



CITY OF DANBURY
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Environmental Impact Commission
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MINUTES

November 14, 2007

7 pm - Common Council Chambers

The meeting was called to order by Chairman Bernard Gallo at 7:12 pm. Present were Chairman Gallo, Bruce R. Lees, William Mills, Jon Fagan, Matthew Rose (at 7:15 pm). Absent were Craig Westney, Alt. Mark Massoud, Alt. Kurt Webber, Jessica Soriano. Staff present were Daniel Baroody, RS, MPH, Assistant Corporation Council Robin Edwards, and Secretary Patricia Lee.

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was led by Bill Mills at Gallo's request.

FOR DISCUSSION & POSSIBLE ACTION:

Gallo introduced this first issue, for consideration and negotiation, suggesting that the Commission go into Executive Session. Lees made a motion to go into Executive Session. Mills seconded the motion. The motion carried unanimously. Staff member Dan Baroody and Assistant Corporation Council Robin Edwards were invited into the Executive Session by Chairman Gallo, and they exited into the Caucus Room at 7:16 pm. The Sony tape recorder was turned off.

193-207 Great Plain Road

Regulated Activity # 723 R

Sycamore Trails Group, LLC

Lots # J04085,J04084,J05099,J05100, RA-80 Zone.

Original Date of Receipt: 8/23/06.

Savannah Hills Subdivision, Revisions.

EIC denied # **723** 2/20/07. Revisions rec'd. for **PENDING LITIGATION** 8/6/07.
Cordeiro, ±33.5 acres.

Original Public Hearing opened 10/11/06, continued 10/25, 11/8, & 12/13/06. Comments

EIC Minutes 11/14/07

from Conservation Commission rec'd. 10/10/06. Cuts & fills, Supplemental C, and Overall Site Dev. Plans rec'd. 10/13/06. Notice of Health Violation sent 10/31/06 to Cordeiro. Danzer report rec'd. 11/7. Wetland Assess. from ESM rec'd. 11/8/06. 65-day extension ltr. rec'd. 11/8/06. Revisions rec'd. 12/7/06 and 12/11/06 from Mazzucco, incl. blasting & planting plans. Rev. Overall Cut/Fill Plan rec'd. 12/27/06. Revised plans rec'd. 1/4/06 & 1/10/07. Public Hearing closed 1/10/06. DEIC denied the application 2/20/07. Executive Session 11/14/07 closed at 8:07 pm and the Commissioners came back into Common Council Chambers. Gallo announced let record show that Matt Rose arrived at 7:15 pm and was present for the entire Executive Session. 11/14/07 Motion by Fagan to proceed in accordance with discussion with Corporation Counsel in Executive Session. Second by Mills. Motion carried unanimously.

PULIC 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 rec'd. 8/21/07. Public Hearing opened 8/22/07, continued 9/26, 10/10, 10/24/07, 11/14/07. Extension letter received 9/26/07. Revised maps & plans rec'd. 9/21/07 & 9/26/07. Danzer update rec'd. 10/23/07. Laux update rec'd. 10/24/07. Phase I ESA report rec'd. 1/6/07. Revised plans, engineering report, drainage maps received 11/15/07.

Chairman Gallo introduced this item at 8:09 pm, and read the Legal Notice into the record. Neil Marcus, Attorney at Law, came forward, identified himself, and introduced Engineer Dainius Virbickas of Artel Engineering Group, LLC, and we'll hopefully be relatively brief this evening.

Dainius Virbickas took the mic at 7:11 pm. We did make some minor modifications to the plans, and we tried to address some concerns, and I'll briefly go over those plans. We modified the driveway alignment off Backus Avenue, and since then we've modified the plans yet a little bit more, Virbickas said. The Planning Commission asked us at the last meeting to modify this, which we've done to gain two parking spaces here. As you may recall, we eliminated that patio behind there, and in essence there will be less fill out by Kissen Brook; some side walk modifications, a little less concrete, with respect to things on the surface. Subsurface, Virbickas continued, the Engineering Department asked us to loop the water line in, out to the site and back into the road, to get more volume out of our subsurface detention structures, so we were able to raise the systems a little. In the grand scheme of things, it means nothing, Virbickas said.

Gallo remarked that Staff has not looked at anything that came in after Friday. Dainius Virbickas said we did give a submittal today to Planning and to the DEIC, which I understand you have not had time to review.

Mills said I was not at the last meeting. But at the October 10th meeting, I asked for the amount of fill you'll be using on Parcel B.

Virbickas replied I know I have that. I will try to dig it up for you.

Mills said I didn't see it on the October 24th minutes. I asked the question on October 10th.

Virbickas said as part of our calculations, we do have the amount of flood plain to be filled: 2893 cubic yards.

Mills said the other question I had, I don't see Matt Popp here; most of the trees along Kissen Brook are going to be taken out. How many along Kissen Brook?

Virbickas said I don't have the answer to that. I can relay your question to Matt Popp and then tell the DEIC.

Mills said I also asked for 30 feet on either side.

Baroody took the mic saying I have a letter from Paul Estefan, Airport Administrator, and the airport's engineers (Hoyle, Tanner & Associates, Inc.) are asking for backing up the floodplain storage, and asking for a HEC-2 analysis, to determine if this will affect the floodplain or not. They are asking that they submit this to the Commission.

Neil R. Marcus said Dainius Virbickas and I have been trying to get a hold of Karen J. Frick, PE, at Hoyle, Tanner & Associates Engineering, but we have not been able to find her. First of all, she has not read the plan, Marcus said. I don't know what plans she's looking for. I am more concerned that the City is paying this engineer Hoyle and Tanner, Marcus continued, and we don't want to go off tilting at windmills. This letter is meaningless. What are their concerns? This letter makes no sense. We will get them additional calculations on that issue, if they need it. Marcus read paragraph by paragraph from the Hoyle and Tanner letter, saying I don't know what she's looking at. If she's looking at the culvert, she should be looking at the bridge. This is not a river; this is a drainage ditch. I want Paul Estefan's permission to dig up the runway because that's where the brook is. We re not about to do a HEC-2 analysis, and my question is when did they send an engineer to look at the drainage, because we did, and he's right here (Virbickas). Marcus next alleged the airport and City had not been maintaining the culverts. And I am outraged, Marcus exclaimed. Marcus compared this to fixing the plumbing in the whole house as opposed to taking off the shower head and seeing if it's clogged. They sit and write a letter knowing nothing about it, Marcus stated. And Paul Estefan is in New Zealand for the next few weeks. Marcus explained the required crossing of the Kissen Brook as that is the entrance onto the site. But quite honestly, I don't know why this is here. You're not the Planning Commission. You don't regulate this, so with all due respect, they are wasting your time and our time, Marcus said. The airport has a flood problem, and he discussed the heavy rain and flood conditions; and we know that the airport floods, but that is not before you. I'd like to leave that as the application. We will deal with the City's flooding problems at the airport, Marcus said. This letter does not belong in this file. Karen Frick is way off base, unless she answers me or Dan. To Baroody Marcus asked, can you get a hold of this lady because I cannot understand this letter. I think we have to put this thing in perspective. We will get her the calculations, but that's before the Planning Commission.

Gallo asked is there anyone from the Public wishing to address this issue?

Fagan made a motion to **continue the Public Hearing** to November 28, 2007.

Lees seconded the motion.

The motion carried unanimously at 8:28 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 S. Trinkaus, PE, report & curriculum vitae. Public

Hearing opened 9/26/07, cont'd. 10/10/07, 10/24/07, 11/14/07. Geotechnical & rock removal review rec'd. 9/24/07. Site walk 10/9/07. Mitigation plan rec'd. 10/9/07. Danzer's report rec'd. 10/10/07. 35-day extension letter received 10/16/07. Site development plans, response letters, reports, conceptual driveway plan rec'd. 10/31/07. CLA and NCD reports rec'd. 11/13/07. 2nd REV. Danzer report rec'd. 11/14/07. Second extension letter for Public Hearing rec'd. 11/14/07.

Gallo introduced this application # **768** at 8:29 pm, and Attorney Tom Beecher, Steve Sullivan, Paul Jaber and James Cowan came forward. Beecher took the mic and identified his firm. Partner Paul Jaber and I represent the applicant on 119 acres of land, and 48 acres of that will be preserved as open space. There are no watercourses impacted. With us here tonight are Soil Scientist James Cowan and Steve Sullivan, PE. There is only one impacted wetland pocket, which, if you've been out there, is the result of excavation. We filed revisions and responses in time for this Public Hearing, and he listed the reports from Northwest Conservation District (NCD), Candlewood Lake Authority (CLA), and it became clear to us this afternoon that Mr. Hayden was looking at our previous plans. Look at sheet B3. We will be sending a copy of documents to the U.S. Fish and Wildlife Agency. We found no bog turtle habitat on the site. We will accomplish the removal of the felled trees, as suggested by this Commission. The mitigation and enhancements proposed, I hope you will find, far outweighs the impact to that wetland pocket. Mr. Cowan respectfully disagrees with Dr. Danzer. We have put together a feasible and prudent alternative: a conventional subdivision. A cluster concept and the revised plans will minimize any Environmental harm. And I know that Dr. Danzer likes this proposal. Beecher discussed the drainage systems, an improvement over what is there now. It meets the DEP stormwater guidelines, and Steve will address Mr. Trinkaus' concerns, and Steve Sullivan will review that with you.

Steve Sullivan, PE, identified himself and his firm, stating he is licensed in the State of Connecticut. Sullivan brought the mic to the easel. The first change is the on the overall site layout plan, on 8, 11 and 12, so we located the lines from the house to the septic system. These are not regulated areas at all. On the Lot 1 detention system, we changed to an underground pipe storage system. There is solid pipe and a pipe gallery system, to release at a slower rate than a detention system, and addressing the surface groundwater runoff onto the neighbors' properties. Sullivan gave the statistics on the drainage area, the way the driveway is graded, relative to the Brunner property. All this will be collected into the new drainage system, so there will be less peak flow towards the Brunner property. We've added rain gardens for roof runoff at each house site, except one, Sullivan said. We met in the field with Mr. Brunner, and he expressed concerns about the location of the proposed house. So I listened to his concerns and moved the house about 20 feet, and Sullivan described where he moved it, and oriented it in a different way. We want to maximize keeping the existing trees in that area. The driveways on 1,6,7,12,13, and 14 have drainage swales related to them that tie into the City of Danbury drainage sys. For the other drainage that flows toward Candlewood Lake, we did as required by the City Engineering Department; we did a pre and post analysis report. We will provide a reduction in peak flow, in both drainage areas, towards the Lake and towards the road, in the post development flow. Sullivan explained how the grading is going to work, as asked for by the Candlewood Lake Authority. We added a general construction sequence and the road construction. So there, in the revised narrative, there's two paragraphs about individual lot construction; also temporary swale diversion calculations. We enlarged the temporary sediment basin in lot 6 and lot 7 areas. The CLA recommended a different calculation, so we did that, based on the 2002 CT guidelines. We believe we've met that calculation. On this

road construction phasing plan, we've broken it up into four phases, which Sullivan described: Phase I, Phase II, Phase III and Phase IV, using that plan on the easel. Sullivan described the total disturbances on each, the temporary diversion swales, and the acreage of disturbed area; so that's essentially the road construction phasing. Sullivan talked about the pervious pavers Mills requested and where the best areas for those are. We used that whole parking lot with that same type of material. Regarding the wet basins on lots 6 and 7, Sullivan discussed what's been added: underwater berms, providing a longer travel length. Jim Cowan will go over the planting plan on the Notes & Details Plan, but Sullivan said plans are all shown on Sheet D3. One of Dr. Danzer's concerns was erosion controls. What we've proposed is a triple protection layer and Sullivan discussed those methods. All will be left in place until the area is stabilized with vegetation. There are two drainage systems in the common driveway, which Sullivan explained: the catch basins, armor pads, to keep that water going into the wetland system. We want to keep that flowing after construction. We've submitted a revised pollutant analysis, dated October, 2007, and Sullivan went over the summary and the Best Management Practices and the treatment train. Sullivan said the rain gardens, pervious pavers, Vortechnic system, 80% TSS removal; that literature is in the back of the pollutant analysis. We propose a forebay into the wet basin and that will be vegetated, and discharged into armor riprap. We meet the Danbury performance guidelines. Previously, we had open space of 47.5 acres; we've increased it to 48.6 acres. The additional location is below lot 6. Sullivan said we submitted this application back in July with a traditional subdivision layout, versus a cluster layout, and Sullivan expounded upon that. There is a better opportunity with the cluster layout to increase the open space and minimize the impact. Also, more recently, based on Danzer's report, we tried to move the common driveway on Lots 6 and 7 further away from the wetlands. In my letter to Danzer dated 10/30, I talked about this analysis, Sullivan said. Sullivan compared the conceptual driveway plan and the alternate driveway plan. The drainage system, however, is still in the same location as Sullivan explained. (Tape 1 flipped to side B). Sullivan discussed the very deep cut that would be required, the grading that you will need, the 20 foot area cleared to maintain the existing grade that is there now. Sullivan discussed access on the common driveway; that system is to be maintained by the homeowners' association. Sullivan discussed the location of the alternate driveway and the percentages and distances to the regulated areas. This driveway location will also have the two separate drainage systems, down graded to the wetlands. That's essentially the alternate layouts for the driveway. We'll address those concerns that came in today from Dr. Danzer and the CLA in writing. There was one comment on Danzer's report; we're going to look at if it's beneficial to relocate that driveway; we're not directly above the wetland system. But we're going to look at that, Sullivan said. I will hand it over to Jim Cowan regarding the planting plan and mitigation.

Bill Mills asked for clarification of the roof drains and footing drains, and the 10/30 letter about the location of the detention basin on lot 7. Can you go over that real quickly? Sullivan replied it's located on lot 7; I might have said Lot 6. We showed you when we walked this area, and Sullivan discussed the potential erosion, the triple layer of protection; it is our opinion that there's not any impact to the wetlands, which was the concern of Dr. Danzer.

Mills asked are there any retaining walls anywhere in that area?

Sullivan answered the only wall is up in the Lot 6 and 7 area; not significant walls.

Mills next had a question on the setbacks presented by Sullivan to the wetlands.

Sullivan said it's 22 feet to the wetland from that pipe. You understand why I could not put it up in here?

Mills and Sullivan discussed the distances.

Gallo asked does anyone else have any questions? Thank you, Steve.

James Cowan, soil scientist, took the mic at 9 pm. I have presented my letter of the mitigation plan, and as Atty. Beecher has stated, we have looked at Dr. Danzer's most recent letter, and he asserts that the elimination of wetland 1 would have a significant impact. I would disagree with his determination. It's a disturbed pit; it has minimal functions and values as a wetland. It's part of a disturbed landscape. Cowan described what's there, which does not support much vegetation. We believe that the mitigation plan more than compensates for that. So our mitigation plan is identified on the sheet. Cowan discussed the trees, shrubs, the two insets on sheet D3, the additional trees and shrubs along the disturbed areas in the direction of wetland 2. We will remove the invasive species from wetland 2, and they will be identified and tagged by a qualified biologist like myself. We have also stipulated that the trees that have been felled in Wetland 2 will be identified, and we will work with the crew who will cable them out, and it will be reseeded with a native wetland mix. So that's in our letter dated 10/25, and now it's on our plans. I do want to talk a little about the treatment train and the benefits of the detention basins. Cowan discussed the removal of solubles, dissolved salt, fertilizers, which more difficult to remove. It's been shown that biofiltration is effective in this removal. Also the soil mix should have an adequate amount of topsoil and organics. It's a host site for microbes. So we have designed a couple basins, a low flow channel, extensively vegetated, into a lower basin, and our goal is 100% vegetation. Cowan discussed the designed seed mixes: three different seed mixes for each area, providing stabilization. In addition we have a planting plan as Steve noted. The wetland line is here and the slope is running this way, so between the basins and the wetland we have a planting plan there to provide a habitat buffer. There will be native shrubs to restore that area to the maximum that we can. This is a standard design that is quite effective in stormwater management. We believe this is an excellent method of stormwater management, in terms of what we call "polishing".

Mills asked can we get back to the disturbed area?

Cowan discussed the edge of the grading, providing shade, habitat protection, trees 20' on center, a mixed variety of shrubs, biological diversity and habitat.

Mills asked how far is that edge from the wetlands?

Sullivan and Cowan figured the distance at the easel.

Sullivan said we drain downward; cross the slope. Our limit of construction is 5 to 10 feet; that's our silt fence line. I would also like to submit a bond estimate for the mitigation planting, Sullivan said.

Gallo asked is there anyone from the public wishing to address this?

Gerhard Brunner from 63 Bear Mountain Road identified himself. Okay, I'm not quite in concert with what Steve had to say, and Brunner discussed the additional footage given to him. The problem is in this area No. 1. There is quite of bit of wetland on that top, and we have water in the cellar. The proposed plan also mentions tree removal, and although there's not too many, we should not touch these trees for the wildlife, nature; there's a lot of turkeys, habitat, the animals, deer, and there actually is a crossing from Westman's property into my property where they travel across the road X number of times a day. The trees are needed to absorb water; probably 40 or 50 gallons a day. There's an incline from my property up to the ridge, and I guess he's going to go 15 feet behind that ridge, so that's quite a stretch. Steve calculated 59 feet. It's quite an incline and there's a lot of water coming from that incline. We have enjoyed the trees for about 40 to 50 years, especially now in the fall when the trees are out. I understand the proposal is 14 houses on 22 acres, but this plan could turn into 28 houses at some later date. That's the word that's going around. Mr. Mills suggested that, if there is logging going on, there's lots of stuff laying around that adds to erosion. That was after the logging, Brunner said. So for all

these reasons; so I think the biggest concern that everybody has is the wetlands and the runoff. Is sewage going to get into our groundwater? We suggest that area 1 be abolished and moved back to area 2 to give me a good buffer. I have pictures here of where the ridge area is, and the trees. And needless to say, since I'm the closest, at this time I would not be in favor of the proposal. Water has a funny way of traveling, and there's so much water up there. It was a problem in April, and most of it is on Area 1. I think that first house should be removed. Like I say, four houses near my house have water around their houses and in their basements; when we start digging wells and septic systems, Brunner concluded.

Dr. Erol Gund of 47 Lake Drive South, New Fairfield, identified himself, stating I practice (dentistry) in the City of Danbury. First of all, thanks to the Environmental Impact Commission, and I appreciate the opportunity to voice my concerns. I feel that this will be a disaster to the Lake, no matter what kind of system that's put in. There have been ample studies that show that development does degrade the water quality. I had Larry Marsicano submit some information to me. At this point Danbury does exceed the watershed area by 86 percent. Gund used the example of Jamaica Bay: plants and fish are dying because of overdevelopment and the increase in nitrogen in the water. Once the development is put in, one is dealing with damage control. Gund cited elimination of the rain gardens by future owners, for example, as they may draw mosquitoes; an owner's future desire to put a pool in; lakefront rights. This development will affect endangered species. Any development is obviously going to cut that off, Gund continued. Also they are proposing more boat slips than there are proposed homes. Candlewood Lake is already overcrowded, and cited the agencies and residents that believe that the Lake is overcrowded with boats. Gund discussed the 12 boats per acre on the Lake, the town ramps; the DEP even said that the capacity of Candlewood Lake has been surpassed, based solely on registered vessels. Gund discussed JFK airport, just as the air is congested. 20 slips more is 20 slips too many. And I don't understand, that deeded rights to the land and the number of docks has to be clarified. This lake was created for electric purposes, but we have a wonderful asset that we cannot increase. We have to put this up to the litmus test and we say are we doing something good for the Lake, or something disastrous. We need to grow; we need to provide homes; but the Lake is dying, and we really have to take a hard look at this. Those are my concerns.

Henry Erickson from 51 Bear Mountain Road signed in. My concern is if this property is going to be built it will mean more water on my property. He explained the flooding in his back yard every time it rains. And Erickson explained what happens if one digs down 14 inches in his back yard. What if my well goes dry? Will they post a million dollars bond if my well goes dry?

Gallo replied I don't know.

Raymond Brockfeld at 55 Bear Mountain Road, next took the microphone saying the back of my house is approximately four acres of land that was sold to a man, and he cut a half dozen trees, and the seasonal pond has water now 12 months a year, just because some trees and shrubs were taken down. There's a culvert that goes under my steps, and in melting season, in rain events, it goes under my house, into a catch basin, a punctuated drainage pipe. For 11 years there was not a problem, and now little artesian wells are popping up. There is an old dug well there maybe three feet deep, and that water is constant. What happens to all the water from the septic systems? What about all that water going down to Danbury in all those catch basins, and what happens when it freezes

and becomes a hazard? All these figures are mind-boggling, but I understand one thing: who is telling me or you that the COD drainage systems can handle it? Brockfeld described a storm event that dumped a lot of rain in two hours; that water will back up into all the houses, the people across from me are down grade. I'm confused about the open space and he cited his questions. We used to call this the flim-flam: we want to give you the land that we don't want anyway, and we don't want to pay taxes on it. Thank you for your time, Brockfeld said.

At 9:37 pm, Ken Gucker of 89 Padanaram Road signed in, saying I'm glad to see you, Bruce Lees, are still here. Don't feel bad; I lost too, Gucker said to Lees. I became aware of this project back handedly, and I first thought why would the developer put in only 19 houses, and after walking the area and seeing the flags, Gucker said. There is a neighboring property that is not shown on the plans: 61 Bear Mountain Road, which he described. That house should be noted on the plans, as we don't know where their septic is. Also, I wish that the plans that I saw in City Hall were these plans here on the easel. I'd like to see these plans downstairs for the public to review. There's no discussion of the soil conditions on this mountain. We have that situation now with the trees, and the neighbors have addressed it. Gucker discussed the trees absorption ability, and how much more water will we have coming through the soil and down the hill. The developer has said the project will fix all the problems. This is steep terrain here, and fast-draining soil, Gucker continued. We don't know the number of trees coming down. (Tape 2 side A installed.) The report done by the CLA: if there's any reason this should be denied the reasons are in that report, Gucker stated. The northern slimy salamander was supposed to be addressed and it's now November, and that does play an impact on all this. Regarding the open space, no developer is going to give away anything that's good. I noticed drawings for the boat slips, but I don't see how we get from point A to point B. How are they getting there? One lot is almost 22 acres; is that due to the topography of the land, or for future expansion, and how will that impact the whole project? That should be up front and should be noted at this point. I'd ask you to keep the Public Hearing open. There's still a lot a questions out there. Many of the neighbors got the notice of the Public Hearing the day of the Public Hearing, and they were told that the Public Hearing was closed.

Lees asked where is this house, 61 Bear Mountain Road, because we don't have house numbers?

Gucker explained where the house is, uphill to their house; the house is cut into the hill. You can stand there and see the flags. They could not come tonight; they had a family issue to deal with. I see the well is right here. I think that should be shown there, Gucker concluded.

Joe Staiti of 10 Buckskin Heights Drive next took the mic at 9:46 pm, saying I've been there about 30 years. Staiti described when it rains hard: the water does come through my house sometimes. I had a new septic put in, and I had to put curtain drain in all around. There's a very high water table up there. We never had previous a problem with our wells, and we're concerned that this might have an effect on our water. Then what do we do?

Ken Keller, of 80 Bear Mountain Road, identified himself saying my concern is with the ridge line, and City of Danbury has to try to protect ridge lines, open space being reduced, the cutting of trees, the time trees take to mature. Most of what I have to say has been said by my neighbors. The pristine views of our ridge lines have kind of disappeared.

Kurt Van Nostrand of Bear Mountain Road identified himself and said I have a well. I am

concerned about the traffic on Bear Mountain Road. I'm concerned about the access road, Candlewood Lake Road. Is it going to be maintained by the town? And, yes indeed, the steep slopes of Bear Mountain contribute to the massive water runoff. It is a concern that there may be 14 developments plus the 22 acres.

Victor Westman on 52 Bear Mountain Road signed in and said I'm an advocate of open space. I want to give credit to the good engineers. They are working for a living, and the Commissioners are volunteers. I'm here to kind of speak for that mountain, sometimes called Neversink Mountain, sometimes called Bailey Hill. Can you imagine what those houses will make that mountain look like? For the selfishness of one or two homeowners, the ridge line is destroyed. But it's there now in New Fairfield. We can stop this now. The environment is so fragile. I remember standing on that mountain and watching the old Hindenburg go by, Westman said. Those old cottages were very environmentally friendly; used only in the summer, and they used cisterns for their water. This whole thing should be thrown out the window. Open space is dwindling all over Danbury, and Westman discussed this open space bond issue coming up in February. Wouldn't it be great if most or all of this property could go right into the Bear Mountain Reservation! That land has always been a buffer. Before you know it, you'll have the sinister whine of the leaf blowers and ATV's. And who's going to maintain it all? And it will grow up and we will have a mess. The property is so steep and so rugged and so fragile, and he detailed the history of an old development where the developer walked away from it. This soil doesn't drain; it's very unsuitable for septic. Every tree is an asset for conserving water; to hear the chain saws noise. The developer is going to walk away from it. Another thing is the Environmental Impact of the proposed road: there's a tremendous amount of ledge up there, and the end of that road will be a very sharp curve, and that's one heck of a place to put a road in, and that will be a very hazardous situation. Our generation today, Westman continued, I probably won't be living that many more years. People down the road are going to say once we had that mountain, and now it's houses. Preservation, Westman said; we have to keep the little that we have left. Westman said thank you at 10 pm.

Joe Taborsak next identified himself stating I'm not here as State Representative tonight. I live at 110 Hayestown Road. I'm not going to reiterate everything that's been said. The drainage and erosion really concern me. I'm very familiar with this area and I've come to know the issues that they deal with. It's different, more fragile, with a very high water table. What you see therefore is erosion problems and such being that much more difficult to deal with. Taborsak discussed the history of a neighboring property on Bear Mountain, and that illustrates that this area is very sensitive, and two, it only takes only one significant rain event to cause a lot a damage to a property owner. The whole pool was destroyed. To the extent that you can, let's make sure that we treat this as a unique area that has these problems, Taborsak said. The second point I cannot understand is why we are eliminating a wetland, and that's an issue I'm having trouble with here. Last, Steve Sullivan from CCA mentioned that there were some written responses that have not yet made it into the Public Record; that's another reason to keep this Public Hearing open. What is being done to mitigate these issues? My recommendation is that we keep this Public Hearing open.

Gallo interjected we had not planned to close it tonight.

Mike Cassavechia from 8 Buckskin Heights next signed in. Cassavechia said one concern is the blasting that will be going on. I'm not reiterating all the concerns of my neighbors, and he explained possible damage that blasting can do. That's why I'm against this project,

Cassavechia concluded.

Gallo said thank you. Any one else wish to address the Commission on this?

Bruce R. Lees asked some of the points that the public brought up; the northern slimy salamander?

Attorney Tom Beecher said Dr. Clemmons did go to the site. There were two salamanders seen, and that will be studied as we are concerned about that too. The slimy salamanders are really an upland species, not in the wetlands.

Lees asked what about 61 Bear Mountain Road not being anywhere on the maps?

Sullivan said, at the easel, I just want to clarify regarding the proposed well, our radius does not go over into that 61 Bear Mountain Road. And we submitted a blasting plan previously.

Lees made a motion to **continue the Public Hearing** to 11/28/07.

Mills seconded the motion.

The motion carried unanimously at 10:10 pm.

Rose made a motion to take a 5 minute recess.

Lees seconded the motion.

The motion carried unanimously.

Chairman Gallo said okay, we'll take a five minute recess at 10:11 pm. Tape turned off.

OLD BUSINESS:

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 rec'd. 9/26/07. Extension ltr. rec'd. 10/15/07. Survey rec'd. 10/23/07. C & D order, Violation of Zoning Regs. mailed 10/24/07 by ZEO, Timothy Rosati. DEIC **Notice of Violation** mailed 11/2/07 to Tinker. Gallo restarted the meeting following the recess.

Attorney Neil Marcus came to the mic and said my understanding was that an on-site inspection was to take place. Marcus asked Mills what's going on. Mills said there was never a permit to put that pipe there, and Mills explained what he saw when he went out there. I believe when we approved that there was to be no stockpiling of any material on the site. Mills said it was to be equipment only. And then I saw shavings or carvings or whatever filled in across a wetland that never came before this Commission, and on top of that, stockpiling.

Marcus said this application was for; the citation told the applicant to come before this Commission, which he did, and Marcus read from the plan at the dais. It appears it was done a long time ago. I guess we're asking this Commission to approve this driveway or we'll have to take the top off the driveway, which I believe will do more damage, Marcus said. I'm not sure that the applicant was aware this was there.

Mills said I think the applicant was aware that this was only for equipment storage, not for stockpiling of materials. As far as the second part, I believe the applicant said he did grade

it. I don't remember a culvert being there, Mills continued. I don't remember trees or bushes blocking it, so he stockpiled material. Gallo, Marcus and Secretary Lee looked for the old file, which was not in the bin.

Marcus said the last Cease & Desist Order said tailings spilled into the wetlands, and Marcus described what the applicant has done, described the small stone; he pulled it away so it will not run down into the wetlands. Going out to the site does not do you much good, as I'm not sure where the old wetlands are. Again, that was on the old portion. Marcus added. Mills stated there's a violation from Zoning as well as from this Commission. Mills discussed quite a bit of material being stored there, not just the approved storage of equipment. And it has been filled in extensively, so again, this thing comes before this Commission, Mills said.

Tinker insisted there are no tree trunks there.

Mills replied I don't want to argue, but I observed a lot of stuff down that hill.

Marcus turned and asked Tinker, do you think there are trees dumped there?

Daniel Baroody, RS, MPH, identified himself at the microphone, and pointed out on the map for Tinker and Marcus what he did see in this area on his visit.

Lees asked can we table this? We've only got a half an hour left on this meeting.

Baroody said, through the Chair, the order is clear as to what the applicant has to do next. As far as the previous permits go, the ownership really changed: whatever permit he had was under another LLC. The permit is not transferable, Baroody said. All we can go on is what we see today. The applicant did, to his credit, come in to file for another permit. He did go out and do some seeding and some erosion control, but he's using it for storing material. He is instructed by the order signed by the Chairman to proceed by submitting an environmental restoration plan, and Baroody explained what said restoration plan has to include. And he's clearly instructed on what to do and in what the order, Baroody reiterated.

Marcus said I'm not so sure that I understand what he had to do and in what order. Now we have to go out and inspect and find out about that wood. Marcus said I'm confused as how you want to weld them together.

Baroody explained the crossing was done without a permit. But the application is incomplete.

Marcus asked quickly what is incomplete?

Baroody answered Marcus, the plan has no restoration plan.

Marcus said until there's some action, we do not want to remove the driveway. On the new issue of the tailings, and now we find out there's other issues, and we have to discuss them.

Baroody carefully described what information is missing, and explained we cannot tell you what to do. Attorney Marcus and Baroody argued about what Tinker has done and what information is still outstanding.

Marcus said we'll look at the pipe. We'll look at the old permit for a contractor's yard. We'll look at the wood, Marcus stated.

Mills and Marcus discussed their recollections of the site, and Marcus said Mills probably had the better memory of it.

Baroody said we only issued one Notice of Violation to this applicant. We did meet on the site and at City Hall, and we tried to go the cooperation route on this, Baroody said.

Marcus explained again that he did not understand this. The Zoning Cease & Desist Order from Tim Rosati, Marcus said what Assistant Zoning Enforcement Officer Rosati had ordered. Lees made a motion to **table** this.

Mills seconded the motion and the motion carried unanimously at 10:25 pm.

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, 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. Geotech. Engineering review rec'd. 9/24/07. Beecher, Recommendations from Danzer rec'd. 9/25/07. Comments from CLA Marsicano 9/26/07. Site plan & response from CCA rec'd. 10/5/07. Site walk 10/9/07. 35-day extension ltr. & revised site plan rec'd. 10/16/07. First Light consent ltr. rec'd. 10/31/07. May need second extension letter 11/20/07. Steve Sullivan, PE, Attorney Tom Beecher and James Cowan, soil scientist, came back to the front of the auditorium. Sullivan said we got you the consent form from First Light as you requested. We have got to get approval for the slips, and the parking.

Lees asked why are you asking for 20 slips?

Sullivan explained that this number included other previously approved lots by this Commission over the last 3 to 4 years.

Gallo asked don't you need more time for this?

Baroody said we asked for input from U.S. Fish and Wildlife. We'd like copies of your letters and their response to give us some kind of idea of what mitigation is needed. This is for the bald eagle. There is no bog turtle.

Sullivan said U.S. Fish and Wildlife.

Attorney Beecher identified himself again. In the other Public Hearing (EIC #768) tonight, I referred to Mr. Clemmons' letter that we are waiting for, and I did not mean to omit the slimy salamander, as it has been found as well. We will submit a copy of U.S. Fish & Wildlife response to this Commission. We do intend to come back.

Lees asked is the road that leads to this property, is there an existing road there now?

Sullivan replied that is absolutely correct.

Beecher added we've been down this road before.

Mills had a question for Mr. Sullivan. At the 10/10/07 meeting, I asked that, my concern was, how much space was needed to get the equipment in and move this stuff around, and I asked that the buffer be moved back to 150 feet.

Sullivan said we got rid of the volleyball court; this corner of the storage building is 123 feet off the water. Danzer recommended 100 feet. We tried to get 150 feet, but there's one point where we can't get 150 feet. Sullivan noted the large percent of the site that is preserved, 70%.

Mills and Sullivan discussed the large cleared area, and 30% is going to be disturbed. How close to the Lake are the trees that will come down, Mills asked. The closest point of the limit of construction is 105 feet, Sullivan answered. Mills continued to discuss the trees coming out and where, and the width of the path, which Sullivan addressed at 10:44 pm. Sullivan said this is not a marina.

Gallo said he needs time.

Lees made a motion to **table** this to 11/28/07. Mills and Fagan seconded the motion simultaneously. The motion carried unanimously at 10:46 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. R. Cameron. Site will be flagged and staked. 65-day extension letter received 11/14/07. Motion to **table** due to the late hour at R. Cameron's request by Rose. Second by Mills. The motion carried unanimously.

NEW BUSINESS:

5 Old Post Road, Parcel B

Regulated Activity # 783

Keith Monroe

Assessor's Lot # I20022, RA-80 Zone.

Date of Receipt: 11/14/07. Temporary crossing for septic & main construction.

First 65 Days: 1/18/08. Second 65 Days: 3/23/08. 2.465± acres. Keith Monroe identified himself at the microphone. My uncle acquired this property, gave it to his common law wife and she sold it to my father. Ralph Gallagher, PE, redrew it in 2004, they had a buyer, but then he backed out, so it was not completed. Rose and Keith discussed the location, the vicinity. Gallo said your first step will be to meet with Staff. Lees said it was approved, but it expired. Fagan said it's a new map that was updated in October of this year, but we really need to see an A-2 survey. Mr. Gallagher does refer to Mr. Farnsworth, Fagan said. Get wetlands staked out again. This is just an engineers map; these are all things that you will discuss with Dan. Fagan said you had wetlands flagged by Eugene McNamara and partly by Farnsworth. Monroe said I think some of the flags are still there. Gallo said to Monroe you could have left two hours ago. Monroe responded I don't want to hear anymore about lizards and trees.

Mills and Rose motioned to **table** to 11/28/07.

(Tape 3 side A installed.) (NOTE: Tape 3 failed to record final moments of the meeting, acceptance of minutes, and adjournment).

APPLICATIONS FOR ADMINISTRATIVE APPROVAL: None

ADMINISTRATIVE STAFF ACTIONS:

Chairman Gallo read the following actions into the record:

1 Wibling Road

Regulated Activity # 780

Reliant Air Charter

Assessor's Lot # G18002, IL-40 Zone.

Date of Receipt: 11/14/07. Reconstruct airport hangar, parking, drainage.

CCA, LLC. Administrative Approval by D. Baroody 10/30/07.

Danbury Municipal Airport

Regulated Activity # 784

City of Danbury

Assessor's Lot # G18001

Date of Receipt: 11/14/07. Seasonal sand stockpile, 21 Miry Brook Road.

F. Khouri, PE/ D. Null, PE. Administrative Approval by D. Baroody 11/2/07. Fagan asked a question of Dan Baroody about the nature of this vicinity.

Notice of Violation, 40 Payne Road

Assessor's Lots # M13001, M13002.

David Tinker, Reg. Activity # 767

IG-80 Zone, **NOV** mailed 1/2/07.

ACCEPTANCE OF MINUTES: 10/10/07 AND 10/24/07 Meetings.

Motion to accept 10/10/07 minutes by Lees. Second by Fagan. The motion carried unanimously.

Motion to accept 10/24/07 by Lees. Second by Fagan. The motion carried unanimously.

CORRESPONDENCE: None

EIC ADMINISTRATION & FUTURE AGENDA ITEMS: Gallo announced that we appointed a nominating committee for the December meeting composed of Fagan, Rose and Mills. Lees nominated that Bill Mills be chairman. Jessica is not here. Does she want to be secretary again? Gallo said an officer cannot be on the nominating committee.

ADJOURNMENT:

Motion to adjourn by Rose. Second by Fagan. The motion carried unanimously at 10:50 pm.

The next regular EIC meeting will be held on **November 28, 2007**.