



CITY OF DANBURY
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Environmental Impact Commission

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MINUTES

August 27, 2008

Common Council Chambers 7 pm

The DEIC meeting was called to order at 7:06pm by Acting Chairman Bruce R. Lees. Present were Lees, Alt. Mark Massoud, William Mills, Jon Fagan, Matthew Rose. Absent were Chairman Bernard Gallo, Alt. Kurt Webber, Jessica Soriano, Craig D. Westney.

Staff present were Corporation Counsel Robin Edwards, Daniel Baroody, MPH, RS, and Secretary Patricia Lee.

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

PUBLIC HEARING:

193-207 Great Plain Road

Regulated Activity 723 RR

Savannah Hills Subdivision (Cordeiro)

Sycamore Trails Group, LLC, RA-80 Zone.

(EIC denied application **723** on 2/20/07. Appeal received 3/9/07.) Public Hearing scheduled for tonight **8/27/08**. Corp. Counsel requested revisions, received 8/11/08. Comments from Joseph E. Polulech, PE, received 8/27/08 for the CLA. Acting Chairman Bruce R. Lees read the legal notice into the record which had appeared in The News Times twice. Dan Baroody took the mic, as the Chairman said the plans were on file for everyone to review. Baroody said I will just go quickly over the changes: they have reduced the project from 12 lots down to 9 lots. He described the Conservation Easement improvement; site drainage was altered. Baroody enumerated the improvements. Baroody described the upper and lower basin drainage, dividing the flow; the lower basin was redesigned to contain a 50 year storm event. And lastly, the cross culvert under Great Plain Road will be replaced at the cost of the developer.

Lees asked are there any comments by Commissioners or Staff? Lees opened up the Public Hearing as Margaret Golden took the mic and signed in.

Margaret Golden of 227 Great Plain Road described her concern about the drainage and referred the Commissioners to the map showing her property. The paved drive

by The Old Road. I'll wait until you catch up. My point is that sometimes the runoff is so extreme that it's ripped pavement out of the drive, and that's really my whole point of this letter. Since I prepared this, I have spoken directly with Mr. Cordeiro and he has assured me that this drainage will be addressed. Another concern is will there be a lot of blasting and drilling during the well construction process? One more thing, Golden said, I thank you all for your volunteer service.

Lees said I will mark this as Exhibit #1: pictures and map from Margaret Golden. Any other members of the audience who wish to speak for or against this application?

Candlewood Lake Authority (CLA) Executive Director Larry Marsicano came forward at 7:15 pm and signed in. Typically when a subdivision is proposed near our Lake, we will often comment. The gentleman who does this for us has very high credentials, which he listed, referring to engineer Joseph E. Polulech, PE, of Woodstock Valley, CT. We want to ensure that we are doing the very best we can regarding a resource as important as Candlewood Lake, Marsicano said. There are a number of incidences he comments on; changes can be made that we hope you do consider, technically in three components. We also do note and appreciate the changes that you have already made, Marsicano concluded. Marsicano distributed Mr. Polulech's *Review Comments and Recommendations*, dated 8/08, to the Secretary.

Barbara Walker of 28 Glendale Drive next took the mic at 7:20 pm and signed in. Everyone seems to be talking about Great Plain Road and Candlewood Lake. No one is talking about Glendale Drive on the other side of, I call it, a mountain. Walker described how the pond and the wetlands, in a rain event, looks like Maui. No one has knocked on my door. I don't know Mr. Cordeiro. It looks like drainage from Lot 6 will all go in my direction. I want to know exactly what's to be done about this water and drainage. I am also concerned about the blasting and drainage. I looked at the revised plans, but you have not removed any homes up in my area. So if you put more water there, as you know, with global warming, we get overloaded on the other side, Walker said. You have to think about Glendale Drive.

The next gentlemen, Gary Sivacek, signed in and handed out his letter, which Lees called Exhibit #3. Sivacek said I live at 114 Stadley Rough, and he read a couple paragraphs from his letter, dated 8/21/08. Elimination of some lots will be an aid, but I do not see there is any conservation easement to protect beyond the one house. In the area of Lot 6 there's a pond that overflows its banks at least one time per year, flooding Glendale Drive, and usually requiring a pump out by the Danbury Fire Dept. Sivacek described the events during strong storms for Hillandale Road, Great Plain Road, I think we need to look at this pond area in depth, Sivacek concluded at 7:25 pm.

Next Lorraine P. Seder took the microphone and signed in. Can I open the map to show you where I live? Mark Mazzucco flipped open the plan on the easel. Neil Marcus is seated in front row. I'm right here, just to help put some perspective on it. I am actually speaking in favor of this now. Seder described her presentations suggesting reducing the number of homes. She commended the applicant's reduction of the number of houses. I want to mention that he did put an easement walkway in there; a lot of thought was put into this. I like it better than the previous plan. She submitted her letter to the Secretary, Exhibit #4.

Lawrence Haber said I live near Steep Cliff Road at 226 Great Plain Road. I talked with Mr. Cordeiro and I am totally in favor of this now. Lees asked Haber are you a neighbor of the first speaker? They are correcting that problem, Lees said. Haber said that pond does come up.

Noel MacCarry of 4 Jackson Drive in Danbury came forward at 7:30 pm, and said I'm also a person who has admired the beauty of that particular tract of land, and I am concerned about will there be some kind of permitted conservation status, so there will be something left of the character of those woods and the quality of the runoff. It is the last tract of wooded area in that part of Danbury, so we need to be prudent, MacCarry said.

Next Eric Catey introduced himself and said I also have concerns about drainage down that hillside on Glendale Drive. Barbara Walker is my neighbor. We get tremendous runoff onto our property and the drainage on Glendale is not able to keep up with that kind of storm. We flooded in April of this year, and there was a neighbor with four feet of water during Hurricane Floyd.

Lees asked are there any questions from the Commissioners at this time?

Neil Marcus, Attorney at Law, from 158 Deer Hill Avenue, stood up and said I'm not planning to debate with the speakers. I want to suggest that first a lot of work went into the revisions, and I want to thank the Commissioners. It is a reflection of the fact that the developer has worked to compromise with these new plans. We are here to protect those wetlands. The plans for the drainage at Glendale Drive will take into account those drainage problems. I am going to ask the Commissioners to focus on the stipulation itself, and I want to commend my client for his cooperation. I thank you and the speakers tonight, who have recognized for the most part the strengths of this plan, which warrants your support, Marcus concluded.

Lees asked are there any questions?

The next speaker, Andrew Wetmore, said he's lived on Great Plain Road for 20 years; grew up there, and he described the large block of wilderness. Wetmore described the wildlife, even little baby foxes this year. Taking a large chunk out of this area would really impact the wildlife. I don't feel that any sort of development, any sort of drainage would benefit this mountainous area. Look at the Glendale area and how this would affect the Great Plain Road area, Wetmore said.

Barbara Walker again came forward and signed in again, per Lees instructions, from 28 Glendale Drive. I just have a comment because the lawyer stated that we live next door to wetlands and that's not it. I've got one and three-quarter acres. I'm up here, where the development is going to be. Blasting, construction, it's all coming down. I just want to correct the comments, Walker said.

Lees said we will be closing the Public Hearing tonight. Lees asked three times is there anyone who wishes to speak for or against this application?

Fagan made a motion to **close the Public Hearing** for the stipulation. Mills seconded the motion. The motion carried unanimously at 7:22 pm. Lees said so moved. There is a very good chance that we will be voting on it at the next meeting. Is there any one who feels we need an Executive Session? No, Lees concluded.

OLD BUSINESS:

7 Lakeside Road

Regulated Activity # 808

Hristo Miljovski

Assessor's Lot # H11219, RA-20 Zone.

Date of Receipt: 7/23/08.

Single-family dwelling, septic, driveway.

First 65 Days: 9/26/08. Second 65 Days: 11/30/08. Ralph Gallagher, PE. Site visit 8/20/08. Impact report by D. Baroody 8/27/08. Revised plans received 8/26/08. Staff, I believe, has a report, Acting Chairman Lees said. Dan Baroody took the mic saying I want to submit my report. The applicant has worked with Staff to reduce the impact to the Lake. Staff recommends a summary decision to approve. Lees asked does everyone have a copy of that? I know Mr. Mills was quite impressed on his site walk.

Mills said I'd like to complement the applicant for the staking, and running twine all around where the building will be, where the septic will be; a job well done. It was crystal clear. Lees said we will hereafter call that *The Bill Mills Stipulation* for site walks.

Fagan added I'd like to say this is a pancake lot with perfect conditions.

Fagan made a motion to **approve** EIC # **808** based on the Staff report with four conditions of approval. Mills seconded the motion. The motion carried unanimously at 7:46 pm. The applicant and his wife said thank you.

Saw Mill & Old Ridgebury Road Regulated Activity # 809

WCI Communities, Inc.

Assessor's Lot # B15001, PND Zone.

Date of Receipt: 7/23/08.

Reserve Road, Recreation Area, 4± acres.

First 65 Days: 9/26/08. Second 65 Days: 11/30/08. Surveying Associates/ Tighe & Bond. Site visit 8/11/08. Cut & fill plan received 8/12/08. S & E plan received 8/22/08. Impact report by D. Baroody 8/27/08. Fagan announced he is recusing himself and stepped down. Lees introduced this item from WCI Communities, Inc. I believe we have a report from Staff. Baroody said I want to submit my screening report. Baroody said we recommend a summary ruling for approval. They submitted those changes; they are exactly what we wanted. And also a cuts & fills map was submitted, Baroody said. Lees recognized Commissioner Massoud.

Massoud said there seems to be a lot of *YES* answers on the screening report; there is no actual loss of wetlands. Baroody replied if you take into account the phasing, this will not encroach on the wetlands surrounding it. In this phase, we could say *NO* about crossing a wetland. Massoud said okay. So, the proposal is actually for a recreational area, so your screening represents the whole phase. Baroody said correct.

Lees said to the Commissioners what's your pleasure?

Mills made a motion to **approve** EIC **809** with 8 conditions per Dan Baroody's impact report. Matt Rose seconded the motion. The motion carried unanimously at 7:50 pm with Fagan recused.

119 Franklin Street

Regulated Activity # 810

Ridgewood Country Club

Assessor's Lot # G13029, RA-40 Zone.

Date of Receipt: 7/23/08

Dredging, stormwater treatment train.

First 65 Days: 9/26/08. Second 65 Days: 11/30/08. CCA, LLC. R. Cameron. Site visit 8/5/08. Fish study 8/13/08 pending. Commissioner Fagan has rejoined us. Lees introduced this item for the Ridgewood Country club. Baroody said I communicated with the applicant and they are still in the process of preparing a fish study. Staff asks that you table this. Lees asked is it a wildlife report or fish report? So it's a fish survey. Mills made a motion to **table** until the next meeting 9/10/08. Fagan seconded the motion. The motion carried unanimously.

132-134 Padanaram Road

Regulated Activity # 811

John & Carolyn Otto

Lots# E06047,E06048,E06054, RA-80 Zone.

Date of Receipt: 8/13/08.

Residential two-lot subdivision.

First 65 Days: 10/17/08. Second 65 Days: 12/21/08. Benjamin V. Doto, III, PE. Lees introduced #**811** and said we have an applicant here. He will sign in and identify himself when he can. Ben Doto signed in and identified himself, PE, here tonight representing Jack and Carolyn Otto at 132-134 Padanaram Road. I was not here at the last meeting so I will do a quick overview. This is a five-acre parcel on the south side of Padanaram Road, a little closer to Clapboard Ridge and the 7-11. It has frontage on Padanaram Road and is surrounded by single-family houses, near the synagogue. There are .7 acres of wetlands, pretty much contiguous to the brook. The proposal is to subdivide the existing parcel into two parcels. The land is zoned two-acre residential. Each lot would be about 2½ acres, and be served by septic systems and on-site wells. The soil was tested last year. There is a City of Danbury storm drain that takes a bunch of drainage and discharges it into the brook. There is a culvert that has been there for years. We are proposing to locate part of the driveway along the easement line. Doto described the two septic systems proposed. We did look at a few alternatives with this proposal. They are in the back of the report. We simply looked mainly at the driveways, which he described, and plan B was basically the opposite of plan A. A new crossing would have the greatest disturbance. We decided to go with alternate C, we're calling it; the disturbance is really a logical disturbance. We feel this area will be better served as the homeowner's lawn than as a wet area. Doto described the grading, planting, gently sloping property. We made every effort to minimize our disturbances and our cut and fills, maintaining the existing grades where possible; marrying the existing grades to minimize the disturbance. There would be about 800 sq.ft. of total wetland disturbance. This is a flagged wetland that comes off the hill, and Doto explained the wetland flags #62 down to about #80. The septic systems will be located up in the higher and dryer areas.

William Mills asked Mr. Doto to stake the house corners and the septic fields. Doto said the wetlands are flagged; the houses are not currently flagged. The drainage easement is pretty obvious, Doto explained. Mills and Doto discussed the distances to the wetland, using the map on the easel. The reservoir is the true detention for the area, but we can't count that, Doto said. Doto referred to Henry Moeller's soil report. Yeah, I'll have the surveyor identify the corners, Doto said. If you look at the

test data on the septic, you'll see that we have our primary and reserve areas. We did 12 deep tests, and you'll see it is poorly drained soil. Mills thanked Doto.

Lees recognized Commissioner Massoud.

Massoud asked Ben Doto about some clearing done recently in this area.

Doto replied I did ask my client about that. Mr. Otto has owned this property for years. Mr. Otto collected fire wood from here. Doto pointed out where on the map, and said the surveyor did mark all the significant trees. It was not cleared, but there was some clearing activity, Doto said.

Massoud said my second question, to your knowledge, is there an upland review area that was impacted by those clearing activities? I'm thinking of Padanaram Brook.

Doto said I encourage you to do a site walk. Dan, are you involved in that?

Baroody said we had complaints that he was clearing in regulated areas. I contacted Mr. Otto and he agreed to stop work. He pretty much cleared right up to the wetland flags. I definitely agree we should have a site walk. Just a suggestion, Baroody said.

Lees asked isn't the bridge out on that road too?

Doto said yes. Baroody said yes.

Lees remembered we saw this going back two years.

Massoud had more questions and Doto asked him to look at the darker shade of green, and also I understand about disturbances in the upland review area.

Doto said I will trace that area with my finger: right here and right here. I've counted the wetlands that we incorporated; I will roughly trace it. Basically the driveway, corners of the house, the existing crossing, the gravel pad on the other side. When I did speak with Mr. Otto, he did mention that he was spoken to by the Commission, but he did stop, and he did not clear trees within the wetland, but he did clear trees in the regulated area. There are a couple of existing culverts there. We are not proposing to touch the City storm drain. You will be able to find the manholes and access them a little easier. Doto responded to Massoud that the site is littered with boulders. You did not need to have an endless front yard down into the woods. We tried to locate the mitigation basin so we would not impact any of those trees. The trees on this lot pretty much remain as it is, Doto said.

Massoud had one more question on the driveway width.

Doto answered we can get the driveway in there and have two cars able to pass. We will see what the Highway Department says. It is in keeping with the area; you'll see on your site walk, the culverts and driveways. Mr. Otto lives right here; he has a bridge and a culvert, and he can tell you stories of years past; what it does to the site there. We have proper seepage requirements; we have slow soil; we sort of kept the septic up on the site.

Lees asked are there any questions?

Fagan made a motion to **table** this. Bill seconded the motion. The motion carried unanimously at 8:13 pm.

Doto said I will try to get the flags in soon.

NEW BUSINESS:

262 Great Plain Road

Regulated Activity # 795 E

Egret Properties, LLC

Assessor's Lot # J04197, RA-20 Zone.

Date of Receipt: 8/27/08.

New SF residence construction, well, septic.

First 65 Days: 10/31/08. Second 65 Days: 1/4/09. Wana Rest. CCA, LLC.

FirstLight, & seepage analysis requested 5/14/08. Comments received 5/28/08 & 7/7/08 from CLA. Extension letter received 6/13/08. Letter & revisions from CCA received 6/25/08. Danzer comments received 7/9 & 8/13/08. Site visit 5/12 & 7/17. Responses, revisions received 7/22/08. Septic plan received 7/30/08 for State Health Dept. review. Lees introduced this item as Baroody took the mic. They withdrew and reapplied, Baroody said, and he asked Secretary Lee if they had paid the full fee. Lee answered yes. Baroody said we ask it be tabled. Mills made a motion to **table** this. Rose seconded the motion. The motion carried unanimously.

APPLICATIONS FOR ADMINISTRATIVE APPROVAL: N.A.

ADMINISTRATIVE STAFF ACTIONS:

The following Administrative Approvals were granted by Daniel Baroody, RS, MPH, on 8/13 and 8/20/08, Lees announced:

93 & 95 Mill Plain Road

Regulated Activity # 798

Westmill, LLC

Assessor's Lot # C14001, CA-80 Zone.

Scott Savage / Paul Fagan, PE. Parking & Drainage. Jon Fagan recused himself from **798**. Rose said we have Administrative Approvals for three applications.

Mills asked what was done on Mill Plain Road? Baroody replied that was a popular parking lot for the Barca Restaurant. They didn't fill any wetlands. They were just in the regulated area, Baroody said. Rose described the vicinity for Bruce R. Lees. The watercourse is more like a drainage ditch, Lees said. Massoud asked Baroody where this parking lot is, and Baroody explained.

10 Old Newtown Road

Regulated Activity # 799

Danbury Self Storage, LLC

Assessor's Lot # L12202, IG-80 Zone.

Office addition, improvements. CCA, LLC.

70 Southern Boulevard

Regulated Activity # 132 R

Tarrywile Park, Parks Pond Dam Assessor's Lot # I16046, RA-80 Zone.

Danbury Engineering Dept. Per DEP Dam Safety Section.

Mr. Fagan, come back, Lees called to Jon Fagan.

ACCEPTANCE OF MINUTES: 8/13/08 Meeting. Motion to accept the minutes as presented by Mills. Second by Fagan. Motion carried unanimously.

CORRESPONDENCE:

Request 8/18/08 from N. Marcus to put EIC #**762**, The Shops at Marcus Dairy, Sugar Hollow Road Associates, LLC, Parcels A and B, back on the EIC agenda. Lees read this request. Mills said, through the Chair, I did attend the Planning Meeting pertaining to this application. And Planning said it was not necessary to hollow out the parking lot. As a Commission, we had approved Parcel A as it provided flood

storage. The Engineering Department says that they could be level, so I think that's an important significant change, and it's a matter of record. I have a concern, and that is that monitoring wells are supposed to run November to November; maybe staff could clarify that. Dan Baroody said I talked to the attorney for the applicant to address their monitoring results so, to be fair; we gave them the chance to prove Parcel B was not a floodplain. They want to present their results. That requirement was a permit condition, but it's really up to you, Baroody said. It would be a progress report in my mind, but they may think it will be a final report, but it's not. Any change to the plan that we approved, they have to come back and run it by us. If it is grossly changed, they have to come in with a new application, Baroody said.

Fagan said we were really specific that they fulfill; we approved a whole host of things; we allowed staff to work with their professionals, either on the one side of the argument or the other. I recommend we do not have the applicant come in with a progress report. Fagan said my other comment is procedural in nature: is this going to be a new application or a revision to the old application, what we had already approved? Lees remarked to Mills Commissioner Fagan still has the floor. Fagan said I was asking Dan. Mills said correct me if I'm wrong, but I thought we had agreed to approve A, and after a year they would come back in with B, and he would have to make a modification to his application. Apparently it will be changed drastically; it very well may be a new application. I think we should abide by that, Mills concluded.

Fagan addressed to the Commissioners: if you recall at our last meeting an applicant's time ran out, and they came in with a new application (EIC 795E). And we should treat all applicants the same, with a new fee, Fagan said. Mills said I suggest we don't review this application until the monitoring well study and report is complete.

Lees said he is asking us for something. Maybe we will write him a letter, Lees said. I would ask Bernie Gallo. Fagan added wait until we have a complete report. Okay, Commissioners agreed.

EIC ADMINISTRATION & FUTURE AGENDA ITEMS:

Restoration plan due DEIC on 9/10/08, our next meeting, for 35 Miry Brook Road, Cease & Desist Order, Batista, 4/3/08, Lees said.

Mills said Matt Rose and I attended two training sessions. Pat still has not received anything. I was told it was a short notice. I'd impose on Pat to give me a call when that arrives, Mills said. Massoud said for the DEP training, with all of them it's prudent to get your information in right away. This session will be a more technical session, and go into it in depth. Mills said we enjoyed the first session. Lees said I appreciate your following through on being recognized before talking.

ADJOURNMENT:

Motion to adjourn by Mills. Second by Rose. Motion carried unanimously at 8:30 pm.

The next regular meeting of the DEIC is scheduled for September 10, 2008.