



**CITY OF DANBURY**  
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Environmental Impact Commission  
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**MINUTES**

**June 27, 2007**  
**Common Council Chambers 7:00 PM**

Next regularly scheduled meeting date **July 11, 2007**, at 7 pm.

The meeting was called to order by Chairman Gallo at 7:05 pm. The Commissioners identified themselves from right to left at his request.

Present were Chairman Bernard Gallo, Bruce R. Lees, William Mills, Jessica Soriano, Jon Fagan, Matthew Rose, Alt. Mark Massoud.

Absent were Alt. Kurt Webber, (new) Alt. Brian Davis

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was led by Bill Mills at Gallo's request.

**WELCOME:** A new **EIC Alternate: Brian M. Davis** of Brushy Hill Road, is not in attendance this evening.

**CONTINUANCE OF PUBLIC HEARING:**

**Padanaram Road**

**Regulated Activity # 749**

**Cotswold of Danbury, LLC**

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

Date of Receipt: 3/14/07.

29 SF cluster residences, Tighe & Bond.

First 65 Days: 5/18/07. Second 65 Days: 7/22/07. Public Hearing opened 5/9/07. Surveying Associates, P.C. 74.15 acres. Earthworks plans rec'd. 5/9/07. Two reports from Danzer rec'd. 5/22/07. **Extension letter** rec'd. 5/23/07. Site walk on 6/7/07. Revisions rec'd. 6/18/07; sent to Danzer 6/20/07. Letters from S. Hayden rec'd. 6/25/07. Fagan stepped down for this discussion; Gallo said so noted. Paul N. Jaber, Attorney, came forward and identified himself and his firm, representing Cotswold of Danbury, LLC. Jaber handed out his package / report and listed the contributors. Those three I handed out to you at the last meeting. Slayback and Hayden are new for you tonight, Jaber said. Speaking this evening, first Joe Canas, and Jaber announced what he'll address; second, regarding the trees, Matt Popp who collaborated, will talk for about 5 or 10 minutes. Next will be Sean Hayden, soil

scientist employed by Northwest Conservation District, so he submitted a report with those findings. We hired him on our own this time, Jaber said. Last will be Russell G. Slayback of Leggette, Brashears & Graham, Inc., of Trumbull and Shelton, CT, who will discuss the hydrogeology resources. I would envision at the next meeting, which is our last Public Hearing, that we will be given the opportunity to address any comments from Dan Baroody, Jaber said. You asked us to re-stake, and unfortunately that has not been done yet; it will be by Friday. It just takes time to get somebody out there. He'll alert Pat Lee, Jaber said. Jessica Soriano is here now, for the record, Gallo said.

Joseph Canas, PE, signed in and identified himself and his firm, Tighe & Bond in Shelton, CT. He listed what was requested at the last meeting. I'd like to address the impact of the septic systems in the neighborhoods above Cotswold, Canas said. He noted the setback distances for septic, and the amendment in 2004. The closest point is 47 feet of separation on our side, plus 10 feet on the other side, which gives us a total of 57 feet, Canas said. Also, the tree line is significantly to the west of this. I've summarized this in a letter which I will give to Pat, dated 6/27/07, with responses to public concerns raised at 6/13/07 Public Hearing. Canas discussed the trees and how many, with his report, will be disturbed. Lees asked how many trees will remain. I brought this up at last meeting, to salvage these for bank stabilization. Your best effort is in front of me now? Canas said yes. Mills asked, to clarify, of the 29 proposed buildings, the number proposed on slabs and the number proposed with basements. On the east side of road those will be basement units, Canas said; the other side will have slabs. Mills asked about driveway surfacing. Canas said I can certainly ask my client. Gallo asked are there any further questions? Canas said I will turn it over to Sean Hayden.

Sean Hayden, Certified Soil Scientist, identified himself and his company Northwest Conservation District, a nonprofit corporation, and he gave some history of his work with Jack Kozuchowski and how he originally got involved with this project. Hayden said I did visits twice, and most recently when it was pouring, and I did that on June 4 and June 5, and I walked all the same watercourses again. I could not in good conscience identify any of them as intermittent watercourses. I don't believe these drainage corridors fit that description, Hayden said. I went over the erosion and sedimentation control plan, and Hayden described how he addressed those concepts in comparison with the 2002 guidelines. Hayden said, I go step by step through there to make sure the applicant has addressed all the measures, especially on a site like this. Those are the things I reviewed, so if there are any questions, I'd be happy to answer them, Hayden said.

Commissioner Mills asked Hayden, your services are being paid for by the applicant? Hayden said we have 34 towns in our district. Usually the towns pay about \$1000 membership fee to belong to the Northwest Conservation District. Hayden said the town of Danbury does not support us with a membership fee; there's a passed through fee ordinance, and that's how the district does get reimbursed. Mills said, to continue, being a lay person, looking at both your old references and your new ones, Mills cited the "intermittent watercourses" in the old report versus those not seen and reported in the new report. Hayden described the requirements for an intermittent watercourse, and what he requires to meet the requirements, and in the Inland Wetland Act, it describes what the functions of a wetland are that make it important. These were what the Inland Wetland Act was set up to protect, Hayden said. Mills said what's confusing to me, a lay person, is you go on to describe a stormwater channel, and Mills cited again the report done by Hayden, Lots 1,2 and 3, and in your current letter, you state, and Mills cited again the current report done by Hayden. Hayden replied the reason, in my 2005 letter, is that there is a lot of water that flows in those things. The first step in managing a watercourse is

identifying it. I was not necessarily defining those watercourses. Mills asked about an alternative cul-de-sac design, which Hayden explained. There are three copies of this in this City Hall, Hayden said. I don't know if that's practical for this site, with the limitations of this soil to infiltrate. Mills asked a couple more questions on the rain gardens and gutter gardens. Hayden responded by explaining the decentralization of the water runoff: they are proposing a pretty impressive set of wet meadows as their rain gardens. Joe Canas pointed to where they are on the plan, the Tree Location Plan. The whole idea, Hayden said, of a rain garden is the only thing that removes nitrogen from water runoff is plants. Plants are the best way to do that. I look forward to reviewing the planting plan they have for those wet meadows, Hayden said. Mills questioned Hayden's previous recommendations for rain gardens. Hayden replied it's a very fair question. I'm not an engineer; when I put together a report, and I always have to defer to the engineer with regard to their size and function. They are doing this with a treatment train of wet meadows, which is a great method. Mills had a question about maintenance.

Mark Massoud said, going back to the defined channels, I was also stuck by the discrepancy, including those as intermittent watercourses, or removing them from that category. I understand, but could you elaborate on that more?

Hayden said that's why I went back there a day later. The next day water was not running in these channels, so they don't sustain any kind of a flow. That has a lot to do with what was done on the property previously. Also, Hayden said, in Ron Abrams report, from Dru Associates, I just want to quote it into the record: "It is widely known that given five biologists on any given site, one could find five different wetland delineations", and he quoted from page 11 of the 6/13/07 Abrams' report. Are these things exactly in the category of intermittent watercourses? Do you allow a stormwater treatment train like the one being proposed? I think after my review of the stormwater management plan, Hayden said, this will do a lot better job of protecting the wetlands. Right now there is no control of the stormwater that's cascading. Massoud said I certainly understand that, and he explained addressing water quality issues, protected or left alone, or managed in some way, it may also be an issue, as we look at the project as a whole, and to balance that with mitigation measures that are proposed for the site. We just want to be clear, even though they may be manipulated in the future, Massoud said, I'm going a little bit further; Steve Danzer does state a need for some stabilization, instead of just dismissing them as stormwater channels. Hayden said I read through a lot of Danzer's material; I don't know if I have it all. Is there anywhere in his reports where he says they are definitely intermittent watercourses? Jaber said they need to be further investigated, Danzer says. Mark Massoud said another area needing clarification is your roll at this point; I understand when you originally came to this Commission, the City had requested the services of the Northwest Conservation District? Is that correct? Hayden replied I think Jack Kozuchowski knew of our services. We reorganized and got about ten more towns, and we were initiating visits with the towns to tell them what the District was, so it was that kind of marketing. Jack and Scott LeRoy found out about us, and thought it would be a good idea for the District to be involved. This time, with the newer plans, Massoud said, so this time the City did not contact the Northwest Conservation District. It was the applicant, Massoud said. Can you explain that again? Hayden replied I believe it's an ordinance that allows towns to bill Northwest Conservation District for their expertise, and the District would send the town a bill, and that bill can be passed on to the applicant by the City. Massoud had a question on hiring outside consultants, and the town may obtain an estimate of the cost of the consultant, and the town may then turn around and ask the applicant for reimbursement. Is that the situation here? Hayden said no. I was asked, Hayden explained, by the applicant to compare my 2005 review

with my current review. Half way through they said they wanted to go to alternative D, so I focused my review then on that. Massoud said, so, that's fine. Mills said referring to your report, and he read from that report. Hayden answered that was one thing that I really looked at, especially on slopes like these. That water added, on top of water falling on excavated areas, is just unbelievable. But their plan has addressed that concern. It just wreaks havoc, Hayden said.

Russell G. Slayback, Hydrogeologist, identified himself and gave a history of his education, training, and the Connecticut Board of Examiners. Founded in 1944, Leggette, Brashears & Graham, Inc., was the first, and now operates in 14 states from our new headquarters in Shelton, CT. We were retained to do a hydrogeologic peer review of the Cotswold project. Slayback listed the companies and persons whose reports he was asked to review. I made two site walks for this assignment, Slayback said, and he offered the dates and weather at those times. I'd like to talk about the hydrogeologic setting, and he read his opinion of the existing site; it is on the northeast flank of a ridge, its elevations, on the west side of Clapboard Ridge Road or Route 39. He discussed the development on Eastwood Road, Clapboard Ridge Road, and East Gate Road. He described "drumlins", and the history of their development; like an inverted spoon. He went into the geology, the soil borings, the depth of soil, typical drumlin profiles, where ground water was encountered, the dates of the test pits in 2005, and the soil types upland of the site. Wetland soils were flagged by Henry T. Moeller, and reviewed by Sean Hayden and found to be correct. Slayback discussed paxton soils, dense and relatively impervious below these depths, and the results after storm events. The upper soil is commonly unsaturated. Most of the flow in the upper level is laterally downhill, until it is drained, and known as interflow or quick flow. He discussed the true water table level below, and this conforms to the field testing in 2005. He discussed his observations of the previous development he had observed, and the sedimentation.

On the morning of June 5<sup>th</sup>, there was a trickle and remnant pool of other water with no flow, after the storms overnight. There was no flow in any of the drainage ways in the southern sector of the site. He discussed the catch basins, pipes, public roads, and the water carried in subtle watercourses. Most of the more incised channels occur across the northern portion, which is not proposed to be developed. Most of these measures no longer apply for the southern portion, where development is proposed. He discussed the swales formerly installed, but smaller swale features can be seen in the southern section of the site. Drainage features include, which he enumerated, with erosion control blankets and three wet meadow infiltration basins. In my review of Danzer's comments, Slayback said I take issue with several issues, which he enumerated: "intermittent watercourses", the water table, the glossary of geology, drainage, dense subsoil, boring and test pits, Ct wetland statutory definition of wetlands, which he quoted; and the criteria may apply under the regulations, but it is hydrogeologically unsound, which Slayback explained in detail. The father of modern hydrogeology in the United States? Secondly, Slayback noted the three proposed wet meadow infiltration basins, and Danzer's assertions about them, which he said he takes issue with. He explained the best locations for cleansing runoff by meadow vegetation. With paxton soils, that benefit will be minimal, Slayback said. Thirdly, the southern section specifically, the ongoing erosion and the sedimentation, in some places now a half a foot thick, the large stones and boulders left; this erosion occurs due to the uncontrolled runoff, eventually going into Padanaram Brook and the wetland marsh. The sedimentation and erosion plan would eliminate this. Fourth, with regard to East Gate Road area, I find it difficult to accept that the uncontrolled runoff failure is not outweighed by any benefit Danzer cites, Slayback said. It is our professional opinion that there would be a major improvement to any issues that now have an adverse effect. Are there any questions?

Bruce R. Lees questioned the soil type and its infiltration properties. Slayback explained the upper soil zone and the duration of the erosion. Lees discussed creating a waterfall with the walls, in his concern, in the backyard of these western homes. There might be an issue there in the future, Lees said. Slayback said the thrust of your question is better answered by Mr. Canas. Massoud said I'm curious to know how this original problem, as we've seen most of the evidence is from the old roadway, the routing appears to be not only limited to this site, it goes higher up in elevation than just this site. My question then is there appears some built-in controls for sedimentation, but how do you control the continued erosion from off-site? It originates off slope, and that force continues down the slope. You can't go offsite and mend it, Slayback stated.

Joe Canas took the mic again. Canas described the properties of the swales that are designed to (filter berms) address. They are also lined so vegetation can establish itself. The required maintenance will be to inspect them periodically and clean them out as needed. There's a maintenance plan in the package. Lees questioned the capacity. Canas said it's designed for a 25 year storm, but it will take a 100-year storm. Lees asked are we going to see the designs of those? Canas replied yes, they are in the engineering report, and they have not changed from Alternative A to Alternative D; there's no need to change these. Lees said regarding the drainage along the road, the labeling of those grates is always a request we include. Canas said I am working with the town of New Canaan and they have a neat metal logo which I will show you. The stenciling achieves that. Mills questioned the road bed. Canas replied it will be topsoil over aggregate, shown in the lighter gray on the plan. Gallo asked are there further questions from Commissioners? Massoud said, Mr. Slayback, just to go back, the upland soils running longitudinally through the site; some free-draining through the site, from what we've heard, and these channels are surface conveyance of water, and in essence, to leave them alone would not be the best course of action. Slayback said the short answer is yes, and he described the soils; and any water that enters the soil zone is a trickle compared to the runoff of the uphill areas. It is sheet flow unless there has been some reason for an erosion channel to develop. Here there is a very good reason since those channels were previously developed. Massoud had a question on the surface flow. Slayback discussed the upper flow and the basal flow; the times of year you notice it the most. Gallo asked are there any further questions? Jaber said he wanted to address on issue about the main of the wet meadow: always what happens is the Engineering Dept. requires a maintenance agreement; it is reviewed by Corporation Council, to be held by the homeowners' association. So that is taken care of and incorporated into any association. Dan Baroody identified himself, saying just an update, we will have a staff report at the next meeting, and we will also have Dr. Danzer here. Lees questioned how much time is left for the Public Hearing. Gallo replied we can find that out for you. The reports will come out to the applicants a couple of days before the meeting. Gallo asked why are we discussing late July meetings? Let's just keep it to the next meeting on 7/11/07. Secretary Lee asked the team to be sure to sign in.

Ken Gucker of 89 Padanaram Road identified himself. Gucker said I went down to town hall two days ago to review the plan, and found there was a lot less information in the file than in the last two petitions. The plans now before City Hall don't show any of that. Gucker stated what they do now show. It doesn't show how this is all going, in a "vague way". So there's no real demonstration of how this system is going to work. As noted before by the applicant, there's a "lot of water coming down" these gullies. Gucker asked where are all these water entrapments (Tape 1 flipped to side B). There are now going to remove all that vegetation. It will become a large plateau with no water absorption. Nothing is being absorbed on its travel

down the hill. How the systems working and where the plumbing actually is, I'd like to see, Gucker said. I find it interesting that the reports we're getting all refer to the previous two files. But there is also a lot of negative in those previous files. If the project has been cut in half, Gucker said, let's be fair and cut the number of trees in half. I don't think that is as accurate as it could be. Regarding the wall heights, wall #7 on Plan D, the topo number is right on the same spot, and I'm guessing that wall is about 20 feet, Gucker said. He discussed water traveling under the soil and he indicated where he lives, on the other side of the valley. I can tell you unequivocally, if we have a heavy rain, I will have water in my basement three days later. Finally, I had some other notes, one other thing that I had brought up that was never addressed in the old files, in the 2004 EPA list, Padanaram Brook is on that list, Gucker said. We're talking a lot of mass, no matter how much you slow it down. NPR had a show on the Nor'easter that came thru Connecticut, they were fearful that the baby fish had all washed away. Imagine that with water that is not being absorbed. Those are my concerns Gucker concluded at 8:26 pm. (applause)

Joel Limoncelli next signed in with just a couple of comments about what I've heard tonight from Mr. Canas and the other speakers, and as you know my stance on this project, the long term effects as well. Mr. Canas did briefly address this by citing septic system setbacks and ridgelines, etc. etc., but I would ask you, ladies and gentlemen, to look at this regulation and see if it speaks directly to a project like this with its excessive slope, amount of exactions, the tens of thousands of cubic yards of material that is going to be moved, or is that just a general guideline. Mr. Hayden mentioned that there was no groundwater components here, and from my own personal experience with my property, I know that there is continually groundwater flowing after a storm occurs. Limoncelli discussed his own retaining wall, and how the underground water has already undermined this. I moved to this property about ten years ago, and the septic system had to have a curtain drain, and that drain continually pumps out water after a storm for seven days. He showed his property on the map, right about in the middle of this site here. And also, another comment by Mr. Slayback that is particularly important, he mentioned a number of times, a reference that they recognize the problems here and the unusual features of this land. I would appreciate it if you would take that extra time to look at the long term consequences of this project (applause) 8:31 pm.

Laura O'Brian next signed in and identified herself, saying I want to thank you for your time to listen to us. My voice is not as clear as it should be due to a bronchial infection. O'Brian introduced 96 year old Mrs. Brock who sent a letter to the last meeting and is attending tonight. Laura asked how is this going to create a better situation than undeveloped property. O'Brian discussed the silt, water infiltration invading the homes, division of this beautiful forest, which will severely impact the wildlife; and the emergency road, if required by the City, where would that go? O'Brian offered an anecdote about her driveway: every fall we lift the cover of that storm drain, and we remove 3 to 5 inches of material from that box drain. How is that material going to be maintained and removed? Who is going to pay for that maintenance? Who is going to make sure it gets done? I don't see how that can be written into a contract and enforced. I don't see how it will prevent the homeowners from doing things to their backyards that are undesirable. Water will damage their homes. Thank you for hearing me, O'Brian said at 8:38 pm. (applause) Gallo asked is there anyone else who wishes to speak?

Lloyd Oestreicher at 17 Eastwood Road in Danbury came forward, stating I have heard a lot tonight about the brilliant construction, and that this property is well drained. There are no properties on Eastwood Road that are well-drained. I would describe my property as being built on a swamp. When it rains, my backyard is all wet. It's a lake. It's a swamp. Well-drained? Not in my lifetime. It's not going to

happen. I don't think it's going to happen, Oestreicher said. I'm not here to insult their plans. I believe it was Mr. Wildman who began a development north of Eastwood Road, and sadly, the poor man failed. He discussed maintaining the draining and erosion, and I think people will go bankrupt doing that. Thank you. (applause).

At 8:21 pm, Linda Castle came to the microphone, saying I'm Linda Castle on Eastwood Road, and I want you to know I'm against this project.

Gallo said to Paul Jaber, do you want to respond to any of this? Jaber replied, no, not if you will continue it.

Bruce Lees asked for information: how high these walls will be, and about the drainage for the gutter systems of the houses? Joe Canas identified himself again, saying A through D here are just conceptual plans, and we are refining them now. Canas discussed how the roof and footing drains will act. Do you want an elevation or a section? I can put together a little table. We do have sections in the original plans, and we'll revise those too accordingly, Canas said. Lees said thank you, Mr. Chairman. Massoud said he had a couple of comments: I'm disappointed that this application is still being designed during the Public Hearing process. Massoud discussed a previous proposal. I'm similarly disappointed at the alternatives, presented well into the Public Hearing process. The impacts are substantial; there's no small impact. Having said that, Alternative D has certainly come a long way, and I'd like to know the wetland impacts proposed by Alternative D, Massoud said. I share the concern that we are not looking at fully developed plans for Alternative D, and additional information based on criteria set by the City in the mid-90s. I'd like to have some comparisons of the two. And, Massoud continued, I know a conclusion was made about the hydrogeologic effect on the brook, but if you could point out to me what the hydrogeologic impact would be on the brook, peak rates of runoff, the effect on the brook, or point out where I can find that information.

Canas responded I gave those verbally at our last meeting for Alternative D: 1270 square feet of disturbance; a temporary disturbance of 2604 sq.ft. associated with the crossing of the wetland here and the connection of the water main. Getting back to the design of Alternative D, the drainage will be very much the same for the area of Units #1 and #20. Those plans are being drafted right now. And with respect to your question about the hydrogeologic impact, that goes back to why we don't want detention ponds on the site. Massoud and Canas discussed where that information exists in the file.

Lees made a motion to **continue the Public Hearing**. Mills seconded the motion. The motion carried unanimously at 8:50 pm. We're going to take a five minute recess, Chairman Gallo said.

### **PUBLIC HEARING:**

**20 Southern Boulevard & 6 Brushy Hill Road    Regulated Activity # 755**

**GRC Property Investment & Development, LLC** Assessor's Lots#116238,

117021

Date of Receipt: 5/9/07.

5 proposed lots, 5.2 acres, RA-20, RA-80.

First 65 Days: 7/13/07. Second 65 Days: 9/16/07. Benjamin Doto, III, PE. Written comments rec'd. from M. Nolan. Copies sent to S. Danzer 6/12/07. Site walk 6/21/07. Public Hearing opens tonight. Chairman Gallo reconvened the meeting at 9:01 pm. Jon Fagan is back and Matt Rose had to leave for personal reasons (eyes), Gallo said. Ben Doto, PE, introduced himself saying I'll go over the proposal for a 5-lot subdivision, consisting of 2 existing houses, two proposed houses, and one lot to be conveyed to the City. The property does contain wetlands; to get orientated

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here, and Doto described the shape of the property. The two existing houses are here. The proposed two lots are right in between there. We've pushed it as close to the road as possible. The fifth lot is a flag lot that extends all the way back below the castle. That contains wetlands: a small pockets here, from mining activities that left that depression. There is no proposal for disturbance of the wetlands. The chances of an erosion control barrier breaking really is not possible on this site, Doto said. There will be some activity within the regulated activity area. We are probably 50 to 60 feet away. We did consider alternatives with a subdivision as talked about in the previous meeting. There was a proposal some time last year and it's in your report under alternatives; there's a map; this plan that I'm showing here, was an alternative for a cluster subdivision, which Doto described, with a donation of land to the City and the two existing houses being town down. There were density and traffic concerns, and due to those concerns from the neighbors, this was put aside. So really the only alternative after that was a traditional subdivision, and it's my understanding that that lot is going to be purchased by the City of Danbury for Tarrywile Park. At the site walk last week, it was asked that we provide some sections, and we've done a cross section A and B, and you can see that there is cut, about an average of 8 feet of cut. Doto said when this project was first introduced, Dan asked for cut and fill plans, but the plan never made it to Dan's desk. I have it here and it's dated May 17<sup>th</sup>, which Doto handed out to the Commissioners. Again, will be some upgrades made to the two existing houses. Gallo said the long and short of it is you're going to be building two houses. Are there any questions, Gallo asked. Mark Massoud said, so, Ben, is it Lot #2 that will possibly be purchased by the City?

Doto replied yes, lot two, and I will trace it with my finger right now. It's got a twenty-foot accessway on a 2.8 acre lot. If the City purchases the whole thing, they can do whatever they want with it, as a buffer for the castle or whatever. There are trails crossing the site now. Those all are on that property, on private property as well as City property. Massoud asked what is the status of that negotiation? Bob Gleason said the status is that the City has hired an appraiser, and the City is having the property appraised. Massoud asked what happens if the City does not purchase the property? Gleason said I don't know. We've had extensive discussions with the City, so all indications are that it will be bought by the City, Gleason said. Ben Doto said if someone wanted to put something on there, it would be right back before you, if the City did not buy it. Mills said I was unclear: the two new garages will be underneath each new house, and what is the grade of those driveways? Ben Doto explained, with the City regulations, zoning states 12% maximum. It works better to have the garage underneath. From a standpoint of the trees, yes. Mills asked will blasting be required on Lot #3? Doto said there is a good chance that blasting will be needed on Lot #3. Mills described what he saw at the site walk, and asked for clarification of the retention walls height. Doto explained there are no retaining walls in the back; just along some of the driveways on the sides. You saw how steep it is in there. Mills asked is a fence proposed? That's the lot the City may purchase, so we have no plans for a fence at this time, Doto said. Mills & Doto clarified which lot they refer to. Chairman Gallo asked are there any questions? Are there any members of the public who wish to speak?

Mary Reynolds came to the mic at 9:16 pm and signed in. Reynolds said I live at 15 Library Place in Danbury, and it's the first time I've been here in many years. It seems strange, but I felt driven to come. I am against any development at Tarrywile, Reynolds said. Developers will then come forward one by one, and no doubt politics will prevail, and it will be approved. Mary referred to her many happy days with the Jennings and Davis families as a girl, riding on the back of their tractor. She said we voted for the City to purchase it as a park, and we got it. It is

the one oasis that should be left untouched. I listened to the Common Council years ago debate a related Tarrywile issue. She read her letter and Tarrywile's history. Please do not allow the development of this property on our Tarrywile. Isn't it enough that ATVs roar through the park without a slap on the hand from the City? Tarrywile should be made a park for passive recreations. I beg of you here tonight, remember, today our natural work is disappearing at an alarming rate. Don't pick on a beautiful park. We cannot afford to give up any piece small or large. We must also think of leaving a legacy for those who will come after us.

Gallo asked is there any other member of the Public who wishes to speak.

Mark Nolan from 37 Brushy Hill Road identified himself. I submitted a letter which I'm sure you all have a copy of. Just to be clear, there was a proposed swap of property before other commissions, Nolan said. It was a flawed plan due to the density, lack of public notice, and other issues. As I stated in my letter of the 21<sup>st</sup>, the two existing houses are in conformance with the neighborhood. As for houses three and four we'd like to know the size of the walls going up the hill, because there is increased traffic. My impression from the City is that so far they have not discussed the purchase of that property. I would ask that that lot be proposed with no house being built on it, so that it stays as open space. It has a tremendous impact to the neighborhood if another house is built on Lot #2.

Gallo said we cannot tell them they cannot build on that lot. Nolan and Gallo discussed the number of proposed lots in the subdivision. Nolan said it's a five lot subdivision; it has a regulated activity; so then you certainly have the jurisdiction to address that. Massoud said it does not appear to be a 5-lot subdivision, and Lot #2 does show a building square, and what's to stop it from coming back on its own.

Gallo said I guess I did not understand this, and that's why I wanted to hear from Dan. Baroody identified himself, stating we are not here to approve a subdivision. That's up to Planning, Baroody said. As far as conditioning our approval on the City buying one lot, and I checked, and we cannot so stipulate for that lot. We are not approving a subdivision.

Nolan said we are concerned as neighbors about another house being built on that lot, if the City is not going to purchase it. Fagan said this Commission does not have the authority to say if that's a building lot or not. Massoud asked would the Planning Department ask for a report from the EIC? Dan Baroody replied yes, a report from us. Massoud said, then in that report, could we then state our opposition to Lot #2 being considered a building lot. Baroody said we'd have to check with the legal department. Frontage again comes into play too. It's a flag lot, so there may not be sufficient frontage, but we can't decide that. Planning approves this subdivision and they want to build on that one lot, then they have to come back to us. Gallo, Baroody, Mills and Nolan discussed approving the regulated activity, not the building lots.

Jim Nolan introduced himself next, saying I live at Southern Boulevard two lots down from this house (#16). I wanted to just for a moment elaborate on the comments that have been made tonight. We were opposed to the original proposal that GRC came in with. In a positive standpoint with the plan that is before you now, GRC has met with us and listened to your concerns and that is a good thing. I assume there will be some upgrading to those two houses, and two houses are proposed between them. I would assume they would be in keeping with the neighborhood, and we are in favor of that. In the positive standpoint, Lot #2 being sold to the City, we are very much in favor of that. It juts into Tarrywile. Mary Reynolds made an eloquent statement tonight: we all share very similar feelings about Tarrywile. I hike through Tarrywile almost every day. Mrs. Collins told Mrs. Zancan that she would like to see the City purchase her property. Not to be negative, but if it did not go into the hands of the City, we would not be in favor of it. Thank you, Jim Nolan said at 9:36

pm.

Dennis Zancan identified himself saying I live next door. I would like to thank GRC for working with us and listening to us, and for dropping their proposal for a cluster development. If the City does not buy the land, the applicant may want to consider donating it to the City. Dan Baroody and Ben Doto discussed the only regulated activity associated with the two wetland areas. Doto said I cannot control what happens with Lot # 2 in the future; I'm just a civil engineer. But for any development on Lot #2, they would have to come back before you. Previously we've met with City planning staff, and we have to meet City subdivision requirements, and we've done that. Regarding some of Ms. Reynolds' comments, I think she refers to the previous cluster development proposal. The majority of the development will be in keeping with the neighborhood, with the fronts of the houses lined up. Massoud said this could potentially be a building lot. Doto said you'd have some grade challenges, but yes, it is set up as a building lot. It has an accessway; it meets the area, and it's in the two zones there. But as Jim Nolan mentioned, this juts out like a tongue into the Park property. It's confusing to me, Mark, too. Gallo said the bottom line is that they would have to come back before us. Doto discussed the acreage; we've made these lots almost as small as they can possibly be. And the net result was making this parcel that we're not going to build on as big as possible. Gallo asked if the Commissioners had any other questions. Massoud asked the cross hatch on Lots #5 and #3 signifies what? Doto said they signify slopes under 20%, if you look at the legend. That's a requirement for a subdivision application. It's just grade. Gallo asked are there further questions? We need to continue this to give staff time come up with a report. Lees made a motion to **continue the Public Hearing** to July 11, 2007. Mills seconded the motion. The motion carried by five votes at 9:45 pm.

#### **OLD BUSINESS:**

### **5 Sugar Hollow Road / Marcus Dairy Regulated Activity # 743**

**Sugar Hollow Associates, LLC**

Assessor's Lot#G17002, G17019, CG-20 Zone.

Date of Receipt: 2/28/07.

Parking lot expansion, improvements.

First 65 Days: 5/4/07. Second 65 Days: 7/8/07. Artel Engineering Group, LLC. Revision rec'd. 5/9/07. **Extension letter** rec'd 5/23/07. Recommendations from Danzer rec'd. 5/22/07. Alternate plans received 6/8/07, & copies to S. Danzer 6/12/07. Bridge cross section received 6/22/07; Danzer's comments received 6/26/07. Impact report by D. Baroody 6/25/07 recommending denial. Chairman Gallo introduced this petition at 9:46 pm, as Neil Marcus, Attorney, and Dainius Virbickas, PE, came forward. Neil Marcus identified himself at mic, as well as Dainius Virbickas, P.E., who said he is currently homeless (due to fire damage to Brookfield offices). There was a fire at 304 Federal Road; that was Artel. We have read the comments of the Health Department review from Mr. Baroody and from Mr. Danzer, and from the airport, and we have spent about \$100,000 more than we ever planned to, to design a bridge crossing that is not in a regulated area. We have addressed the concerns of the airport, and Neil discussed the culverts and what the City put in at that vicinity. Six-foot box culverts are the problem the airport faces when trying to get the water out of their area. We've attempted to contact Paul Estefan, and frankly we just gave up. Your concerns are not particularly if the airport floods. Instead of putting in a box culvert, in your upland review area, we took everything

out of the stream. We hope this addresses the concerns of Mr. Baroody, Mr. Danzer and of the airport. The obstruction is minimal. We've had some very big storm events this spring. Of course, that Danbury Mall area does flood; it was designed that way, and it does flood, Marcus said. The area around the runway was wet, standing water. The Kissen Brook did not overflow its banks this spring, nor did it in the great flood on 1955. It was probably not sedimented then as it is now. We would like to have approval for this bridge crossing, even though Dr. Danzer said there is a feasible alternative with access from Backus Avenue. The Dept. of Transportation will probably not allow us a curb cut on Backus Avenue, and Marcus went on to describe how the half mile hike around to get to the main property is not prudent or feasible. Wilmorite only gave us this property in the early 1980's as part of a settlement, and Marcus discussed that history, which he said Mr. Baroody is not aware of. We've been paying taxes on this for 25 years, and Marcus gave the history of his father starting the business on what was once a swamp in the '40s. It's a business that existed peacefully in the City of Danbury for many years, and it's the we think, Marcus declared. I promise you we will not build this bridge until we get the okay from Planning, Engineering, and the agency that has jurisdiction over the flooding at the airport. All we are asking today is to figure out where we can finish this plan. We certainly have issues that this Commission needs to consider. Marcus summarized this free span, a more expensive crossing; it works, and we are asking your approval. Dainius Virbickas, PE, of Artel Engineering Group, LLC, identified himself and took the mic. Under the direction of our client we propose to cross the brook now with a bridge, about 35 feet in width, instead of a box culvert; a clear span across the brook and wetlands, and Virbickas referred to the plan Cross Section A-A. Coincidentally we did raise the bottom of our bridge structure so that it would not slow the water during a 100 year storm; to the Backus Avenue side of the property, and we proposed some guide rails. It is clearly a better alternate than the box culverts that we initially proposed. Attorney Marcus said that's our presentation. Dan Baroody identified himself. Baroody said we reviewed the application and also received the two reports from Dr. Danzer, and Baroody noted that no mitigation was provided, no acceptable alternative, no feasible and prudent alternative. It does exist, according to Dr. Danzer's report, Baroody said. This renders the application incomplete, so we recommend a summary decision for denial, Baroody said. Jon Fagan asked what's incomplete about this? Baroody answered, essentially, it is a bridge to nowhere; they are not telling us the reason why. Fagan said so their initial box culvert; everyone spoke about the box culvert they came in with, in my opinion, a 35 foot free span bridge; that's not an alternative? Baroody said sure it's a massive structure, and it's a bridge to a turnaround; a bridge to nowhere. Fagan stated one thing that stuck in my mind from previous meetings: they want to know if they can build this bridge, so they can decide if they can develop the other side of the parcel, so that seems reasonable to me. I also question Danzer's participation in this petition. It's a simple crossing of a brook, and we have the airport involved. I don't see it. Mills said as far as impact, temporary and permanent, how much is involved, have you any idea? Baroody replied it's more or less a moving target; the applicant's own figures are on my page one. You'd have to ask the applicant. Mills asked how much fill has to be raised to raise the bridge? Virbickas said, based on our cross section, approximately five feet of fill to raise it, and that's not in the wetland area. Fagan asked is the impact greater? (Tape 2 flipped to side B). Mills said it's mystifying to me that this is the third proposal that we've seen, and he reviewed one, two and three; and now a third revision with a five-foot gravel bank with a 35-foot wide bridge; I don't know as far as safety, and I don't know what is going to hold back that gravel at Kissen Brook. Lees said being a Commission for over ten years now, any time any project is proposed near the airport, we always just ask the

airport. We always to like to get their input. I concur; it's a bridge to nowhere. If you came in front of us with a complete plan like that, what's going to go into that space? Gallo interjected they are not required to come in with their complete plan. Lees said how many times has the applicant said you gave us an approval for this, and now you decide to develop that. Marcus said it's not a bridge to nowhere. We cannot apply to the State DOT because they need to see an entire development plan. Lees exclaimed that's what we are asking for! Marcus said their rules are entirely different. Marcus added if anyone here knows my father, that was not his style. He just turned ninety. It's not a bridge to nowhere. We cannot build anything adjacent to the wetlands unless you approve. Any plans have to come back to you. You can stipulate no construction until we come back to you with a development plan. He described the bridge. I will come back in with a plan within six months, I will guarantee you, Marcus promised. That's not what the regulations say. I will not build it if we can't use both sides of the site. If I came in with a site development plan, you could not focus on this crossing, Marcus said. What I need is a permit. Marcus said about the height, addressing Mr. Mills, the height when you come down the highway, is 75 feet. I don't know what else I can do here to allay your concerns. I have an appointment with architect tomorrow, Marcus said. Just tell me that's the crossing point and I'll have a plan, my architect says. Fagan said I have one last question: regardless of being granted access by the DOT, you need the bridge. Marcus discussed the history of the Great Danbury State Fair, and what they did to cross the Kissen Brook at 10:15 pm. We want to do it in a way where a vehicle can cross, and people. The brook is almost entirely underground. Gallo asked are there any general comments in this report that you can address? Marcus said I tried to reach Dan this afternoon to discuss this. Marcus and Virbickas discussed the impact: a tiny little fill in here. When the wetland fill is smaller than the office that I work in everyday, Marcus said, I consider it a pretty small impact. Dan is using some numbers based on the box culvert, but at no small expense, we will do it, Marcus said. I have no problem with the stipulation of a development plan within six months; that's voluntary. Massoud said I do have a tendency to agree with staff: it does have the appearance of a piece meal application. The important part is that you would be focusing on the development. The perception is that this is piece meal. I do agree with what's being said, Massoud concluded. Marcus said can't that be satisfied by the condition though? Massoud said I understand your architect's concern before designing the rest of the site. To boot, waiting till the end of this application cycle, we are getting negative comments from staff, so I'm not inclined to vote for the application at this point. Either deny this application or withdraw this application, Massoud said, and try again. Marcus answered he could not withdraw the application. Would it help if Virbickas explained why it is necessary to design the crossing before discussing the development? Virbickas did so: this is the narrowest crossing point; it now allows us to align driveways on this parcel and also on this parcel, and Virbickas explained the setbacks and other issues coming into consideration. Massoud asked then why wouldn't you show what that development is with regard to that crossing. Marcus replied it's his very professional architect's method of operation. Marcus said we saw this crossing as a major issue, and he discussed what everybody else would say; everybody has got a culvert. Marcus discussed how much time they spent trying to figure this out, and they all agreed that's where it should go. It is the better way to do development, but it's more expensive. My father should have done this 25 years ago, Marcus said, and he continued to address why this is a better approach to development. A denial sends us way the heck back; I don't know what we'll do then, Marcus said. Massoud said we're out of time, so that's why I mentioned a withdrawal, which Massoud discussed. There should be more of an agreement between staff and Commissioners. Dan

Baroody stood up and said, once we approve the bridge, it's an implied approval, and what if the parcel is then sold? Soriano had a question on traffic, cars; a crossing is meant for high traffic volume. So what is going to cross it, and there's high volume crossing, I think that you have an architect that is creating something, and you do have to come back obviously with that plan. Marcus said 560 parking spaces; that's what's going to cross. Marcus and Virbickas discussed the maximum development of this site. Soriano said but we are not looking at what is going on everywhere else. We are looking at this. Marcus said our bridge is not going to do that. The rest of our site, it's all paved; we're not adding a lot of impervious surface. All I'm trying to do is cross the brook. Lees said to Gallo, as Chairman, can you poll the Commissioners? Secretary Lee said we are out of time before the next meeting. You must go one way or the other. Gallo added or he can withdraw it, either way. Lees and Fagan made comments. Fagan said I'm disappointed that there seems to be this huge disconnect. I perceive this to be a minimal impact, based on what we have just dealt with (EIC 755), a massive subdivision. I'm disappointed with the process. I would be in favor of this, Fagan said. Even Massoud used the term "minor". Why is it not minor now? I have knowledge of this free span bridge, which Fagan discussed. I understand that time is out. I would suggest to the applicant, through the Chair, that is if need be, withdraw the application, and work with staff and with Dan to get this right. It's unfortunate, but it seems to be the solution. Mills offered his input about the three varying alternatives, and this one was not submitted till the June 22<sup>nd</sup>; I think it would be prudent for the applicant to withdraw and come back. Knowing the whole project, the bridge probably would be minor. It would make it a lot easier. Come forward with a new proposal, Mills said. Lees asked him is that in the form of a motion? Fagan reiterated I have a concern with the process. Mills said I'm in favor that the applicant withdraws; if not, what alternative do we have, because we are out of time. Lees reiterated it is a bridge to no where. Gallo said to Lees, I think you were one of the people who asked him to remove the parking. I agree with Mr. Fagan, and I understand that we are running out of time. Gallo said I think an entrance off Backus Avenue would be a horrible idea. Gallo continued they are trying to attach the property. Lees and Gallo argued briefly. Gallo said Mr. Danzer is hung up on an access from Backus Avenue. Fagan asked Marcus to withdraw. Marcus said I can't withdraw it, unfortunately. Mr. Chairman, please ask Mr. Baroody or Pat Lee when he can come back. Baroody explained if you deny without prejudice, they can come back in at any time. You can put it in your motion to deny. Fagan made a motion to approve the petition based on the 6/21/07 plan, with the typical recommendations. Gallo said I'll second that. Soriano also said I'll second the motion, when Fagan said to Gallo, I don't know if you can do that. Gallo added with 8 standard conditions of approval. Fagan said if a motion is made to deny, I'd add it be without prejudice. Chairman Gallo polled the Commissioners: two in favor (Soriano and Fagan) and three in opposition (Mills, Lees, Massoud). Soriano said to Gallo you can only break a tie. Gallo said the motion fails; the **request is denied** (Gallo did not vote) at 10:50 pm.

**28 Hillandale Road**

**Regulated Activity # 754**

**Safet Sadiku**

Assessor's Lot #F08088, RA-40 Zone.

Date of Receipt: 4/25/07. Construction new SF home, well, driveway.  
First 65 Days: 6/29/07. Second 65 Days: 9/2/07. M. Mazzucco, PE. Wetlands  
flagged and proposed house is staked 5/23/07. Site walk 6/8/07 by Mills, Baroody.  
Revisions rec'd. 6/11/07. Impact report by D. Baroody 6/26/07 recommending

denial. **Extension letter** rec'd. 6/27/07. Baroody identified himself again at the mic and said we received a request to extend this so that the applicant can meet to discuss off site mitigation; so I ask this be tabled. Fagan made a motion to table. Mills seconded the motion, and it carried unanimously.

**NEW BUSINESS:** None

**EIC ADMINISTRATION & FUTURE AGENDA ITEMS:**

Miller: Baroody said Miller is still working on the clean-up.

Coffey: Dan Baroody reported that the trees are planted. Mills made a motion to remove the Notice of Violation. Fagan seconded the motion, and it carried unanimously.

Shurgard: A Notice of Violation will be issued by Health Department, Dan Baroody said.

**ADMINISTRATIVE STAFF ACTIONS:**

**Saw Mill Road & Old Ridgebury Road**, Regulated Activity # **717 R**, The Reserve, **Phase 4, phase A**, Lot # B15001, PND Zone. 400 residential units, "Encore at Rivington". 12-unit condo building (down from 15). Revisions by WCI Communities /Tighe & Bond. Administrative Approval by D. Baroody 6/21/07.

**11 Augusta Drive**, Regulated Activity # **714 R**, GAR Electroforming Division, Lot # K12180, IG-80 Zone, 1580 sq.ft.addition proposed. Administrative Approval by D. Baroody 6/21/07.

**Crosby Street at Padanaram Brook**, Regulated Activity # **760**, City of Danbury, Bridge Rehabilitation, Lots#I13042, I13045, C-CBD Zone. Administrative Approval by D. Baroody 6/21/07.

Gallo read the three above summaries into the record.

**CORRESPONDENCE:** None.

**ACCEPTANCE OF MINUTES:** None.

**ADJOURNMENT:**

Motion to adjourn by Mills. Second by Fagan. The motion carried unanimously at 10:52 pm.

The next regular meeting of the DEIC is scheduled for July 11, 2007.