09 pm. Chianese invited Scott LeRoy into Executive Session, and Craig Westney who just arrived. Tom Pinkham arrived at 7:10 pm, and joined Executive Session. All filed into the Caucus Room. Neil Marcus, Attorney, and Michael Mazzucco, Engineer, waited in the audience. Tape was shut off.

All reentered Common Council Chambers at 7:31 pm, Chianese called the meeting back to order, and the tape machine was turned on. He said we have come to the conclusion to accept the site drawing with the following conditions:

1. The owner / developer shall obtain a Grading Permit and pay all appropriate bonds and fees prior to starting any work on the site.
2. The design Engineer shall supervise the installation of all berms, riprap, sedimentation basins, and other sedimentation and erosion controls and components of the proposed stormwater system and mitigation.
3. The owner / developer will submit an "As Built" plan to the Health Department, certifying that the system meets the design criteria and the

required water quality design standards.

4. Plantings will be bonded through the Grading Permit process and such bond shall be held for a period of three (3) years following the issuance of the Grading Permit to ensure an 80% survival of the plantings. A report from the design engineer shall document the survival at least once each year, with a final report due at the time of a bond release as requested by the owner.
5. Any changes to the plan and any proposed changes to the property (i.e. obtaining a building permit, etc...) must be brought to the Danbury Environmental Impact Commission in the form of a new Regulated Activity application.
6. A written maintenance schedule shall be created by the developer/ owner, and proof of all maintenance implementation and completion provided by a report in writing to the Health Department annually in the spring of each year.

Attorney Marcus discussed the conditions to clarify them. Chianese said we will set up the Public Hearing for 9/14/05, a one-day hearing, 10 to 15 minutes long. Marcus said subject to the Public Hearing, this will be adopted and we will tell the judge. Lees motioned to set the Public Hearing for 9/14/05. Pinkham seconded the motion & it carried unanimously at 7:38 pm. Chianese said make it the first thing on the agenda.

STAFF REPORTS & COMMUNICATIONS including NOTICES OF VIOLATION / CEASE & DESIST:

Chairman Chianese introduced this part of the agenda, and gave the podium to Scott T. LeRoy, MPH, MS.

GDC reports about the plan review with Engineering, EIC **592**- see CORRESPONDENCE. Engineering comments rec'd. 8/10/05. LeRoy said GDC was not following the spirit of approval for the headwall. Glen Moran, Executive Project Manager at GDC, took the mic, and distributed 3-ring binders to the Commissioners. He identified himself. Moran said I can show you I *do* have correspondence from the Danbury Engineering Dept. approving Alternate #7. Mr. Moran listed the exhibits A through G (see his letter dated 8/10/05) contained in the three-ring binders about Alternate #7 report to the EIC. Moran said I walked the property many times with Chris Z. and he described how the plantings are doing in this very hot weather. If the plants don't survive, we will address it. LeRoy said it's one of those things that happened so close to the meeting, we could hardly get it on the agenda. Moran continued that they'd cleaned out some of the catch basins, they paved last week, all the buildings are done, and they will finish their final cleaning. Chianese said he wants a final report that all if to the DEIC satisfaction, maybe next Spring. LeRoy suggested they attach the original conditions of approval and note how they have been addressed. Glen Moran thanked the Commission at 7:53 pm.

Report / Questions about Cotswold, EIC **620**, was created and emailed out. Scott T. LeRoy said we'll have a lot of interesting things to talk about.

Notice of Violation, 7/19/05, to South Street/ Mannion Lane, EIC **481**, Timber Oaks, Bethel Danbury Two, LLC, John Horton (fka, Lexington Crossing, Baker Residential).

To come into compliance by 8/10/05 meeting. Rec'd. update 8/9/05 from Timber Oaks, Notice of Violation, on South Street, EIC **481**. The representative from Timber Oaks took the mic and described the report and letters dated 8/9/05 from CCA, LLC. He described the work that's been put in place. LeRoy asked him has the application been done for the grading permit. The representative said I don't think so; not yet. Chianese said we'll turn this over to Scott LeRoy, then, and his office can decide when to release the Notice of Violation and save time. He can submit revised sedimentation and erosion controls and a grading permit. Chianese said I'll entertain a motion. Mills said his only question: I understand they want to put in additional catch basins. I wasn't on the EIC when #481 was approved. What impacts will that have? LeRoy answered, it's probably nothing. They will submit a plan. Chianese said we're just allowing removal. Lees made a motion to remove the Notice of Violation once a revised site plan has been received. Pinkham seconded the motion, and it carried unanimously at 8:06 pm.

Bill Mills asked what became of the Notice of Violation at Brushy Hill Road (NOV was released).

Follow-up to Notice of Violation and denial, 12/10/04, to William S. Coffey, Jr., 43 Beaver Brook Road, EIC **585**. REMA to prepare remediation plan for 6/8/05. 6/8/05 Scientists proposed mitigation, planting plan. 7/27 motion approved unanimously to allow work in the area of violation, and to be in compliance by 9/14/05. Coffey is working with Staff on the plans for mitigation, 43 Beaver Brook Road, EIC **585**. Scott T. LeRoy said I want you to know that I'll meet with Bill Coffey tomorrow, and that they are "melding everything together". Chianese said we gave him until September. LeRoy said we'll definitely start cleaning up the site.

Continue, Notice of Violation, 9/23/04, to Jerome J. Bigelow, 46 Payne Road, Lot # M13005. -1Cease & Desist order, 10/6/04, to Bigelow, by Timothy Bunting, Assistant ZEO. 12/8/04 EIC voted to allow Bigelow to remove the topsoil. Letter from Environmental Planning Svcs. rec'd. 4/13/05. Survey rec'd. 7/12/05. Continued to 8/10/05. Soil testing to be done 8/12/05. Bigelow will be conducting soils tests on Friday, 8/12/05. LeRoy said I told him to "feel free to test away". Chianese said they have a deadline: the first meeting in September.

CVS update, work beyond limit of disturbance area and new plans to be reviewed by EIC for actions or new reviews, Lake Avenue Extension, EIC **528R**, see NEW BUSINESS. Scott LeRoy said they are here tonight. There was an original version of the disturbance. They intruded into areas you told them not to intrude into, LeRoy said. Technically, it's a violation, but I told them to do a revised application. It's up to you. It's still the same work. Maybe you'll want to have a one-night Public Hearing on this (see NEW BUSINESS).

PUBLIC HEARING:

Olympic Drive

Regulated Activity # 617

Twenty Six-Four Olympic Drive, LLC Assessor's Lot # F21005

Date of Receipt: 6/8/05. 9-lot residential subdivision, RA-80 Zone. First 65 Days: 8/12/05. Correspondence rec'd. 7/05 from Ridgefield and Aquarion Water Co. & neighbors. Environ. Assessment Review done by S. LeRoy 7/19/05. **Public Hearing** opened 7/27/05. Application **withdrawn** 8/9/05, and Chairman Chianese read the withdrawal letter into the record.

OLD BUSINESS:

Old Forty Acre Mountain Road-Parcel B Regulated Activity # 614

Curt Verdi – Verdi Construction Assessor's Lot # K04199
(portion)

Date of Receipt: 4/7/05. 3 Lots, homes, wells, septic. RA-80 Zone.

First 65 Days: 7/1/05. Second 65 Days: 9/4/05. Tabled to 6/8 by M. Mazzucco. Alternate plan rec'd. 6/3/05. Extension ltr. rec'd. 6/28/05. Chianese introduced this application at 8:08 pm. Michael Mazzucco, P.E., took the microphone and identified himself. Mazzucco said at the last meeting we were waiting for comments from the EIC. I tried to contact the neighbor to get those wetlands flagged. The Planning Commission does not want the combined driveway, as it would require a waiver of the regulations. So we are asking you to just review the plan, Mazzucco said, as we presented it, with the combined driveway. Mazzucco displayed the alternate plan 01071-A on the easel. Chianese said if the Commissioners have any questions, we'll have to wait for Scott LeRoy's report. We'll have to assume they are wetlands. Mills had a question on two houses being allowed. Mazzucco said the Planning Commission considers Old Forty Acre Mountain Road a "private road". We're arguing the way "public" is defined. "We're hoping it goes that way", Mazzucco said, and he concluded by saying he cannot attend the 8/24/05 EIC meeting. Pinkham made a motion to **table** this to the 8/24/05 meeting. Webber seconded the motion, and it carried unanimously at 8:14 pm.

22 Kenosia Avenue Regulated Activity # 623

Construction Associates, Inc. Assessor's Lot # E17095. IL-40 Zone.

Date of Receipt: 7/13/05. 11 Warehouse/office units in 3 buildings.

First 65 Days: 9/16/05. Second 65 Days: 11/20/05. Planting plan rec'd. 8/9/05. Screening report by J. Kozuchowsky 8/10/05. Pinkham made a motion to **table** this. Mills seconded the motion, and it carried unanimously.

Prudential Realty- Richard S. Jowdy Regulated Activity # 624

Chambers Road Assessor's Lot # D07068, RA-40 Zone.

Date of Receipt: 7/13/05. Subdivide to two residential lots.

First 65 Days: 9/16/05. Second 65 Days: 11/20/05. J. Kozuchowsky's comments rec'd. 8/10/05. Michael Mazzucco, P.E., identified himself again. He said he met

today with Dick Jowdy and Jack Kozuchowski. Mazzucco said we're trying to add a Conservation Easement to the plan. Dick Jowdy had some concerns. (Kozuchowski's letter to Jowdy dated 8/10/05 requested three items of information to complete his screening report.) Mills made a motion to **table** this to the next meeting on 8/24/05. Mazzucco said Paul Jaber may be able to attend. Pinkham seconded the motion, and it carried unanimously at 8:19 pm.

NEW BUSINESS:

47-49 Lake Avenue Extension Regulated Activity # 528R

CVS / Christopher Williams, AIA Lots #F15001,F15040,F15002,F15003.

Date of Receipt: 8/10/05.

Revised site plan.

First 65 Days: 10/14/05. Second 65 Days: 12/18/05. Attorney Neil Marcus took the mic and said Chris Williams, Architect. On the easel is the plan "Proposed Landscape" dated 8/10/05. The first thing, Marcus said, we'd like to address is Mr. LeRoy saying "technically it's a violation". We reported it first to Scott LeRoy, as the conditions of approval require, so it's not a violation. Chianese said there's the issue of the Public Hearing. Mazzucco said I'm not sure why Scott LeRoy would want a Public Hearing. We'd like to "get things planted, stabilized and finished". He discussed the Crestdale Road neighbors' complaints. Patrick Doherty, P.E., took the mic and identified himself at 8:23 pm. He said there were two areas where we went over the lines that the EIC had approved, which he described. Marcus interjected, all of this area we're talking about is upland review. We didn't enter any wetlands or watercourses. Pat Doherty continued discussing the retaining wall, structural options from the engineer, several versions of grading plans that have gone to the Planning Commission for review, the tree cutters and where the trees were cut. Chianese asked how many trees were cut. Marcus replied the violation, thankfully, was limited to taking down some trees. The trees were not significant species. "People were 25 feet from where they should have been". We'd like to get it planted. Pat Doherty finished the second part of his presentation, a number of "minor items": the driveway is now restricted to right INs and right OUTs. The tree line has changed, and the number of species of trees has changed per the Zoning Commission. The original configuration of the line of the retaining wall has changed. The West side is to be two-tiered. We've extended the sidewalk to connect with the WCSU sidewalk. Doherty discussed the revised drainage plan. Chianese asked you're increasing the size of the Vortechnic unit? Doherty said yes. Originally, two smaller Vortechnic units were proposed. There are some other minor changes, i.e., the parking lot striping; the impervious coverage remained essentially the same. Marcus said we took two drainage connections and made one. Most of these changes are outside of EIC's purview, and were brought about by the technical requirements, the Planning Commission, and the Dept. of Transportation. Doherty will show the planting/landscape plans now, Marcus said. Doherty described the additional trees and species proposed, the erosion control, and the desire to get in there as soon as possible. Commissioners looked at the new planting plan. Chianese and Doherty discussed the planting plan, the tree line, the existing woods above the store, where the retention walls are going, adding more plantings, and the abutting property owners. Mills said you said you should have come back to us, but you didn't. Doherty agreed. Mills asked about changes to the sedimentation and erosion control plan at the corner of the site by the brook. Doherty said we will cut some trees only. Marcus said, in answer to your question, they didn't go into the brook any farther

than was originally approved. Marcus discussed the trail of an application; you have to remove the trees in order to grade. "It doesn't work". "You're talking about a very small area", Marcus said. Mills asked how many feet. Doherty said I have not calculated it; it was "probably my oversight" as the engineer. Christopher Williams, AIA, came forward and identified himself at 8:45 pm. There were a few things we discovered when work commenced. An old well and patio were discovered, and had to be demolished. Some old paving was found and had to be removed. So that's how the encroachments occurred. Remember, Williams said, the site was formerly a real estate office. Mills asked did anyone bother contacting the Health Department? Doherty said the well abandonment required a permit from the Health Department. Mills asked about the patio. Chianese said, at this stage, we have to figure out how to put it back. It looks like it's very minor. Pinkham said it's just cut trees now; so where's your plan of mitigation? Williams said yes. Chris described the trees that need to be planted, via a ramp, before the retaining walls are completed. Pinkham asked how long will it take? Chianese asked how many trees were cut? How many trees can you plant there? Doherty replied that depends on the species of trees. Chianese asked is any off-site mitigation possible? Pinkham asked him why. Marcus said we can mitigate on-site. Williams said we can enhance this area. Chianese asked are there any dead trees up there? How many trees were actually cut you don't know. Marcus and Doherty distributed photographs of the site under construction, and showed the photo of the neighbor's house who is "getting nervous". Chianese asked will there be a fence at the retaining wall. Williams said yes. Williams, Chianese, Lees and Pinkham discussed the low soil depth, the trees & shrubs, cars, and the lack of a lot of soil on top of the bedrock. Williams said, "It's all on the landscape plan". We have a bond in place, Williams said, and we can increase that bond with the revised planting plan. Pinkham said so submit to Scott LeRoy a revised planting plan. Pinkham made a motion to **table** this to the next meeting, and hopefully have LeRoy's report before the next meeting. Lees seconded the motion, and said there is discussion: should we have a one-meeting Public Hearing? What is the consensus of the Commission? Pinkham said no. Chianese said no; there's no change in impervious surface. Mills and Lees said we should have a Public Hearing. Pinkham said what benefit would a Public Hearing have? They brought it to our attention. The motion to table carried four to two (Mills & Lees opposed) at 9:02 pm.

ADMINISTRATIVE STAFF APPROVALS: None.

CORRESPONDENCE:

Letter dated 8/4/05 from Larry Marsicano, Executive Director, Candlewood Lake Authority: invitation to shoreline tour. Chianese and Lees discussed dates. Chianese favored a Saturday.

E-mail dated 8/4/05 from Patricia Ellsworth, Assistant City Engineer, re: GDC, Woodland Hills, EIC 592 Approval Condition **B**, *City of Danbury Engineering Department shall review and approve of the plans approved by the EIC prior to GDC initiating any work.*

EIC ADMINISTRATION, OPERATIONS & FUTURE AGENDA ITEMS:

Padanaram Road

Regulated Activity # 620

Cotswold of Danbury, LLC

Assessor's Lot # F07052, RA-20 Zone.

Date of Receipt: 6/22/05.

57 cluster residential units.

First 65 Days: 9/2/05. Second 65 Days: 11/6/05. Additional documents rec'd. 7/12/05. Staking is complete. Plans to S. Danzer 8/8/05. Public Hearing opens **August 24, 2005**. Chianese said the site is flagged. Secretary Lee said the neighbors in opposition have been in. (Tape #1 flipped to side B) Mills said see the note from LeRoy asking for needed information from the applicant. Westney said coordinate the site walk through Secretary Lee. Chianese reminded them that four or more members, it's a meeting. We'll set up a date for a site visit, Chianese said. Go before the next meeting and see it, most likely one day during the week after 4 pm.

ADJOURNMENT:

Pinkham motioned to adjourn. Westney seconded the motion, and it carried unanimously at 9:09 pm.

The next regular EIC meeting will be held on **August 24, 2005**.

Respectfully submitted,

Patricia Lee, EIC Secretary