



CITY OF DANBURY
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ENVIRONMENTAL IMPACT COMMISSION
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MINUTES

October 10, 2007

Common Council Chambers 7:00 PM

Next regularly scheduled meeting date **10/24/07**

Chairman Gallo called the meeting to order at 7:05 pm. Present were Bernard Gallo, Bruce R. Lees, William Mills, Matthew Rose, Jessica Soriano.

Absent were Craig Westney, Mark Massoud, Jon Fagan.

Staff present were Daniel Baroody, RS, MPH, and Secretary Patricia Lee.

We have a quorum, Chairman Gallo announced, and Bruce R. Lees led the Pledge. Gallo said I did go through all the minutes from last time and I am up to speed.

PUBLIC HEARINGS:

3-5 Sugar Hollow Road

Regulated Activity # 762

Sugar Hollow Road Associates, LLC Assessor's Lot #G17002, G17019, CG-20 Zone.

Date of Receipt: 7/25/07. The Shops at Marcus Dairy, 10.0094 acres.

First 65 Days: 9/28/07. Second 65 Days: 12/2/07. Artel Engineering Group, LLC. Photos, reports from S. Danzer received 8/21/07. Public Hearing opened 8/22/07, continued 9/26. Extension ltr. received 9/26/07. Rev. maps & plans received 9/21/07 & 9/26/07 & 10/10/07. Gallo introduced this application at 7:07 pm. (Four Commissioners only present at start of presentation). Neil Marcus, Attorney at Law, introduced himself and his team Dainius Virbickas, Henry Moeller, and Mike Marcus. There seems to be some issues as to the type of soils there, between Burt Laux; and I will submit his CV. He's about 85, and has published a lot of articles; clearly a qualified professional. He and Henry Moeller were on the site last week to follow up on Danzer's report, and again, Burt had said he did not think

further testing would be required, but we asked him to come down, and we invited Dan Baroody to come along, but he chose to go on vacation, Marcus said. Danzer, apparently not, Marcus said. I will let Dainius Virbickas and Henry Moeller tell you what went on. I was there too, but not for the whole day.

Dainius Virbickas identified himself at the microphone. I was present for the soil testing that took place last Friday. I'll briefly go over what he found, and he can explain to you a little bit better. Marcus passed out the copies of Henry Moeller's report. Danzer had questions on the soils. There were 7 holes, some were closer to the edges of the wetland, and on several Dainius Virbickas discussed what they found, from east to west, that is, as you get closer to Pier I there appeared to be more fill. Henry T. Moeller will explain what he and Mr. Laux had found.

Henry T. Moeller, Soil Scientist, at 7:11 pm identified himself at the microphone. First we dug holes kind of across the site, and he went to the easel and showed where the holes were dug. The first two holes showed over 61 inches of fill over the original soil, and he discussed his 10/10 supplemental on-site soils report. (Jessica Soriano showed up at 7:15 pm). He went through his report, discussing Deep Hole #1, Deep Hole #2, and he forgot to note the bricks; Deep Hole #3, using the map, the depth of the fill at each, the topsoil, very dark brown muck, loamy fine sand. In the third hole there was some water, and roots went down to 53 inches. Hole #4, farther west of Hole #3, was 90 inches deep. And Henry Moeller discussed each hole, its depth, the topsoil, fill, its color and texture, Hole #6 and Hole #7 depths, colors, textures (all explained in his report). Henry Moeller next discussed the type of fill in place for many years, with no mottling or other indicators of a high water table, and in general an alluvial soil should be flooded at least once a year. When we get into far less frequent floods, we can no longer depend on the soils, so therefore engineering criteria are used. To summarize why this property is not a wetland, the Kissen Brook channel is very deep. It may rise during a flood, but then it falls down very rapidly and it tends to drain; the water moves toward the lowest point. The site has been drained by this ditch. There also is a sewer line well over 10 feet deep that was installed years ago. Henry Moeller showed on the map where the sewer line travels. This type of a ditch in general; they partially fill it with gravel for a solid foundation, then fill it over the top with gravel. However the gravel itself is permeable so it will also tend to drain the water out of the area. The sewer line really creates like a curtain drain, Moeller said. The second reason why this is no longer a wetland is partially that the fill is relatively thick, and has been in place for 20 to 25 years or better. If this area were a wetland, it would have to be saturated near the surface; it should show some type of mottle, which Henry Moeller explained, and time requirement for certain soils to form. The soils below were under totally different conditions, hird reason, is that the roots are deep and go right into the soils below; Hole #7 down to 45 inches, which he described. Poorly drained soil will not have very deep roots. Moeller said so the roots tend to penetrate even into the original soils, and he enumerated each hole again at 7:28 pm. This property has been drained and filled. It can no longer claim to be a wetland. The original conditions that formed those soils no longer exist. Any floodplain criteria should be based on engineering criteria. You can't use the soil criteria anymore. Moeller asked are there any questions.

Mill said he had a suggestion: since we just got this, let's afford Staff an opportunity to review it, and discuss it at the next EIC meeting.

Lees said Steve Danzer should also review this information, and we should get his comments. Thank you.

Attorney Marcus said I agree with the suggestion that it go back to Dr. Danzer for his review. I would like to just comment on what Henry Moeller and Burt Laux have concluded. Marcus discussed the qualities required by the National Cooperative Soil Survey, and Marcus

described his history citing Henry T. Moeller and Dave Thompson; the really only two authorities for every single town and commission, and Marcus listed the Connecticut towns. This site obviously is consistent with my knowledge of the site for 50 years, Marcus said. It's clearly filled. Does it contain required wetland plants? The answer is no. Wetlands may include filled, graded, excavated, disturbed site, possessing and aquent conditions, and Marcus explained what we were looking for when we dug all these holes. It may have been a wetland 60 years ago. It does not take a rocket scientist, or even a soil scientist, to tell that when you look down, that's the bottom of the brook, Marcus said. What happened years ago was not done by the Marcus Family; it was done by the City of Danbury. The sewer acts to intercept groundwater and the drainage ditch known as Kissen Brook, so it was a great exercise for me, and you'll understand a little more about the dynamics, what's actually gone on at this site. It's all been disturbed, obviously. Marcus gave more history of where the Kissen Brook might have originally been located; the City moved it for the airport. But that's what we have, Marcus said. We tried to address Dr. Danzer's comments, and we think we have accurately done that, Marcus continued. Laux and Danzer might even come down here and the professionals might agree.

Dainius Virbickas said I don't recall any further issues. The DEP has been asked to review it. Speaking with Staff and planning, the DEP will not review this unless the City sends them up, so perhaps the City will send plans to the Dept. of Environmental Protection directly.

Marcus said we felt that the deep holes were so clear that monitoring wells were not needed. We can't figure out what information we'd be trying to monitor; no reason to keep looking. I assume we'll continue this to 10/24/07.

Mills said I have some questions at 7:35 pm, for more or less clarification. What is the Parcel B setback from the brook?

Dainius Virbickas got his scale and used it at the easel. From the asphalt to the edge of the brook, it's 30 feet; it varies 25 to 30 feet, about a 20 foot strip from the asphalt to the wetlands.

Mills said I'm requesting as an alternative a farther setback for 30 feet on both sides of the brook. I feel it's much too close to the brook on the dairy side. What amount and composition of fill are you going to put on Parcel B? Then on Parcel A, Mills continued, I attended the Planning Commission meeting, and I must have missed it; the amount of soil to be removed from Parcel A.

Dainius Virbickas said, as a point of clarification, when we originally came before the EIC, they recommended a 20 foot buffer, so I'll have to discuss that with the team.

Mills said I'm asking for 30 feet, and he posed another question about the dumpster locations.

Dainius Virbickas explained the proposed dumpsters per the proposed buildings. Perhaps there will be compactors as well.

Mills said, one other thing: during discussion at the last couple of meetings, the last thing I remember, you said there was less impervious surface on this application, but in the Planning Commission meeting you said there is more.

Marcus replied he said both.

Dainius Virbickas explained that one of the Commissioners remarked about the tailings, and that was incorporated as an impervious surface. But if you go asphalt to asphalt, you will have a slight increase, Virbickas said.

Mills and Virbickas discussed the confusion about the impervious surfaces.

Mills asked about removing trees on each side of the brook: which ones are you taking down?

Virbickas replied we don't have that specifically. We can ask our consultant to explain a

little bit better. A lot of vines may be cut out and some of the lower growth on the trees. Lees asked is there, Mr. Virbickas, a way to have an overlay done of existing conditions with proposed conditions? The question comes up on the encroachment on the stream; isn't it about 20 feet now?

Marcus said there's no buffer now. For Mr. Mills, why would we do the 30 foot buffer? That's academic; we would then have to redesign the whole site. We went to 20 feet. To go to 30 feet, we'd have to redesign the whole site. It's a huge undertaking.

Neil and Michael Marcus consulted with each other in the first row.

Mills said we try to be fair and reasonable with all applications, and I don't think 30 feet is unreasonable; and that dumpster situation, it's easier on Parcel B.

Marcus replied on Parcel A, when you bring in a site that's completely developed; it's a truck depot with no drainage facilities. We will put in a much better system, when have we done enough to improve the environmental impact of the site. We've basically had no buffers. Don't be disappointed if we say we cannot do that, Marcus added.

Mills said the traffic will not be much more heavy. Especially having the restaurants so close to this brook, maybe with a patio; we want to protect that. While I have you, I have a question about a drainage easement; I believe the City's drainage easement.

Marcus said the drainage easement for the City of Danbury will not change. It will get the benefit of whatever treatment we will be doing. They will still have the right to drain. It may be beneficial, Marcus said. We have to really work that out with the City Engineering Department.

Lees said, from my understanding, I think, you're right, the parking lot is right on top of the brook, and Lees discussed Parcel B as the new land that you're developing. We are looking for a win / win situation.

Marcus said we are also looking, quite honestly, at the aesthetics.

Lees and Marcus discussed this. Marcus said we will get on it.

Bruce Lees had a question about enclosures for the trash areas.

Virbickas answered, certainly, if it helps matters, we could put in a block structure instead of just a fence; to hide it from the public would not be bad.

Rose asked is there a planting plan also?

Marcus replied the landscape plan, yes.

Virbickas said it's on the board there, and our consultant can explain that a little bit better.

Gallo asked do the Commissioners have any more questions? Is there any member of the Public wishes to speak on behalf of this proposal at 7:53 pm.

Mary Reynolds of Library Place, Danbury, identified herself. I'm not against this proposal. It's Mr. Marcus' property. What concerns me most is the wildlife with all the heavy equipment going in. Reynolds noted someone said on Friday night that your Commission never ever takes wildlife into consideration. They all have a right to live. I'm a little confused. Reynolds said I wanted not to come because I'm so frightened. I came because of the wildlife. I've been told over the years to sit down by Mayor Boughton's father. I've been speaking here for years about the squirrels, the rabbits, the possums. Also I've been told that we don't have time for your biblical recitations, and I have been stared at by chairmans. Reynolds explained the areas in Danbury that have been developed. Where is our EIC commission? Where is our Planning Commission? Reynolds explained what is dear to her heart: the little animals when these developments are approved. Developers are allowed to flaunt the regulations. Reynolds sited Stew Leonard's breaking his promise, and the destruction near Tarrywile Lake. One more thing tonight: it is my fondest hope that my pleas will reach the ears of the developers and Mr. Marcus, and Reynolds enumerated the animals and fowl to be affected. Reynolds asked them during development to call Wildlife In Crisis in Weston. Remember you are saving a piece of our natural world. Reynolds sited

Rachel Carson's "Silent Spring". Reynolds said thank you for listening at 7:59 pm. I had pneumonia, and I think I've still got it. Think of them; you too, Attorney Marcus, Reynolds said.

Lees made a motion to **continue this Public Hearing**.

Rose seconded the motion.

The motion carried unanimously at 8 pm.

65-67 Bear Mountain Road

Regulated Activity # 768

Candlewood Pines Cluster Subdivision Assessor's Lot # H03069, RA-80 Zone.

Date of Receipt: 8/8/07. 14 lot residential cluster subdivision, 119± acres.

First 65 Days: 10/12/07. Second 65 Days: 12/16/07. CCA, LLC. 9/12/07 Rec'd. cut & fill and wildlife report. Rec'd. 9/20/07 Steve Trinkaus, PE, report & CV. Public Hearing opened 9/26/07. Geotechnical & rock removal review received 9/24/07. Site walk 10/9/07. Danzer's report received 10/10/07. Chairman Gallo introduced this item at 8:01 pm, a Public Hearing for a proposed cluster subdivision.

Tom Beecher, Attorney, took the microphone saying that he's here tonight, along with Paul Jaber, and we represent Pamela Equities Corporation, and Beecher described the overall proposal. Also with us tonight is Steve Sullivan, PE, James Cowan, and Theodore von Rosenvinge, PE, with GeoDesign. Dr. Michael Klemmens, herpetologist, did do his field review, but we don't have his report yet. In addition, we may want to make adjustments to the plans with CLA's and Mr. Trinkaus' input. We saw Dr. Danzer's report for the first time this afternoon. There was granted on 6/23/04 a logging permit (EIC #554) issued by this Commission, Beecher said. There was also some activity associated with the demolition of the two cottages. In addition, Mr. Danzer takes us somewhat to task for not having adequate information, but our revised report was not submitted: the September report, done by Mr. Cowan. And I'd asked that report be sent to Dr. Danzer right away, Beecher said, if that will please the Commission. So therefore we will anticipate receiving some refined comments from Dr. Danzer.

On another note, we did meet with the neighbors after the last meeting. I can't tell you that we solved all of their problems, Beecher said, but it was a productive meeting, and we attempting to explain the zero peak storm runoff: no more than what comes off today. Hopefully, it helped out. Jim Cowan will submit his report, Beecher concluded.

James Cowan, took the microphone and identified himself at 8:06 pm and signed in. I am a registered soil scientist and registered wetland scientist with Environmental Planning Services. I have provided a proposed mitigation plan in the form of a letter. As I stated last time, Cowan said, you have my report. In the planning process, we see as a primary point of mitigation the cluster subdivision itself as a major point of mitigation. Cowan discussed Wetland One: the removal of invasive and noninvasive species, the road crossing, the road down to the Lake and the residences below. We propose the removal of woody invasive species that would be identified by some professional like myself. Second, the wetland plantings, which Cowan explained, the retaining wall, the proposed buffer planting, several pipes under the road to carry the runoff, some clearing required on the site to get those pipes in, and planting then to restore those areas. Rather than do a detailed planting plan, my recommendation is that we locate the plants based on the field conditions at the time, Cowan said; so I got from CCA the areas of disturbance, and I came in with a density count of average trees, a spacing of shrubs, staggered rows, with randomized, naturalized planting, and Cowan discussed the layout of this report, the seed mix, the diversity of trees

and shrubs, and all of the other native species on the list.

Tom Beecher came back to the mic saying that's all we intend to present tonight as new information. I know some of you went on a site walk yesterday.

Bruce Lees said I think as we go forward we'll want a more formal planting plan, that would be bonded out, for 2,3, or 4 years.

Baroody interjected three years.

Bill Mills said there were just a couple of things. I'm glad you're going through Trinkaus. Since you are going to go through that at the next meeting, I think that should suffice. I believe we asked for an endangered species report. The other thing was removing the invasive weeds along the wetland, and I'd also ask you to take out all the downed trees we saw on the site walk yesterday. It would enhance the property, Mills said.

Steve Sullivan said to answer Mr. Mills' first question: the environmental report submitted to you in September addresses the species issue, and I submitted two reports to Dan Baroody today.

Gallo asked are there any further questions?

Lees asked are we going to discuss Danzer's report or wait for the next meeting?

Beecher asked will you submit our report to Danzer as I asked?

Dan Baroody replied yes.

Lees said I'm concerned about what are we doing right now with all the erosion from the tree cutting.

Sullivan said I'm not saying it's a violation; we're addressing that.

Gallo said some of that might have happened with the logging permit.

Lees said let's address that right now.

Mills asked Staff for a recommendation.

Attorney Beecher said we discussed making that part of the mitigation plan. We'd like to approach it that way.

Baroody said I did observe the erosion, as did Dr. Danzer, a parttime employee of our agency, and he advised a Cease & Desist order be sent. So it's up to the Commission to do that or to work with the applicant.

Lees said I was not out there. I want to see some siltation fencing and some hay bales.

Baroody said it's a result of the logging and the test hole activity. Dr. Danzer is one of our experts. Some of what I saw, if I saw that on another property, I'd issue a Notice of Violation. It's up to the Commission to let me know what you want to do. I would rather work with the applicant.

Beecher said we'll cooperate.

Baroody said we've had similar situations.

Gallo I don't think we should issue a Notice of Violation, but to get something done as soon as we can.

Lees said something that could be implemented fast; within the next two weeks.

Baroody added there's no activity going on there now, and he explained the history of the logging and the test hole digging, which is exempt. That was something the Commission did not foresee when they wrote the regulations for test hole digging.

Gallo said let's work with the applicant. Is there any member of the public wishing to speak for or against this application?

Mills said I have a question, if I may. A gentleman at the last meeting from Buckskin Heights Drive: did you get a chance to talk to him about his basement flooding?

Beecher said we did talk to him. His fear was more about an increase to the water flow going down.

Gallo said I'll entertain a motion to continue this.

Lees made a motion to **continue the Public Hearing** to October 24th at 8:24 pm.

Mills seconded the motion.
The motion carried unanimously.

OLD BUSINESS:

110 Long Ridge Road

Regulated Activity # 761

Alice J. Barnes

Assessor's Lot # J22016, RA-80 Zone.

Date of Receipt: 7/25/07. Parcel B. New SF residence, well, septic, driveway.

First 65 Days: 9/28/07. Second 65 Days: 12/2/07. Michael Mazzucco, PE., 2.4 acres. Tabled to 9/26/07 & 10/10/07. Site is staked & marked 8/23/07 for site walk. Extension letter received 9/26/07. Chairman Gallo introduced this. Baroody said I spoke to applicant today, and I advised him that we need a seepage study, so I advised him to continue this. And we have enough time, really to end of the month, Baroody concluded. Rose made a motion to **table** this. Soriano seconded the motion, and the motion carried unanimously.

40A Payne Road

Regulated Activity # 767

MRF LLC

Assessor's Lots #M13001, M13002, IG-80 Zone.

Date of Receipt: 8/8/07. Driveway, storage construction equipment & materials.

First 65 Days: 10/12/07. Second 65 Days: 12/16/07. David Tinker. ConnSoil report received 9/26/07. **Tabled** to 10/24/07 for survey. Extension ltr. requested 10/10/07. BG introduced this item. Matt Popp of Environmental Land Solutions of Norwalk, CT, identified himself at the microphone. At the last meeting, Rod Cameron talked, and I'm going to just describe some wetland mitigation we are proposing. Popp discussed the vicinity a meadow, some wooded area, the grades, moderately sloping on the rest of the site. Lees interrupted Popp saying, wait! This is the wrong issue. Gallo said we're at 40 A Payne Road. Lees made a motion to **table** EIC #767. Soriano seconded the motion, and the motion carried unanimously.

Gallo said our next item is Candlewood Pines, EIC #769.
Lees said to Matt Popp, "As you were saying."

Steven Sullivan set up the easel.

Winnebago Trail, Candlewood Pines Regulated Activity # 769

Pamela Equities Corp.

Assessor's Lot # H03069, RA-80 Zone.

Date of Receipt: 8/8/07. Parking, storage building, volleyball court, docks.

First 65 Days: 10/12/07. Second 65 Days: 12/16/07. Lots # 1-5. CCA, LLC. Staking to be done 8/25/07 for site walk. Geotech. Engineering review received 9/24/07.

Recommendations from Danzer received 9/25/07. Comments from CLA Marsicano 9/26/07. Site plan & response from CCA received 10/5/07. Site walk 10/9/07.

Steve Sullivan, PE, of CCA, LLC, arranged the easel, saying I encourage you to read those responses. Sullivan described the patched area on the map providing a perpetual buffer. The minimum width on that conservation area is 50 feet. Again, the 440 is owned by First Light Power. We've added sediment fencing, reinforced sediment fence, shrub plantings, the Conservation Easement line, low lying shrubs. I spoke with Brian Wood (First Light) and he suggested we realign the dock layout, so we changed it to be parallel with the shoreline, so it does not butt out into Lake so much. Also, we added crushed stone. This is a seasonal use; it does not have to be plowed, Sullivan said. I submitted also an alternate site plan, the major components of which would require a variance from ZBA for parking in the front yard. Everything in this site plan is further away from the Lake. So on the alternate site plan we have more Conservation Easement area; the narrowest portion is 80 feet on this one. Again, crushed stone parking spaces, Sullivan said; shrubbery the along Conservation Easement area, and the dock layout I mentioned earlier. I had a similar situation with this Commission a few years ago, and that went to the ZBA; I worked with Jack Kozuchowski on that one, and the Zoning Board of Appeals was receptive to that, so we would be willing to work that way on this one, Sullivan concluded.

Lees asked wouldn't you think that your second proposal would be less costly also? Sullivan replied yes. The premise on the original site plan was that I have to meet the current zoning regulation. I think with this Commission's help, I could apply for a variance. Lees said I'd be more in favor of the second proposal then.

Mills said I'm requesting that it go back; in some places we require a 200-foot setback; the volleyball court, a portion of the kayak canoe storage building, then the landscaping.

Mills said I suggest it go back. Push it back further so you're well beyond 150 feet, then you're, well, move the whole project back 50 feet more.

Sullivan said Danzer suggested 100 feet.

Mills said to Sullivan, see what you can come up with.

Sullivan said I think we can do that. There will be some blasting or mechanical work in the gravel parking area. I'd like Ted von Rosenvinge, PE, to address that.

Theodore von Rosenvinge, PE, of GeoDesign, Inc., introduced himself. I was here at the last meeting. The boulders can be broken up, like an egg; get it into smaller pieces, drill small holes, put small charges in there, and mat it, and blast it into smaller pieces. Rock removal is not very pleasant, von Rosenvinge said.

Gallo asked about disruption to neighborhood and the small charges.

Von Rosenvinge said I don't know how many yards you're talking about. You're not loading it with big charges. It can be controlled; that's the key thing. We'd submit a blasting plan for review before beginning. Blasting is a matter of good public relations, largely, von Rosenvinge said.

Gallo said okay. Thank you.

Mills said my concern, walking the area yesterday and looking at the amount of trees you'd have to take out, and the boulders that have to come out; my question is how much space is needed for equipment in this particular area to get the equipment in and move the stuff around? Will there still be a lot of extensive tree cutting?

Sullivan said I'll try to revise this plan so we can get a 150-foot buffer; when revised I could then give you an idea of tree removal. (Tape 2 side A inserted).

Mills said there's a lot of trees there.

Sullivan explained his plan to minimize the clearing. The rocks will be placed in this fill package here, which he explained.

Lees said, getting back to Mill's pushing it back 150 feet, I have a question on the parking?

Sullivan explained the measurements, the plantings, and why you can't put the parking right off the road.

Gallo, Sullivan, Lees and Rose discussed the strip required to pull a car in, and pushing that whole lot away; the driveway area, the parking footage needed.

Sullivan said I can look at that.

Baroody asked do you have your permission from the power company to put in the dock? Sullivan answered we actually got the permission from Northeast Generation Services for the docks, but Brian Wood is now actually reviewing the dock configuration, and it's under review.

Gallo asked is anything further?

Lees made a motion to **table** this.

Soriano seconded the motion.

The motion carried unanimously at 8:46 pm.

Pembroke Road

Regulated Activity # 770

Roger L. Crossland

Assessor's Lot # G07044, RA-40 Zone.

Date of Receipt: 8/22/07.

Pembroke Day Care Center, 2.5 acres.

First 65 Days: 10/26/07. Second 65 Days: 12/30/07. CCA, LLC. Let's try Pembroke Road again for a second time, Gallo said. Matt Popp came back to the panel. Baroody said it was good practice.

Matthew Popp, LA, of Environmental Land Solutions of Norwalk, CT, said our roll in this project is to work with Rod Cameron from CCA. I'll review some of the upland features and the wetlands. Popp described the vicinity again to the Commissioners. I'm going to just describe some wetland mitigation we are proposing. Popp discussed the vicinity, a meadow, some wooded area, the grades, moderately sloping on the rest of the site. Popp discussed the trees: willow, olive, the golden rod, and the wetland system.

The trees are maybe 30 to 40 years in age. I have a picture of it.

Rose asked for location clarification.

Gallo asked where's the prison?

All discussed the site vicinity. Halas' farm is on the other side, Soriano said.

Popp said the area is fairly level. The western side slopes up. Popp discussed the trees, the old field, its shrubs, the wetland in yellow right here. Popp discussed its size. I have two pictures of that, the phragmites, mainly road sediments; Popp talked about the functions of the area, some wildlife habitat, the day care facility to the north, some parking on the south. We have native plantings proposed. I have offered some mitigation, which Popp described. We do show a few trees; I think that could be more dense. There are two swales, some type of meadow; to provide more nutrient removal, access for a small backhoe to remove sediment once in a while, and Popp enumerated more measures.

We did the best we could do to preserve those functions.

Lees discussed with Matt Popp the alternatives in light of the three roads intersecting. Rose asked about fencing so kids don't run out into the road.

Lees asked what is the distance from the wetland to the driveway?

Popp replied probably about 35 to 40 feet, and he got out his scale; it's 40 feet right from here. The building is 60 feet. The road is currently about 20 feet from the wetland.

Lees asked about fencing for the wetland; there could be water in there with young children. Lees asked about kids walking all the way to that playground.

Rose said on an adjacent property, there was some blasting on a previous application.

Popp answered I don't know. It slopes up, and I think I did see some rock there.
Gallo, Popp, Rose and Lees discussed the sidewalk, the elevation on this, which way you want the elevation, north, south, east, west.
Gallo asked Dan, can we set up an on-site for that, please?
Lees added the blasting report is important.
Mills asked have the wetlands been flagged?
Popp said yes, in 2003 by Henry T. Moeller.
Mills asked can we have it flagged again, and a map for cuts and fills five feet or more.
Rose asked how big is the proposed building?
Popp replied 90 feet by 60 feet.
Lees asked you have no plans to make it into a restaurant?
Popp said no
Lees made a motion to **table**.
Soriano seconded the motion.
The motion carried unanimously at 8:59 pm.

62-69 Kenosia Avenue

Regulated Activity # 735 R

Artel Engineering Group, LLC

Assessor's Lot # G18001, IL-40 Zone.

Date of Receipt: 9/26/07.

Jay Earl Associates, LLC / City of Danbury.

First 65 Days: 11/30/07. Second 65 Days: 2/3/08. Revised under-pavement drainage. Chairman Gallo introduced this item at 9 pm, and Dainius Virbickas put the plan on the easel and introduced himself again. Virbickas said I am here on behalf of the applicant, who proposes paving the existing parking lot. Some questions and comments were raised by Mark Massoud at the last meeting, Virbickas said. I added to that deep sump catch basin a downturn elbow, to prevent sediment going out to the brook. We proposed several manholes on this detention system so we can actually look at it and see how it's performing; so we took that recommendation to heart as well. Plus we'll put up the "no dumping" symbol, but Virbickas had questions of spray painting that symbol versus screwing something onto a post. Dainius Virbickas handed out his revised plan last dated 10/4/07 as he discussed the end-of-season sweeping out the lot, looking at the detention system, and the like, sometimes on a weekly or monthly basis. I know the owner of the site goes out there weekly, Virbickas said, and he's always picking up stuff and throwing it into the trash. Are there any questions?

Mills said I did not understand the first time: "as to not take away any floodplain storage"? Dainius Virbickas explained at the easel how we're looking to shave back a little bit. It's made up of concrete voids.

Mills asked could you add to the maintenance plan schedule a condition #6 showing to the City Health Department that this was done?

Lees said the only thing I can see is that you have the existing parking area. I don't see how that's draining, to improve it.

Dainius Virbickas explained it's pretty clever how the existing parking lot drains, which he demonstrated on the plan. And it actually rolls off at the edge of the asphalt, and it gets trapped in it, and it functions, Virbickas said.

Lees asked him is there any better plan?

Virbickas asked him do you mean by sweeping? And Lees and Virbickas discussed specifying the maintenance items. Virbickas said we would maintain it all.

Dan Baroody said I'd like to remind the Commission that we did approve this with a stormwater management system, and I'm not sure why they are back with a point source discharge. This has no Vortech unit. To remind you, we've approved it with a non-discharge plan. So why are they back?

Virbickas said it's a good plan, but the whole reason we're back is because the Engineering Department wanted us to design a 100-year storm event, incorporating that first flush volume into our detention surfaces. The other concern that the Planning Department had was cutting down a swath of trees and shrubs all along this parcel. I did not expect the Planning Department to be concerned with that. So we needed a relief point, so we're treating more water; we're detaining it, Virbickas said. The negative point is that we do not have the Vortech unit. It requires more depth, so we would not be able to put one in, the way the units are made. Our system would have to go deeper. We wanted to try to keep everything close to the surface.

Gall asked the Commissioners if they had further questions.

Baroody said then I'd ask them to submit a pollutant loading study.

Dainius Virbickas said I can certainly submit how that would function on the site.

Lees said I'd like to see that; I'd be in favor of this.

Dave Kaplan stood up and said I'm the owner of the property. The winter is probably dependent on the next two months, where I can't pave there thereafter. Then I cannot pave until the spring. Whoever has seen the building, it's been a children's building. About 2000 kids are there on a weekly basis; little kids, bigger kids, throwing mud, turning ankles, and other kinds of problems. It's the old Rodenstock building. It's been a great project and I've enjoyed it. We have a liability issue, however. The City of Danbury owns this land, and Kaplan described the rent and the liability for himself and the landlord, the City of Danbury. If I have to put this off another few months, the owners complain on a weekly basis; the women walking on loose gravel. It's a maintenance nightmare. Before you table this, whatever you ask me to do, I will do, but I do not want to put this off for months.

Lees said to Kaplan put a Vortech unit in.

Virbickas said if we can custom make some kind of Vortech unit, we will do it.

Lees, Rose, Baroody and Dainius Virbickas discussed voting on it in two weeks; the weather, pushing everything off until real cold weather.

Soriano said get everything in in the next two weeks. Get it done soon and Dan can review it.

Gallo said we didn't know Planning was going to turn it down. We need all this stuff the Friday before this meeting. Rose, Soriano and Baroody all discussed a pollutant loading study.

Virbickas said sure; that we can work up rapidly. Thank you for working with us.

Lees made a motion to **table**.

Mills seconded the motion.

The motion carried unanimously at 9:19 pm.

NEW BUSINESS: None.

APPLICATIONS FOR ADMINISTRATIVE APPROVAL: None.

ADMINISTRATIVE STAFF ACTIONS:

N.O.V. – 37 Holley Street, Jose Bernardino 10/1/07

N.O.V. - 62½ James Street, Jose Guzman 10/1/07

Dan listed no correspondence, no new business, and then came to the above Notices of Violations. We have met with Mr. Bernardino and he has flagged the wetlands. These came from the UNIT. Secretary Lees said Mr. Guzman called this morning and needs to talk to someone who speaks Spanish, maybe Larry Miguel.

Mills asked Dan what is going on with Mill Plain Road Notice of Violation.

Lees suggested we could empower Mr. Baroody to forward this to Corporation Council if needed.

Gallo said absolutely.

The following Administrative Approvals were granted 10/2/07 by Daniel Baroody, RS, MPH:

124A West King Street Regulated Activity # 771

Craig Westney B06027, RA-80 Zone. Date of Receipt: 8/8/07.
Deck addition.

Access to B.I. Pharmaceuticals Regulated Activity # 772

City of Danbury Roadway Improvements, State Project 6-06.
Date of Receipt: 8/8/07. Vanasse Hangen Brustlin, Inc.

37 & 39 South Street Regulated Activity # 774

Tony Ribeiro c/o J.A.R. Associates K15083, K15084, IL-40 Zone. Date of Receipt:
8/22/07. Commercial/warehouse/wholesale/contractor building.

48 King Street Regulated Activity # 775

Mark Morrow D07037, RA-40 Zone. Date of Receipt: 9/26/07. Deck.

Gallo read the above Administrative Approvals into the record at 9:22 pm asking are there any questions.

CORRESPONDENCE: None.

EIC ADMINISTRATION & FUTURE AGENDA ITEMS:

Subcommittee progress report will be coming, Soriano said.

ACCEPTANCE OF MINUTES: Lees motioned to approve the minutes from the 9/19/07 meeting. Mills seconded the motion, and the motion carried unanimously. and 9/26/07 Lees made a motion to approve the minutes from the 9/26/07 meeting. Soriano seconded the motion. The motion carried unanimously.

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Mills said I'd also like to do a site walk on Payne Road, that application. Notify us as to dates and times, Mr. Baroody?

Baroody said he had talked to Corporation Counsel Robin Edwards, and when Ben Chianese was EIC Chairman, we reviewed the regulations. Changes were made and it was submitted to the State. Robin Edwards gave me the new regulations that were amended, Baroody said We are going through this procedure now. We will wait to have a Public Hearing. Thank you, Mr. Chairman, Baroody said. Baroody said there's about six e-mails with attachments. And she did the research on the different towns and fees, so I'll forward you those e-mails.

Gallo added she knows Mr. Massoud is on the Commission.

ADJOURNMENT:

Motion to adjourn by Lees. Second by Mills. Motion carried unanimously at 9:28 pm. Chairman Gallo will phone Secretary Lee for directions to the Saturday UCONN seminar.

The next regularly scheduled DEIC meeting date is October 24, 2007.