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Environmental Impact Commission

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DRAFT MINUTES

March 13, 2013

Conference Room 3C 7:00 pm

Next regularly scheduled meeting date April 10, 2013.

Present were Chairman Bernard Gallo, Michael Esposito, Alt. William Nicol, William J. Mills, Matthew Rose, Bruce Lees.

Absent were Mark Massoud, Alt. Derek B. Roy, Craig D. Westney, Alt. Josh Reilly.

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

Chairman Gallo called the meeting to order at 7:02 pm.

PLEDGE OF ALLEGIANCE: Led by Bruce Lees.

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 Req'd: 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, 2/27/13. Site visit 2/7/13. Donation sketch rec'd. 2/26/13. Danzer report received 2/27/13.

The first item is Regulated Activity #**943**, continuance of the public hearing, Chairman Gallo announced. Dainius Virbickas, PE, of Artel Engineering Group, LLC, set up the easel in Room 3C with the Grading & Utility Plan showing. Virbickas introduced himself representing Heatherwood Acres. We received the report from Dr. Danzer at the last meeting with a pretty tall order of requests for additional information, Virbickas said, and he listed the requests, along with a general construction sequence. We've been working hard to satisfy those requests, Virbickas continued. I will pass out some drawings if the commissioners want to follow along; a general cut/fill analysis, and one for staff. Trying to address the comments, I will go over it in general. We started off by reducing the impervious surface, a pretty

large change. We had what we called an eyebrow road, which, Virbickas said, gave an interesting feature to the site. But it was about 250 feet long. We found we were able to eliminate some, and increase our buffer to the west property line. A pretty good savings on impervious cover; also, Virbickas continued, we were able to tighten up the cluster on these units, and he described the buffer and footage, causing less impact to that wetland in the southwest corner. We now are not impacting that little wetland; the C series wetland is saved. Virbickas said it was asked of us to shorten the length of the road; we shortened the road 60 to 70 feet, and resulted in a buffer of almost 90 feet; before it was just shy of 40 feet. Pretty good steps; reducing the amount of units shortening the road. We will reduce the grading around the cul de sac. We ended up losing 2 units, so now we're down to 42 units from 44 originally. There's a reduction of infrastructure, and we reduced cuts and fills on the site substantially. The numbers that we have now, part of the packet submitted tonight, are basically due to a cut/fill analysis; development of the site as proposed will require the import of approximately 15,325 cubic yards of earthen fill material (see Artel report 3/13/13). Impervious cover now is very well organized site: 3.44 acres now proposed. The existing impervious coverage is over an acre, so for the amount of development we are proposing, the amount of impervious coverage is not tremendous. We reorganized the entire drainage system on the site, and are now able to control flows. We are now up to the 50 and 100 year storms. Virbickas said we also included a general construction sequence for all to review, and we took out the maintenance schedule from the Engineering Report; we took that excerpt out and provided it so it can be easily read and viewed. We added additional erosion controls, Virbickas said, and referred to the plans on the easel. So we added in erosion controls along the toe of the proposed cut, along the edge of the road, the along the toe of the fill, and tried to divide the property up into smaller segments. Notes have been added to the drawing that if additional erosion controls are needed, if the City finds so, we will put more on. Also coagulants that bond the particles are proposed, making them less apt to travel. Virbickas said in addition we added some level spreaders at our discharge points. Someone came up with photos at the last meeting showing the rain event, so now we are proposing level spreaders, to get a more even flow out into the wetlands; for the southern and northern sections as well. We can increase buffers to the wetlands and to the neighbors, so we no longer impact the wetlands at the extreme north and south end of the site. Scalzo asked Virbickas for an overall map. Attorney Peter Scalzo introduced himself 7:17 pm, saying as to the desire or willingness of the applicant to transfer land, he described the instrument and methods that could be used to transfer land; the applicant is willing to do whatever the City would like, either way. We'd need some drainage easements and so forth, Scalzo said, and then he sat down. Virbickas said given the tall order we had, I'm happy with our proposal, and hope the commission finds it worthy of being approved. Mills asked Virbickas about the level spreader: go back a couple of sheets to the level spreaders, which Virbickas did. Mills said see those? Virbickas explained those are actually stockpile areas, for moving soil and putting it out of the way. Chairman Gallo asked are there any questions? Is there anyone from the public who wishes to speak?

Tom Pura from 43 East Gate Road stood and identified himself at 7:20 pm and signed in. Pura said I go on record against approval of this project. From my notes, the following are my serious concerns you should consider asking the developer. There are 18 watercourse areas and 10 wetland areas. What will affect these when the property is clear cut? They are doing slab building here, not foundations. They are going to really have to cut into the site on both sides. Clear cutting: how will it impact? And I will refer to Dr. Danzer's two reports, Pura said. He points out very

nicely in his reports, that there are a lot of holes in the proposal. Pura discussed the pipes, Engineering Sheet 4, the outlet pipe to be removed. I wonder what that means, and Pura listed the pipes and where they drain; a 12" pipe; so when it's removed, then what happens to the water off of East Gate Road. These pipes do run between properties on East Gate Road. It's a question that you should pursue, Pura said. I took these pictures after a snow storm a couple months ago, and Pura handed the photographs to Gallo. This is treated a lot by the City because it is a school road. This all runs down through the 12" pipes onto this property. Since the developer proposes to capture the runoff, how will they get rid of all the crud? Fertilizers are used by all the neighbors on Clapboard Ridge and East Gate Roads. Pura discussed the phosphates being dumped into the Padanaram Brook. Pura discussed the retaining walls. I heard the amount of land that will have to be removed; the clear cutting. Will this wall be able to hold back all the runoff? The walls will be asked to hold up the back yards of 6 houses on East Gate Road. Pura referred to a 10/22/2005 publication called The Day, "Residents Wonder Who's To Blame for 'disaster' at Montville Commons". Pura read the quote about the disaster, "What was once a heavily wooded slope is now the site of a future Home Depot, Super Stop & Shop". But there was no design failure, Pura said. There was nothing wrong with the construction. So we are going to hear that the construction of retaining walls is sufficient. Look at those retaining walls, Pura said; and who's going to be liable in the case of failure. Regarding blasting: if blasting is done, who will ensure that no damage is done with blasting; and Pura listed the problems with blasting on another Clapboard Ridge Road project. It appears that here there will be the same cutting as the other project. The Danzer report summary page; the first page, discusses the units that should be eliminated from the plan. Pura continued. What happened to the other five? You really have to understand what they just did here. The length of the road; ok, they have addressed that, Pura said. 18 will be significantly impacted. You can read all of this stuff. Pura said I'm just reading it as a novice. I noted what is lacking from the materials. Maybe that is provided today, Pura said. He read from Danzer's 2/26/13 Preliminary Review, "the current mitigation does not sufficiently compensate for the activities proposed". It's quite revealing. They've now come back with 42; Danzer said eliminate seven. The key is the water continues to run on that property. If you walked on that property today, Pura said, you would drown. Walk it on a wet day. I'd be amazed and ask you to seriously consider the proposed design, Pura concluded.

Kenneth Gucker from 89 Padanaram Road at 7:35 pm signed in and identified himself. Gallo asked him have you seen the new proposal? Gucker said I will talk about what they presented last time. Gucker said what I see doesn't effect controlling or containing the water; not water retention. It's more about just cleaning the water. Today the water level was at the banks. Gucker said it is flooding the banks before you get into the changes proposed with this project. The project at this point is not taking care of those. Gucker paraphrased what the developer is saying: let us do what we want to do. How does it impact downstream? Where does it go from here? They have not responded to these. The whole project is basically taking a sow's ear and turning it into a silk purse. The amount of disruption is not being addressed, Gucker said; it's just catch / dump / catch / dump. They are not dealing with the significant impact. Cutting out a couple houses: that's wonderful, but it does not address how the project impacts the bottom. Gucker talked about the walking path discussed on the previous application. The 20-foot retaining walls, the crossover of the reservoir, so it's in their interest to say, well, we'll donate the bad stuff. They've been talking about that since 2005; it's the same project. It affects the brook a lot. It's going to get worse. Gucker discussed the retaining methods, the

Vortechnic units. The flooding that we have down there is unbelievable. Thank you for your time, Gucker concluded at 7:43 pm.

Dan Baroody said staff recommends closing the public hearing. The application is complete. Lees made a motion to close the public hearing. Mills seconded the motion. Motion carried unanimously. Lees said I know the applicant stays around after the meeting; has there been any discussion between the applicant and the developers? You can have some good input, Lees said. Mills made a motion to **table EIC 943**. Nicol seconded the motion. Motion carried unanimously at 7:45 pm. Baroody said we are going to take these colored maps into the record, and Nicol date-stamped the photos from Tom Pura.

Gallo said are we all set at 7:46 pm.

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 on 9/12/12. 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. Site visit 12/11/12 cancelled. (H. Moeller hospitalized 12/11/12). 90-Day extension letter rec'd. 2/1/13. Site visit when? Gallo said we are running out of time; I think we should deny this as incomplete. Mills made a motion to **deny EIC 944** as incomplete. Lees seconded the motion. Motion carried unanimously at 7:47 pm.

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, Dave Sacco.

First 65 Days: 4/19/13.

Wooster Woods, 57-unit cluster subdivision.

Second 65 Days: 6/23/13.

Site visit 3/12/13 cancelled. David Sacco said we had to postpone the site walk for 91 Miry Brook Road yesterday for the Wooster School application. Lees asked is there any interest from the public? I have no objection. In the interest of public interest, Lees said I have no problem not having a public hearing. Just the bridge crossing is in the regulated area. Baroody said to add on to the public interest note, there was an article on the front page of The News Times, Friday, March 1st, so there is some public interest. Lees made a

motion to **table** EIC **498R** to the 4/10/13. Rose seconded the motion. Motion carried unanimously at 7:50 pm.

NEW BUSINESS:

138 Deer Hill Avenue

Regulated Activity # 948

Tag I, LLC – Norman Buzaid

Assessor's Lot # I15118, RH-3 Zone.

Date of Receipt: 3/13/13.

M. Mazzucco, PE, .62 ac.

First 65 Days: 5/17/13.

Renovate Residence for 6 Garden Apartments.

Second 65 Days: 7/21/13.

Mazzucco requests to **table** this on 3/13/13.

Mills made a motion to **table** EIC **948**. Nicol seconded the motion. The motion to table carried unanimously.

26 and 30 Padanaram Road

Regulated Activity # 190R

Elmer Palma

Assessor's Lots H10126, H10128, CN-20 Zone.

Date of Receipt: 3/13/13.

Artel Engineering Group, LLC.

First 65 Days: 5/17/13.

The Waterfall Restaurant

Second 65 Days: 7/21/13. Gallo introduced the next item, Elmer Palma, Regulated Activity **190R**, and Mark Kornhaas signed in and identified himself, and said Elmer Palmer is with me tonight if you have any questions. Kornhaas said it's been restaurants before this: Ernie's Roadhouse and the Cracker Barrel. Mr. Palma wants to reestablish the restaurant use, Kornhaas said. Basically the watercourse is Padanaram Brook. Mr. Palma wants to make some small improvements to the site, construct a small addition to the southwest corner, make improvements; basically what's required: sidewalks, moving the handicapped spaces, reorganizing the parking, enclosing the dumpster. The front of the site will be made more handicapped accessible. All this stuff that is basically required by Zoning, Kornhaas said. We will decrease the impervious coverage on the site. You've got a sea of asphalt out there now. Reorganizing the parking, we will create some green space, and decrease 914 square feet of impervious coverage. Kornhaas discussed where the addition will go, in answer to Gallo's question. It shows a little piece of the floodplain right here, Kornhaas said, and I believe the restriction may be an error on the map. It's pretty simple. The interior and exterior will be renovated. Lees said, for the long term, will you be improving anything in there. Kornhaas said good question. The walls are solid, cut into the bedrock. Now it just kind of sheet flows off. There are two leakoffs now going towards the brook, Kornhaas continued. We still have to have a structural engineer look at the walls; they don't seem to be in failure. They might have to be fixed. I don't think so. Lees said let's get it all done in one shot. Lees asked about signage. Kornhaas said you know how Elmer keeps his site; immaculate. Lees directed a question to staff, saying I would hope that staff would work with him, on the wall structure now; fix it now; the sheet flow. Kornhaas agreed. Rose asked is there anyway to treat any of that sheet flow? Kornhaas said not really. Rose asked could you channel that? Kornhaas said, oddly enough, it's pretty stable back there. We would be glad to work with staff. Baroody said okay;

we can meet with the engineer and go over things; maybe treat some of the leakoffs. Nicol made a motion to **table**. Esposito seconded the motion. Motion carried unanimously at 8 pm. Gallo said thank you gentlemen.

APPLICATIONS FOR ADMINISTRATIVE APPROVAL: NA

ADMINISTRATIVE STAFF ACTIONS: Administrative Approvals by Daniel Baroody, RS, MPH, 3/7/13:

8 Sage Road, Regulated Activity # **945**, Sarah N. Gondell, Residential expansion, improvements, (H22105) RA-20 Zone.

Long Ridge Road Culvert, Regulated Activity # **889R**, City of Danbury Engineering Dept., Culvert replacement revision, RA-80 Zone.

20 Hayestown Road, Regulated Activity # **946**, Danbury Yacht Club, Inc., Seawall repair, (I09079), RR-10 Zone.

8 Premium Point Lane, Regulated Activity # **93RR**, Joseph Fiscella, Shoreline, seawall improvements, (K02151), RA-20 Zone. If there are no questions on staff actions, Gallo said, we'll move along. Lees volunteered to go to Brazil.

VIOLATIONS: NA

ACCEPTANCE OF ACTIONS TAKEN: The meeting minutes from 2/27/13 are incomplete, per Secretary Lee. Motion to accept the Actions Taken for 2/27/13 by Lees. Mills asked how did you make out with Premium Point Lane; are you privy to what happened? Baroody said FirstLight responded and said what they would allow: no beaches, no docks; just pointing up the wall and work on the sidewalk. Mills asked about the Danbury Yacht Club seawall. Lees said I would like to make motion to accept the Actions Taken. In lieu of the minutes, Gallo said. Rose seconded the motion. Motion carried unanimously at 8:04 pm.

CORRESPONDENCE: Aquatic Pesticide Permit Application from Aquatic Control Technology for Briar Ridge Road, Boehringer Ingelheim Ponds.

Aquatic Pesticide Permit Application from CT Pond Services for Tarrywile Lake Road, Tarrywile Lake.

CT Land Conservation Council re: Community Redevelopment & Conservation Act (CRCA) proposed bill to allow towns to establish a fund for green projects.

EIC ADMINISTRATION & FUTURE AGENDA ITEMS: NA

ADJOURNMENT: Motion to adjourn by Lees. Second by Nicol. Motion carried unanimously at 8:05 pm.

Next regularly scheduled meeting date April 10, 2013.