



CITY OF DANBURY

155 Deer Hill Avenue
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Environmental Impact Commission

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DRAFT MINUTES **September 14, 2011**

The meeting was called to order at 7:05 by Chairman Bernard Gallo.

Present were Chairman Bernie Gallo, Bruce Lees, William Mills, Matthew Rose, Craig Westney and Alt. Josh Reilly. Staff present were Daniel Baroody, RS, MPH, and Secretary JoAnne Read.

Mr. Lees lead the Commission in the Pledge of Allegiance.

SHOW CAUSE HEARINGS FOR CEASE & DESIST ORDERS:

John J. Carvalho, 4 Advocate Place, Lot #I22035, stream crossing, grading, road, etc., **CEASE & DESIST Order**, 8/15/11.

Attorney Neil Marcus said this approximately 8-acre parcel is on Old Post Rd has been owned by this family for over 30 years. Carvalho repaired and replaced some culverts which were crushed and blocked. Mr. Gallo said they had done an on-site inspection and asked Carvalho if he was also doing grading of the parcel. Attorney Marcus said he was just at the site and he submitted some photos. He said Carvalho had taken the fallen trees out and piled all the debris on the side of the road. He has not touched anything else because of the Cease being issued. He would like to finish cleaning up the site but has stopped all work until the Commission tells him it is okay. Attorney Marcus said Carvalho had done the work from the road; he did not go into the wetlands. He put in the new pipes and fixed the part of the road because it was inaccessible. He said this road is used a lot by four-wheelers and that crushed the culverts. This road is an abandoned section of the Old Post Road; the only access is from Deal Drive. He said Carvalho wants to improve this and build a house on this site. The City discontinued a section of Old Post Road that is further into the property, and it is now owned by Lake Waubeeka. Marcus added that this is part of the old Sanchez subdivision and showed them a copy of the Nov. 18, 1929, minutes where most of the road that belongs to Lake Waubeeka was abandoned.

Mr. Gallo said Carvalho did all this with no grading permit. Carvalho said he only cleared about an acre; just enough to be able to do the work. Mr. Gallo asked about the trees and stumps that are all over the property. Carvalho said they were already knocked over and de-rooted; he just pushed them into a pile. Mr. Gallo said when they did the onsite inspection, they didn't know if there were any permits. Mr. Baroody told them afterwards that there were no permits, and all of the activity occurred in the regulated area. Because of this Mr. Baroody cited them for doing work without permits. Marcus said the road itself goes through the regulated area but Carvalho was careful not to go off of the road when he did the work.

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BY: *MM*

Mr. Lees said the damage is done. He suggested resolving it by Carvalho coming in with a plan to put up a house on the property instead of just coming in with plan to clean up. He said it would be easier for everyone if they just do it all at once, instead of first cleaning up and then coming back with a plan for house. Mr. Mills read the list of things from the Cease Order and asked if they could provide them. Attorney Marcus said he can't provide them because he cleared the pipes and the culverts. The drainage wasn't working and the road was eroding and rutting, so he dug up the pipes cleared them out and restored the road. So theoretically he has done what was asked. Marcus continued said we don't know that there was never a permit, but agreed to the extent there was damage to wetlands adjacent to the culvert, and he will come in with a plan to repair any damage that was done.

Mr. Mills asked if there was a stream crossing before. Mr. Baroody said he does not know because he did not see the property until after receiving the complaint from Jack Kozuchowski representing the Ives Trail group. He explained that the complaint led to the investigation but we don't know who owns the road. Baroody added that he has met with Corporation Counsel about the ownership, but at this time, the EIC can only address the crossings that were put in without permits. The ownership still needs to be resolved. The Cease Order says the crossings should be removed because they were put in without permits. Baroody reiterated that the Ives Trail people want to have their say also.

Mr. Lees asked who owns the road. Mr. Baroody said we don't know. The issuance of the Cease Order covers the limits of the EIC's power. Mr. Gallo said we don't know if the replacement culverts would satisfy the Engineering Department. Attorney Marcus said he would set up a meeting with Mr. Baroody and the Engineering Department to review this before they make Carvalho dig them up. Mr. Baroody said they also should include the Ives Trail people, since they also are claiming rights to this roadway.

Mr. Westney said so this was done without permits or Engineering Department approval and we don't know who owns it; so there are a lot of issues here. He added that all they can discuss is that permits need to be pulled, and that Engineering needs to assess the work. He said we can't talk about returning the road to its original state. Marcus said they did a title search and the City owns road. Mr. Westney said at this point they don't have any way to evaluate if the culverts were installed correctly.

Mr. Baroody said part of the permit process is to get permission to do the work from the property owner. So it would have to be determined who owns it and they would be party to the application. The first step here is for Carvalho to apply for a permit for a regulated activity to build a home, create site access, the roadway and the wetland crossings. At that point he would determine if the application is complete and who owns the road. Both the Lake Waubeeka and the Ives Trail people have sent him e-mails complaining of this work, so if the application is filed, they would have to get to bottom of who owns road. Marcus said they will submit the application and treat the road as a driveway. They will make the City a party to the application; it is just that the City does not want these people to build on their property. This is just one step; he will file an application for purposes of showing EIC the crossings. The other issue would require that the title be determined. He asked that they authorize Carvalho to clean up stumps and stuff. He will not do anything else and he will do it to the City standards for a gravel driveway. He said he realizes that this Commission is in the middle here. Mr. Gallo said they can't give him permission to do work on City-owned property. Attorney Marcus said Carvalho just wants to clean up his

property, but the City is trying to prevent him from accessing his property. Mr. Gallo said they will table this for now and asked for a motion.

Mr. Lees said Attorney Marcus should still provide the documents that were requested in the Cease. He added that they will have extra time since the next regular meeting is not until October 12th due to Rosh Hashanah starting on September 28th. He suggested the wetlands be flagged on the property and the road so the Commission can identify which is which. He said they would let the secretary know when this was done so everyone can visit the site. He asked that the Commission give them until the October 26th meeting to return with the necessary documents and the application.

Mr. Lees made a motion to **table** this matter until the October 26th meeting. Mr. Reilly seconded the motion and it was carried unanimously.

84 Stadley Rough Road, Laura and Anthony Novella, Jr., Lot #K05197, filling of a wetland, EIC Violation. Slope stabilization plan rec'd. and Regulated Activity #900 application rec'd. 9/8/11. See **NEW BUSINESS**.

Steve Trinkaus, PE, said he is representing the Novellas. He said he had prepared a plan in response to the letter they had received from this Commission. He said a paving contractor had brought in some common fill to level off the back yard and the driveway. Doing this left a really steep slope, so they are proposing to re-grade to make a two-to-one slope. They built a two-foot high boulder wall, and will cover the area with topsoil and seed it with a hardy mix. Right now the soil is bare. Mr. Mills asked that the wetlands be flagged. Mr. Trinkaus said an application has been submitted and the wetlands were flagged when the subdivision was approved. Mr. Mills said this needs to be flagged again now, and they should let the office know when it is done so the Commission members can do an on-site visit.

Mr. Lees made a motion to **table** this until the next regular meeting. Mr. Rose seconded the motion and it was carried unanimously.

OLD BUSINESS:

5 Shady Knolls

Russell S. Neumann

Date of Receipt: 8/10/11.

First 65 Days: 10/14/11. Second 65 Days: 12/18/11. Frank G. Fowler, III, PE, LS. Staff report by D. Baroody 8/23/11.

Regulated Activity #895

Assessor's Lot #J04016, J04017, RA-20 Zone.

Breezeway, 2-car garage.

Russell Neumann and Frank Fowler, PE, were present for this application. Chairman Gallo asked if they had seen the summary approval. Mr. Neumann said they had, and offered to outline the plan. Chairman Gallo said everything had been taken care of at the last meeting. They had required approval from First Light Power.

Mr. Baroody said he had prepared the staff report and was recommending a summary ruling with the four conditions.

Mr. Lees made a motion to **approve** Regulated Activity #895 per the summary ruling with

development as well as this one. They took the time to sort through the WCI plans so they could incorporate areas of previous concern into their plans. Mr. Kroeber said they did not change the location of the stormwater basins. There were some slight tweaks to their design so they have a slightly larger footprint. The intent is not to truck any material off of the site since the previous plan had a lot of fill being removed. They did shift the location of one unit in order to get it away from the wetlands. So, in summary, the detention basins are the same, but the limits of wetlands are less. The earthwork is less; the amount of impervious surface has been reduced slightly. There are two intermittent watercourses that run down the slope of the property and there is no change to them. They also plan to plant more wetland species to encourage the habitat.

Bill Root, Certified Soil Scientist, from Milone & McBroom, said he is also a wetland ecologist. He said he tried to come up with better plan to maintain the conditions of the previous approval. There has been some site disturbance so he verified that the wetland boundaries and the wetland impacts are identical. The mitigation that was approved is the same with this plan. The indirect wetland impacts have been reduced and the nice planting basins have not changed. He said he looked through the conditions of the previous approval and this new plan has less opportunity for wetland impacts. He said he had put together a little report and will address the Commission's questions at the next meeting. In closing, Root said this new site plan seems a little more conducive to the long-term wetland conditions and to maintaining the wildlife corridor.

Mr. Westney asked about any temporary disturbances. Mr. Kroeber said in one area where the road is up high, they have to create slope to satisfy Algonquin, who asked for a four-to-one slope. He said this will be seeded to natural state as well as the area around the middle detention basin. Mr. Westney asked if where there is permanent disturbance, will it be brought back to a natural view. Mr. Kroeber said they have extensive planting plans for around the basins and these will be really nice areas.

Mr. Lees asked if they would consider moving the building on the west side of the plan that is in the wetlands. Mr. Baroody pointed out that they did move one building in this area. Lees said he would like to have the area of the building flagged because he remembered that it was a big concern during the previous application. He then asked Mr. Baroody if they could have their expert look at these plans. Mr. Baroody said they could have Dr. Steve Danzer review them. Mr. Lees said there is a tremendous amount of data, so that would probably be for the best.

Mr. Lees made a motion to **table** this until the October 12th meeting. Mr. Mills seconded the motion and it was carried unanimously.

Attorney Kahn asked if they wanted to schedule the formal site walk at this time. Mr. Lees said they would wait until after receipt of Mr. Danzer's report in case there are any comments to be addressed. Chairman Gallo said Mr. Baroody would contact them after they receive the report.

**84 Stadley Rough Road
Laura & Anthony Novella, Jr.**

**Regulated Activity # 900
Lot # K05197, RA-20 Zone.**

Date of Receipt: 9/14/11.

NOV 8/18/11 Stabilization plan.

First 65 Days: 11/18/11. Second 65 Days: 1/22/12. Trinkaus Engineering, LLC

Mr. Trinkaus came forward and offered to answer any further questions, but there were none at this time.

APPLICATIONS FOR ADMINISTRATIVE APPROVAL: N.A.

ADMINISTRATIVE STAFF ACTIONS:

900 Ridgebury Road, Ridgefield, Regulated Activity #894, **Boehringer Ingelheim Pharm., Inc.**, RDG Pilot Plant Replacement, Stephen W. Coleman, Wetland Scientist, Lot #D17001, IL-40 Zone.

900 Ridgebury Road, Ridgefield, Regulated Activity # 896, **Boehringer Ingelheim Pharm., Inc.**, Fiber Optic Utility Relocation, Lot #D17001, IL-40 Zone.

39 Briar Ridge Road, Regulated Activity # 897, **Boehringer Ingelheim Pharm., Inc.**, Contractor Parking Areas, Vanasse Hangen Brustlin, Inc., Lot #D17001, IL-40 Zone.

Mr. Baroody said he had issued these approvals. There were no questions.

ACCEPTANCE OF MINUTES: 8/11/11 Meeting. (The 8/24/11 meeting was cancelled.) Mr. Rose made a motion to accept these minutes. Mr. Lees seconded the motion and it was carried unanimously.

CORRESPONDENCE: N.A.

EIC ADMINISTRATION & FUTURE AGENDA ITEMS: N.A.

VIOLATIONS:

100A East Pembroke Road, M. Alam & B. Rabeya, Lot #H08003, filling of a wetland, EIC Violation. Will appear on **OCTOBER 12, 2011**, agenda.

Chairman Gallo and Mr. Mills said they had done an onsite inspection of this site. Mr. Rose asked where exactly it is on East Pembroke Road. Mr. Baroody said it is a property near the Amber Room with a raised ranch on it. They are proposing a restoration plan but it has not been submitted yet. Mills suggested they have the show cause hearing at the October 12th meeting.

At 8:20 PM, Mr. Mills made a motion to adjourn. Mr. Westney seconded the motion and it was passed unanimously.

The next regular meeting of the DEIC is scheduled for October 12, 2011.