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CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

ENVIRONMENTAL IMPACT COMMISSION
(203) 797-4525
(203) 797-4586 (FAX)

DRAFT MINUTES

February 27, 2013

City Council Chambers 7:00 PM

Acting Chairman Bruce R. Lees called the meeting to order at 7:05 pm. Present were Acting Chairman Bruce R. Lees, Mark Massoud, Matt Rose, William Mills, Alt. William Nicol, Alt. Derek Roy. Chairman Gallo arrived later.

Absent were Alt. Josh Reilly.

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

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Mark Massoud.

CONTINUE PUBLIC HEARING:

Padanaram Road

Regulated Activity # 943

Cotswold of Danbury

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

Date of Receipt: 11/28/12.

Artel Engineering Group, LLC.

First 35 Days PH: 2/27/13.

Heatherwood Acres

PH decision required 35 days after PH close*. 44 residential, cluster units. Copy to S. Danzer, Ph.D. 12/11/12. Public Hearing opened 1/23/13, continued 2/13/13. Site visit 2/7/13. Donation sketch rec'd. 2/26/13. Danzer report rec'd. 2/27/13. Lees introduced this item and said this can go until 8:30 pm tonight, and asked the public to speak about what has not been previously addressed. Virbickas took the mic and identified himself and said he'll start off where we left off. We are working on creating modifications to allow for some larger storm. This can work with a 50 year storm as well. We'll have that prior to the next meeting, Virbickas said. There was a comment about the water quality basin; they will have natural bottoms, vegetation, and perforated pipes underneath. There was a question about the catch

basin locations, and I have prepared a map. Craig Westney showed up at 7:09 pm. Virbickas described his catch basin map and discussed where they will disburse to, at the easel. Virbickas said a pipe was extended relatively recently. There are 5 catch basins towards the southern end of the site, Virbickas continued, and other team members will get into that at more depth. The existing wetlands are in green. Yellowish color shows the existing foundations which are all to be removed. We should be able to get out there and assess the sand and silt in the lower portions of the property. Virbickas said there was a question on blasting: we don't believe there will be any blasting required, but if there is, all the proper restrictions will be made and coordinated with City staff. The actual open space has not yet been determined; it will have to be reviewed by other folks in the City; the highlighted area in green will stay in its natural state. There is no phase II proposed. A nice thing for the City is this maintains the nice corridor of open space to the south, which he indicated on the plan. Now there are roughly 20 acres devoted to development, Virbickas said in answer to Lees' question. I don't want to commit, Virbickas said. The total number of catch basins, I think there were 11. Virbickas continued one final note: we did receive comments from the commission's consultant at 5:50 pm yesterday, and we've all been busy reading and addressing them. Matt Popp on our team can address them.

Matt Popp from Environmental Land Solutions took the mic, and identified himself as a professional wetland scientist, at 7:18 pm. It refers to the highway methodology workbook supplement from the US Army Corps of Engineers. He handed out the wetland function board to the members. There are 13 recommended functions, and Popp described the columns on his chart: Functions, Disturbed Lands, Watercourses, Padanaram River Corridor, arranged in four columns. Popp described the chart to the commissioners including the 13 functions listed on the left side of his chart. Popp talked about the thirteen functions, the habitat, the minimal disturbances, the educational value, the species, the visual quality / aesthetics; no endangered species on the site. Popp said the Padanaram River corridor provides almost all the functions. Next Matt Popp discussed the grading and utility plan at the easel; the labeled watercourses (A,B,C,D, etc.). Watercourses have to have a defined bank. E is therefore not included on there. This map does show the close proximity to existing structures. So when the structures are removed, the wetlands get removed also, Popp said. A lot of neighbors said that this area looks like it was reclaimed; it's revegetated; it's not reclaimed, Popp said. Referring next to the parcel Donation Map on the easel, Popp discussed some old aerial photos he'd seen from the 60's and 70's, the sediment flowing downstream; I would not be in favor of dredging. What I like about this open space, Popp said, is the oak stand. Any future path would not be in the wetland, but upland of the wetland, the woods. I think again that this plan is quite a bit different from the old plans. I would be happy to answer any questions, Popp said. Bruce Lees said I'd like to keep the commissioners' questions to the end. Attorney Peter Scalzo next identified himself. I have a letter extending the Public Hearing to March 27th. I think this concludes our presentation, Scalzo said. Lee asked the applicants to sign in. Lees next addressed the audience and invited the public to come up and speak.

The first speaker at 7:34 pm was Thomas O'Brien from 37 East Gate Road. I have walked the site. I helped my wife put together the piece that she presented at the last meeting. I went around and helped collect petitions, O'Brien said. Lees said you can state what's on your mind. I wanted to understand what it meant, O'Brien said; a watercourse or wetland on my property. Thank you. On the record, I am in opposition, O'Brien concluded.

Next speaker was Peter Falcone, from 87A Padanaram Road. I want to thank the commissioners to participate in these meetings. I am in opposition to this plan. I

would like to submit some photos during tropical storm Lee in 2011; as you can see the whole road is covered in water; the second photo, the third photo is the gutter on the side of my house. The second problem, Falcone said, is what kind of contingency plan do they have if this plan does not work. I urge the commission to deny this application. What would happen if we add a third proposal to the two before? Lees said the next meeting will be in the Room C, 7 pm.

Kenneth Gucker, from 89 Padanaram Road, signed in at 7:21 pm. One thing that I've been speaking to this whole project is the amount of water, and I don't see it being addressed. It is, and it isn't. Gucker put a plan on the easel, 6A from Artel. My concern is how the water gets from the top to the bottom. What I didn't realize, and I thought there was more engineering involved, Gucker described the drains, the existing trenches there now; this is far worse; it's collecting in a small area. There may be some absorption, and there may not. Gucker described gathering the water, the number of houses; no treatment at all for nine houses, no absorption, no retention, just gathered and dropped, Gucker said. The third section, Gucker said, the Grading Plan, we were told was for a 25 year storm; no absorption; 20 houses worth. With this plan, no retention, all these impervious surfaces; which would be absorbed by trees, by soil, is all piped; so seeing it in color, it's a little bit different. I did walk the property this afternoon, as Thomas O'Brien suggested, Gucker said. We had 1.37 inches of water today; the stream is almost cresting over its banks. These photos were taken today. This is Padanaram Brook, and Gucker handed the photos to the commissioners. These are pictures of the intermittent streams. When you did your site walk, you saw the stream is about 8 feet wide. These photographs show the condo complex down the road; that's what their front lawn looks like today. I came back to City Hall to review the plans, Gucker continued. It sounds like a waterfall at end of Eastwood Road at the gate. You look through the gate and you see a swamp; that is the road. To see it firsthand, it's a lot different from what we saw on the site walk because it was all frozen. Pictures do not do it justice, and this is only the first 20 feet. Gucker continued his discussion of the wide and deep raging water running right behind. The next picture is the old road; you cannot walk on it today. It is literally raging. But when you walk up there today and possibly tomorrow, you will see multiple watercourses. They gather on the road, they spread out, and then the water drops again. There is a waterfall in here that I have pictures of. It comes down in multiple streams, constantly breaking apart and coming together again. You are not going to have absorption with this piping. The pictures don't do it justice, Gucker said. There's lots of sedimentation that's been happening for a long time, Gucker said. I followed it down to the stream, and the notation on the flag, I'd have to look it up; WL 1349, Gucker confirmed. And here's the impact on the stream. These next pictures are following the watercourse back up East Gate Road. It shows the cascading and how significant it is.

The next picture is of an old foundation. The last two pictures are the waterfalls. That is only in this small section. It's a lot worse now that it is not frozen. The main concern is and has been, what do you do with all the water. I don't think today's event was a major rain event. That's before you take 20 acres of land out of the center. Gucker mentioned some of the other problems in the City in rain events. This is going to add more to it. I did read the Danzer report today when I came in. A lot of the old issues are still not being addressed, Danzer said, Gucker repeated. There are a lot of trout, crayfish, and other species in the stream. It's going to take all that wildlife and put it down into the Still River. Gucker said thank you at 7:59 pm.

Lees said Ken (Gucker) gave us 34 pictures and I labeled them 1 through 34 as Ken talked. Anyone else want to step up to speak today? I would then open it up to staff. Thank you all for contributing, Lees said to the audience.

Steven Danzer, Ph.D., soil scientist from Stamford, next took the mic, and identified himself and listed his qualifications, saying I submit a copy of my resume and my 2/26/13 recommendations.

The 9/19/07 decision to deny is added to the record, Daniel Baroody, RS, MPH, said, after identifying himself.

Commissioner William Mills said a couple of things I'd like to ask for clarification, Mr. Virbickas. Are both detention basins in the developed 20 acres, or do they fall in the open space area? Virbickas said they are in the 20 acres. Mills said you are going from a 25 to a 50 year storm event, and you'll have that for the next meeting. We need to adjust things for the larger storm event. Mills said this all is in the 20 acres. Virbickas replied yes it is. Mills asked maintenance will be responsible of the homeowners? Virbickas said yes. Virbickas said this will be a private road owned by the 44 homes. I'd ask for stenciling, and Spring and Fall sweeping of the road, Mills said.

Derek Roy asked Dan Baroody, you were looking for more information at the last meeting. Baroody said yes the application is complete. Mills said to Virbickas I want to thank the applicant for the donation of land to the City, but I still want a number for the total impervious surface on the project. Danzer proposed eliminating 7 units in his report, and Mills listed them. Roy said can you take a look at eliminating those units? The other two that dropped through, put maybe some more mitigation in there, Mills said. Virbickas: we could certainly look into that. We want to hit every point, Virbickas said. Roy said that's all I have.

Lees said to Roy you are looking for alternatives. Roy responded yes; elimination of 7 units and, if that's not possible, a different level of mitigation, preferably both less impervious surface and more mitigation.

Mark Massoud thanked the applicant at 8:08 pm for all the submitted information, and said the brook is the most important resource on the site, and I appreciate the attempt to consolidate the development, but to look at ultimately the impact of the above development on the stormwater. Portions of the plan are still under revision, Massoud said, and I'm a little puzzled by that, since you would have thought they would have worked that out before coming before the commission. Massoud said I am saying this is because it is very important to get that information tied down. The team certainly is a very capable team; well-equipped to put together a plan for what we all know is a very challenging site. They need to be buttoned down, Massoud concluded. Lees asked are there any other commissioners' questions at this time? Rose made a motion to **continue the public hearing** to the next meeting. Mills seconded the motion. This will be on the 3/13/2013 agenda in Conference Room C, Lees said. Motion carried unanimously. Matt Popp submitted his resume to Secretary Lee at 8:12 pm.

Motion made and seconded and carried unanimously to take a 5-minute break.

SHOW CAUSE HEARING FOR CEASE & DESIST ORDERS: NA

OLD BUSINESS:

39 North Nabby Road

Regulated Activity # 944

Michael Henry for Henry Farm, LLC

Assessor's Lot # L06004, RA-80 Zone.

Date of Receipt: 11/28/12.

Ralph J. Gallagher, Jr., PE

First 65 Days: 2/1/13.

6.377 acres, Bernadine A. Henry, Owner.

Second 65 Days: 4/7/13. Cease & Desist Order sent 7/9/12, filling conducted without EIC permit, to appear with restoration plan and EIC application at 9/12/12 meeting for discussion. Neighbors' opposition letters rec'd. 9/10/12, 10/10/12, and 10/22/12. Soil analysis & authorization letter rec'd. 10/10/12. Site visit 10/17/12 cancelled. Gallo recommended site vigilance 11/14/12; neighbors have seen trucks. Site visit 12/11/12 cancelled (H. Moeller hospitalized 12/11/12). Extension letter received 2/1/13. Chairman Bernard Gallo arrived late and took the gavel back from Bruce Lees. Gallo introduced this item at 8:19 pm. Ralph Gallagher asked to table this till we get a new soil scientist. Lees made a motion to **table**. Mills seconded the motion. Motion carried unanimously: tabled to 3/13/13.

8 Premium Point Lane

Regulated Activity # 93 RR

Joseph Fiscella

Assessor's Lot # K02151, RA-20 Zone.

Date of Receipt: 1/23/12.

R.J. Gallagher, Jr., PE.

First 65 Days: 3/29/13.

Shoreline, seawall improvements.

Second 65 Days: 6/2/13. Candlewood Lake Authority recommendations rec'd. 2/13/13. Site walk 2/26/13. We did an on-site on this yesterday, Gallo said. We had done a site walk. I'm meeting with Brian Wood (FirstLight) tomorrow, Ralph Gallagher said. I think it was a good idea: Mr. Fiscella wants to rebuild the steps up through the current walkway. There's plantings and clearings, so this evening, if the commission could bust out a Phase I, Gallagher asked. We'll be back with Phase II after talking to Brian Wood, Gallagher said. Gallo said after talking to Dan Baroody, we can move this to Administrative Approval. Baroody said we know that time is of the essence for pointing up the wall, and I've spoken to Brian Wood, Baroody said. Lees made a motion to move EIC #**93RR** to Administrative Approval. Mills seconded. Motion carried unanimously at 8:24 pm. Gallagher said we will get the letter from the power company.

91 Miry Brook Road

Regulated Activity # 498 R

Wooster School Corporation

Assessor's Lot # E19001, RA-40 Zone.

Date of Receipt: 2/13/13

TPA Design Group.

First 65 Days: 4/19/13.

Wooster Woods, 57-unit cluster subdivision.

Second 65 Days: 6/23/13. Gallo introduced this and Dave Sacco, Professional Engineer, from TPA Design Group took the microphone. Sacco identified himself, saying I am here to answer any questions. I understand that this may be moved to a Public Hearing. The activities in the upland area, all 57 units proposed are beyond the upland review area; the access road, widening the crossing of Miry Brook, all are outside the upland review area, Sacco said. Gallo said I don't see a need for a public hearing since this will go to public hearing before the Planning Commission. Baroody said it's not a significant impact except for the brook crossing. Lees said for the public interest, maybe holding a public hearing, knowing that there will be lots of interest in the Planning Commission phase. Lees, Mills and Gallo said we could do a

site walk and then decide if we want to go to public hearing. Roy asked are the wetlands delineated now? Sacco said it's predominately a wooded area, and we believe the wetland flags are still in place. Sacco asked do you have a site walk date in mind? Gallo asked if there were any further questions. Roy made a motion to table. Rose seconded. Motion to **table** carried unanimously at 8:29 pm. Gallo said thanks to Bruce Lees for filling in at the last meeting. Gallo read the following into the record:

NEW BUSINESS: NA

APPLICATIONS FOR ADMINISTRATIVE APPROVAL: NA

ADMINISTRATIVE STAFF ACTIONS: NA

VIOLATIONS: Baroody said it was served by the sheriff (on 1/22/13), in answer to Roy's question about the Henrique Amado violation at 73 Beaver Brook Road. Mills said he's in Brazil. Baroody said it has been served.

ACCEPTANCE OF MINUTES: 2/13/13 Meeting. Motion to accept the 2/13/13 Actions Taken as complete by Lees. Second by Roy. Motion carried unanimously.

CORRESPONDENCE: Aquatic Pesticide Permit Applications from

Northeast Tree, Pond & Turf Service, Inc. for 22 Shelter Rock La., Shelter Rock Pond.

Connecticut Pond Services, for 55 Backus Avenue, Miller-Stephenson Pond.

EIC ADMINISTRATION & FUTURE AGENDA ITEMS: Connecticut Land Conservation Conference, Saturday, March 23, 2013, Wesleyan University, Middletown @ \$50 each.

ADJOURNMENT: Motion to adjourn by Mills. Second by Rose. Motion carried unanimously at 8:31 pm.

Next regularly scheduled meeting date **March 13, 2013.**