

ENVIRONMENTAL IMPACT COMMISSION
City of Danbury
DRAFT MINUTES
August 13, 2014
7:00 PM
City Council Chambers

ROLL CALL: Present were Acting Chairman Matthew Rose, Mark Massoud, William Mills, Michael Esposito, Alt. Derek Roy, Alt. William Nicol. At 7:04 pm, Matt Rose opened the meeting and introduced roll call from his right. Rose asked everybody please use their microphones.

PLEDGE OF ALLEGIANCE: Led by Roy. Rose said he will seat Alt. Roy and Alt. Nicol tonight.

EXECUTIVE SESSION: NA

PUBLIC HEARING: NA

SHOW CAUSE HEARING FOR CEASE & DESIST ORDER:

Cease & Desist Order sent 8/5/14 to Deborah Mezo, 44 Harbor Ridge Road (I05122), 1 Vista Ave., filling of wetland without a permit. Joseph Mezo came forward and said I just got this in the mail. Daniel Baroody said material has been pushed onto a vacant lot. Mezo said that is not correct. Mezo said Richard Gustavson was building a house, and he put dirt on there temporarily. It's been there for 35 years. Mezo continued the community was constantly throwing leaves, brush, what not. Rose said we'll have to get Dan (Baroody) out there to take a look at it. Baroody said I was out there a week ago, and confirmed where the material came from. Motion to table by Roy. Second by Nicol. Motion carried unanimously. Rose said they have agreed to work with Dan Baroody.

OLD BUSINESS:

12 Golden Hill Avenue
Geraldo de Jesus Rodrigues

Date of Receipt: 7/23/14.

First 65 Days: 9/26/14.

Second 65 Days: 11/30/14.

8/6/14, 11 am. Impact report by D. Baroody 8/13/14. Rose introduced this at 7:08 pm. Mark Kornhaas from Artel Engineering Group, LLC, came forward on behalf of the applicant. Kornhaas said we did a site walk on August 6th, and it clearly demonstrated that we should move this drainage ditch. It's not a perennial stream. I would be happy to answer any questions, Kornhaas said. Dan Baroody said I would like to put my report into the record. Staff recommends a summary ruling on page 4 with the 6 conditions. Motion to **approve** with conditions by William Mills. Nicol seconded the motion. Motion carried unanimously at 7:09 pm. Kornhaas said thank you.

Regulated Activity # 984

Lot #H11278, RA-20 Zone.

Artel Engineering Group, LLC.

Relocate intermittent drainage swale.

SF dwelling, driveway, well. Site visit

NEW BUSINESS:

1 Kennedy Avenue
Elan Kennedy Flats, LLC

Date of Receipt: 8/13/14.

First 65 Days: 10/17/14.

Second 65 Days: 12/18/14.

Permit Transfer Ownership # 642 R

Lots #H14356,H14356-1,I14103, C-CBD Zone.

375 residential units, Greystar

Elan Kennedy Flats, LLC.

CCA, LLC. Matt Rose introduced this new

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BY: 

business for a transfer of property ownership. Francis J. Collins, Attorney at Law, from Collins Hannafin, PC, identified himself and his firm, stating I am here on behalf of the applicant, Elan Kennedy Flats, LLC. I am sure you are all familiar with this, and Collins gave the acreage. You have seen the letters. Rose said yes. Rose asked the current owner is Elan Kennedy Flats, LLC. As of yesterday, Collins confirmed. Roy made a motion to **approve** the permit # **642R** transfer of ownership. Second by Nicol. Motion carried unanimously.

**1 Kennedy Avenue
Elan Kennedy Flats, LLC**

Date of Receipt: 8/13/14.

First 65 Days: 10/17/14.

Second 65 Days: 12/18/14.

Permit Modification # 642 R

Lots #H14356,H14356-1,I14103, C-CBD Zone.

375 residential units, Greystar

Formerly BRT Kennedy, LLC.

CCA, LLC. Matt Rose said again, 1

Kennedy Avenue, and the applicant will let us know about the revisions. Francis J. Collins again identified himself at the microphone. You are all, I'm sure, are familiar with this site. The applicant has made an application to Planning and Zoning, and has reduced it to 375 residential units. One of the team here will give an overview on the project. Collins introduced Michael Lillis, PE, of CCA, LLC, and Timothy Carr, LEP, Manager of Environmental Services at GeoDesign, Inc. Michael Lillis took the mic at 7:09 pm. We are the project engineers. I will move over to the easel, Lillis said. What I have on the board is some external parking, and water and sewer extensions. I believe at the time the Amphenol building was still standing. The Amphenol building has been demolished, Lillis said, and he described the vicinity; Rose Street, Main Street, Kennedy Avenue, the Still River. All the parcels are completely covered by pavement and a footprint slab of the Amphenol building. Lillis flipped the plan to sheet 2 at the easel. The proposal is for 375 units of rental housing, with one large building at the corner. These buildings are connected by a bridge, and Lillis continued to describe the layout. Most of the parking will be open air. It will be a little more conventional. It is served by City water and sewer. We'll be installing a new sewer line along the back of the property. Beyond the work in proximity of the river itself, if you recall the currently approved proposal; it was approved in 2006 I believe. We want to utilize several existing outfall locations. He showed each outfall location on the plan. These two outfalls will handle primarily roof drainage; there will be shingled roofs, tied into our storm drainage system. The proposed parking surfaces, oil / water separators; we just received the sizing information from the vendor who will be submitting this. Lillis described the combination of patio and lawn, the planted areas of the lawn; and all else will be parking, lawn, and planted areas. I could go through the discharges, if you'd like. Lillis began discussing the SCS runoff, and the treatment of the runoff from a neighboring property that does not get treated now. Rose said any questions from the commissioners? Mark Massoud asked about the stormwater drainage system. Lillis responded about the treatment: oil / water treatment, the model; one thing it does have, it has good bypass ability; all discharges pass through a screen, so there's good removal of trash and small floatables. Massoud asked how many? Two, Lillis said, and showed on the plan where each would be. Roy asked about the old impervious surface numbers, and the new surface area. Lillis said it's 100% impervious coverage. The grass area will be underlined by an impervious surface. Roy asked will the 25 year storm event be enough, since it goes directly into the Still River. Roy asked are we making it worse? Lillis said the site is completely impervious now. It will have a slight retardance effect, so the performance to the Still River will be similar to what we have now, Lillis said. Roy said we're making an improvement to the site; have we explored alternatives: a courtyard, a rain garden, so it does not all go right into the Still River. Lillis replied it's not a good site for a rain garden. Timothy Carr from GeoDesign can explain it better. Mills asked about the new paving mixture. Lillis said I will defer to Dan Lee with Greystar, stating we received DEEP approval this week. Daniel Lee said the concept is the same as the

previously approved proposal; direct the stormwater into River, geared around our revised site plan. We also have DECD approval (CT Dept. of Economic & Community Development). Rose asked are there any other questions? Mark Massoud said I will ask the same question in a different manner: are there other alternatives, because of the ground water contamination on the site? Lillis said that's part of it. With those constraints, it's hard to say, in large measure. Massoud said since there is the opportunity for planting on the site, would there not be an opportunity to provide some sedimentation removal prior to discharge? Lillis said at the moment those areas would be in here. Due to our need to keep all the soils on the site, Lillis continued, that causes us to have the runoff. I never say never, Lillis added. Perhaps we could route some of the water here. Massoud said my quick thoughts on that maybe direct it around the perimeter of the site, maybe in vegetated swales, to cleanse the runoff prior to discharge to the River. Lillis said if we could balance that with the other plans; for example, they've asked for a screen for headlights. Roy said are you suggesting you could put in a green arborvitae? Roy talked about snow removal: what's preventing a snow removal company from pushing the snow back into the River? Lillis turned the pages at the easel. Lillis said we do not have a barricade of any type for a buffer. Massoud said, as follow-up, since it is so close to the River, think about and plan for a buffer. Daniel Lee said we are planning for the possibility of a fence. Massoud had a comment: it's obviously a challenging site. There is a balance between downtown urban environment, a challenge, but one that should be considered. Daniel Baroody, RS, MPH, said I would like to put into the record my impact report. It's a smaller overall building footprint, and the elimination of retail space, and I just want to add in the previous approval process, all these environmental issues have been adjudicated before. Baroody said therefore, staff recommends a summary approval with the ten conditions of approval. Rose said condition number nine is part of condition eight. Massoud said this approval was done in 2006; it's now 2014. Eight years has lapsed; in 8 years there are some different techniques that have come to bear, Massoud said. The site represents an improvement, but the site bears looking at. Massoud said I think there's room to improve the water quality, in spite of some physical constraints to the site. It bears a review as well in a couple of other areas. Massoud continued, I don't think relying on oil / water separators is sufficient. I think they could benefit from taking a closer look at the site. Massoud said I recommend we table this, and do a site walk, Massoud recommended. Rose asked are there any other motions on the floor? Massoud made a motion to **table** the application, to conduct a site visit, and to direct the applicant to respond to some of tonight's questions. Mills seconded the motion. Roy asked does the 8 years effect the application? Baroody replied the permit was renewed in 2011, and it is good until 2016; they did come back in a timely way. Rose asked is there any further discussion? Esposito said he is opposed to the motion. Rose said there are five in favor. The motion passes, Rose stated.

89 Old Boston Post Road

Dr. Andrew & Diane Koenigsberg

Date of Receipt: 8/13/14.

First 65 Days: 10/17/14.

Second 65 Days: 12/18/14. Rose introduced EIC # **987**, and Peter Olson, Attorney at Law at 4 Stony Hill Road in Bethel, identified himself and gave his firm's name.

Olson said he is here on behalf of the Koenigsbergs. The home was built in the 1950's; approximately 8300 sq. ft. It is also wider than it is deep, so that presents some difficulties. Olson described the distance of the deck from Lake Waubeeka. The intention was originally to rebuild the home, however, we have to upgrade the septic system, and we need as much land as possible, which forces us to move the dwelling. We needed variances, so we went to the Zoning Board of Appeals and we had two substantial issues come up (see ZBA # **13-45**). The ZBA noted the curvature, so it was moved 6 inches closer to the Lake. There was no concern about moving the home closer to Old Boston Post Road. It is 3 feet closer to the road, and

Regulated Activity # 987

Lot # H22068, RA-20 Zone.

SF residence, well, septic, landscaping.

P. S. Olson, Atty. / J. Didona

curvature, so it was moved 6 inches closer to the Lake. There was no concern about moving the home closer to Old Boston Post Rd. It is 3 feet closer to the road, and Olson described what the ZBA granted: GRANTED PER AMENDED PLAN SUBMITTED to Sec.4.A.3., to reduce front yard setback from 30 ft. to 12.5 ft.; to reduce rear yard setback from 35 ft. to 9.5 feet for a new single-family dwelling – AMENDED application and plan. Said plan is titled, *“Proposed Zoning Location Map Showing Lot 119 – Revised Map, Lake Waubeeka, Portion of Section Two, Danbury, Connecticut”*, dated 11/24/09, and revised 12/12/13 and 12/18/13, Job No. 161, prepared by New England Land Surveying, PC, of Danbury, CT. Peter Olson continued The Lake Waubeeka Association asks for a 10-foot buffer. The Association looked at this twice, and sent a letter to the ZBA, and sent a letter to Dan Baroody. James McManus, a certified soil scientist with Wetland Consulting Services, in Newtown, Connecticut, signed in. McManus said I was hired in November of 2013, and technically there are no wetlands on this site, but there are wetlands very very close to one line. It is a narrow fringe wetland; McManus described the shrubs and trees that go along the edge of the Lake. It is poorly drained soil. I also reviewed the wetland, McManus said, for its function and value, but it is associated with the Lake, so I took the whole unit. The project team’s main goal was to protect the Lake. There are no direct impacts to wetland, and we also looked at indirect impacts, and it’s not really going to change much, but we have a 10-foot buffer that was not there before; a robust planting plan, and a robust sedimentation and erosion control plan. After construction, it will be even better, McManus said. We don’t see any significant impacts, in our conclusion, to the Lake; it’s mainly due to the update to the septic system. A lot of pollutants are less likely to get there now, McManus concluded. Thanks, Jim, Olson said. (Tape 1 flipped to side B). Dainius Virbickas, PE, with Artel Engineering Group, LLC, next took the mic, and explained why they had to push the house a little to the south; there’s not much of a system at all. Virbickas went to the easel, turning the sheets, and saying we sized the septic system appropriately. It is a state of the art system; an air assisted treatment, rather than being treated as an anaerobic system. This is an air system, a better treatment, a cleaner system; it costs a little bit more, but it will be much better than what currently exists, and it will be better than other septic systems on Lake Waubeeka. Once we were done, we met with the Health Department; they said preliminarily everything looked good. Then the landscape architect took my plan and made it nicer, Virbickas continued, and put in a whole host of plantings, some stairs, rocks. All of the work being proposed will work with the erosion and sedimentation control measures, so in the end we will have a brand new septic system, and we’ll have nice landscape elements and vegetation, Virbickas said. I’m set with my portion, Virbickas concluded. Jane Didona, a Registered Landscape Architect, took the microphone saying I was brought into the project basically to make it prettier. We can’t plant much over the septic system. We can create diversity in grading, planting, planting pockets, various rock plants, no hard face retaining walls, and natural rock steps. The natural beauty is just as important in my view. The plan uses as many natives as possible and hybrids, Didona said, to create more biodiversity. Currently the landscaping is pretty nonexistent, and Didona described what exists presently. There are two trees in the proposed house footprint, but we are keeping all the mature trees that are along the Lake front. She described the ledge, the buffer areas, the plants proposed for these areas; you will have a lot of diversity in color and plant life. We will plant all the boulders, and make this area more of a rock garden. Didona said we are keeping the existing parking area as is, with new gravel, and no increase in the parking area. New landscaping will definitely improve this contribution to Lake Waubeeka, Didona concluded. Olson said, again, there are no significant impacts on any wetlands. Mills asked can you flag the corners of house, the ribbon of wetland that you’re talking about, and consider maybe moving the house more south and up three feet. Olson replied we would ordinarily stake the house, but the existing house is in the way. The house cannot be moved any further south, Olson said. McManus referred

to the plan. Jane Didona showed that the blue line is actually the waterline, so right here you're about a foot; here maybe four feet. There's no way we will impact that fringe at all, Didona reiterated. Mills said I was turned around. We do not need a site walk then, Mills said. Roy said we do have the photos. Roy made a motion to move this over **to Administrative Approval**. Baroody said I have no problem with that. Nicol seconded the motion. Rose asked is there no further discussion? Motion carried unanimously at 8:03 pm.

**147-153 Middle River Road
William Lavelle**

Date of Receipt: 8/13/14.

First 65 Days: 10/17/14.

Second 65 Days: 12/18/14.

introduced this next item, and Roy said will the next victim please step up. Nancy Levesque, PE, from CCA, LLC, came forward and distributed an overall site layout plan to the commissioners. Were recently approved by the EIC, she said. Then we went to Planning, so we had to increase some of our lot sizes, per the Planning Commission, so what you have in front of you is an overlay, and the new subdivision lines are in black. Previously it was shaped more like a flag lot. Lot 2 has more frontage along Middle River Road. The house, garden, and septic were shifted to the south on lot 2. The driveway crossing has not changed. Other modifications are on lots 3,4,5, and 6. Lots 3 and 4 have to be larger, so we took some open space and gave it to lots 3 and 4, Levesque said. The red is where they used to be, and were previously approved by the EIC (6/11/14). Roy said, welcome back. Rose said you don't have an impact report as of yet? Baroody said remember we increased the setback before, so it may reduce our conservation area, so we should look at it. Baroody said we could do it administratively; I have no problem with that. Roy made a motion to **move this to Administrative Approval**. Second by Nicol. Massoud said what happens if Dan (Baroody) finds a deviation. Rose said they would then have to come back. Baroody said we had a conservation area that was larger than the normal setback, based on the lot lines. Now that the lot lines are moved, I must make a determination about how much conservation area has been lost, if any. Baroody added so they would not have to go back to Planning. Rose pulled the file out. A motion is on the floor, Rose said. Motion carried unanimously at 8:10 pm.

Regulated Activity # 973 R

Lot # C10052, RA-40 Zone.

6-Lot subdivision reconfiguration.

Previous approval 6/11/14 with
8 conditions. Matthew Rose

APPLICATIONS FOR ADMINISTRATIVE APPROVAL: NA

VIOLATIONS:

Cease & Desist Order sent 7/24/14 to Antonio J. Cortereal, 3 Clearbrook Rd. (K09039), filling of wetland without a permit. Cortereal met with D. Baroody, will commence clean-up. I met with the homeowner; he's agreed to remove the material and mulch the area.

Cease & Desist Order sent 8/5/14 to Deborah Mezo, 44 Harbor Ridge Rd. (I05122), 1 Vista Ave., filling of wetland without a permit. That was the guy that showed up. Baroody said he didn't quite agree with me, but we'll work it out.

ADMINISTRATIVE STAFF ACTIONS:

EIC Regulated Activity # **965R**, Permit Modification, 58 Padanaram Road, Michael Frisbie, Hunter Development, Excavation Dewatering for new underground gas

storage tanks, by D. Baroody 7/31/14, CN-20 Zone (H09076). This was previously Ron Jon's Value Center gas station, now being converted to a convenience store. Baroody explained what they found when they dug in: the sewer was never connected to the City service. They got a DEEP permit for that. The tanks are in. That is about as far as we got, Baroody said.

ACCEPTANCE OF MINUTES: Motion to accept the July 23, 2014, meeting minutes as presented by Nicol. Mills seconded the motion. Motion carried unanimously at 8:14 pm.

EIC ADMINISTRATION & FUTURE AGENDA ITEMS: NA

CORRESPONDENCE: NA

ADJOURNMENT: Motion to adjourn by Nicol. Second by Roy. Motion carried unanimously at 8:15 pm.