



**CITY OF DANBURY**  
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*Environmental Impact Commission*

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**MINUTES**

**September 26, 2007 - 7 pm**

**Common Council Chambers**

The meeting was called to order at 7:04 pm by Acting Chairman Bruce R. Lees. Present were Bill Mills, Vice-Chairman Lees, Jessica Soriano, Alt. Mark Massoud, and Jon Fagan.

Absent were Bernard Gallo, Matthew Rose, Craig Westney, Alt. Kurt Webber.

**PLEDGE OF ALLEGIANCE:** The Pledge was led by Jessica Soriano at Lees' request.

**PUBLIC HEARINGS:**

**3-5 Sugar Hollow Road**

**Regulated Activity # 762**

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

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

First 65 Days: 9/28/07. Second 65 Days: 12/2/07. Artel Engineering Group, LLC. Photos, reports from S. Danzer rec'd. 8/21/07. Public Hearing opened 8/22/07. 30 Day extension letter received 9/26/07. Revised maps & plans rec'd. 9/21/07. Acting Chairman Lee introduced this Public Hearing at 7:05 pm. Lees said he'd like to put a one hour time limit on each Public Hearing. Dainius Virbickas, PE, of Artel Engineering Group, LLC, took the mic, identified himself, as instructed by Lees, stating he's here on behalf of the applicant, Marcus Dairy. It's been more than a month since our last hearing. I tried to address the comments and questions the Commissioners had, Virbickas said, as well as submitting supplemental information. You all have your packets. What effect does our development have on floodplain storage? As it turns out, roughly 118 additional cubic yards of storage will result; this will create more area to pond in the watershed itself, and this will be done by shaping the land. It balances our cuts and fills. In addition, we have underground pipes, Virbickas said, and adding that in, another roughly 200 cubic yards of additional floodplain storage, but we did not add that into our number. If you review your calculations for pollutant loadings, it's fairly simple to see it how the site is currently developed; we will add more green space to the property, Virbickas said. There was a request for an aerial map depicting Kissen Brook, and I'll show you the large scale view of the map (in 2 sizes); we tried to depict things in the general vicinity: buildings, rooftops, impervious surfaces, pavements, in blue the bits of Kissen Brook. The red shows areas where the Brook had been culverted by the airport. I can show you if you wish a larger version of that map at the easel. Lees asked Dainius what is the reasoning for this? Virbickas replied just because the request was made, and to provide it for everyone to review.

Massoud asked could you point out where the site is? Neil R. Marcus, Attorney, showed on the big map where it is. "The attorney has never been there", brother Michael Marcus said

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from the audience.

Virbickas continued, then there was a request made to give ratios on developed versus undeveloped areas. Virbickas explained what currently exists, Parcel A, Parcel B, on the north side of Kissen Brook, the triangular piece. Parcel A will have increased grassed areas, and Parcel B will now be 74% undeveloped, or grassed. If you go to overall ratios, both parcels combined, roughly 75% of the area is developed. It will drop down to about 69% impervious coverage. Dainius Virbickas said. Next we were requested for a map showing the 100 year flood line, and we've prepared that, and I hope this will be useful for site walks that the Commissioners may take. Next, primary treatments; some infiltration trenches on Parcel B, a triangular piece on the north side; to incorporate more of that primary treatment, basically ponds or land areas. The airport administrator dislikes open water bodies: they attract water fowl. One thing I had not explored is installed perforated storm drainage pipes in addition. Also in your packet you'll find a Kissen Brook watershed map. I did not put it up on the boards as it is tough to read. But you'll see how large that watershed is. Interestingly, Virbickas said, I found a map that actually showed the proposed expansion of the Danbury airport in the 1940s. And it showed the Kissen Brook. Next was a request to add some enhancement and buffering, so our landscape architect provided that; what Mr. Popp had proposed, breaking it down into four distinct areas, removing invasives and the like, and trimming tree branches, creating a cleaner brook corridor. He's listed the species, plus screech owl boxes, a nice inclusion. Then there were some questions regarding snow removal procedures and salt; it will be plowed like it currently is. Sanding and salting is not proposed in addition to normal practices by the City or State. How flooding will be handled is touched on: we are providing additional flood storage. The last notation that I had from the last Public Hearing responding to Mr. Danzer's comments, the four sheets that I was handed, and I left that to the experts. Mr. Moeller will do a brief presentation on the soil. And we asked that a third party look at our flagging and Henry Moeller's reports: Mr. Garrison Laux from New York State. He's written a letter of his findings. Lees said we usually ask for an outside source's qualifications. Dan Baroody said, yes, he's pretty famous in the field. Marcus said he's the guru.

Neil Marcus stood up. Lees asked are there any questions? Marcus identified himself, saying he had just a couple of things: I'll give you a little more background. The Kissen Brook was actually man-made when they built the airport. The question I want to address is the snow removal procedure. The snow is now plowed from the center of the site out to the edges, as it's been done over the years. We will reduce the amount of salt used on this site, we're actually going to reduce the impact of development on the site. We're going to decrease our yard, the truck terminal. We would intend to probably have less sand and salt. The other thing, of course, whatever standard is adopted by the City and the State, we would adopt the same standard. We would expect that to become a condition of approval. Mr. Laux is very well recognized. I draw your attention to the last sentence of his report, regarding possible use of the Geotech device, which would be mostly academic. If you read the Laux report, it's going to be pretty apparent that the entire site was filled. And Marcus gave some history of that north portion was filled by my father. Near the Mall, it was actually filled by Leahy, Wilmorite Corp, and the City of Danbury. Whoever filled the site did not do a great job grading it. There are pockets, depressions that fill with water when it rains, Marcus said. It takes a while to drain.

Henry T. Moeller: at 7:26 pm, identified himself at the microphone. I will talk about both parcels as one entity. Overall introduction: the land has been filled and has been a combination of drainage and fill. The water table is very low. The soil drained down into the brook. In dealing with urban land, Henry Moeller discussed urban land, pavement and buildings, and other structures, and the character of the soil in Parcel A and Parcel B. B has virtually all been filled, Moeller said. In flagging the wetlands, what I'm dealing with basically is Kissen Brook, and Moeller discussed the saturation and drainage of the filled land area and flooding on these soil types. The soil has very mixed profiles. Also, there is a

lack of soil development. One of the most important criteria, if you look at the soil surveys, is these areas flood on a regular basis, and Moeller discussed both extremes: wet and dry alluvial soils. Moeller discussed soil criteria with 100 year storms, filled land, highly altered land. Any flooding criteria I leave that to the engineers, as they have that criteria. In flagging the Brook, on parcel B and Parcel A, the banks of the Brook, I know that the Brook does have high peak flows, so I made the assumption that most of the flooding will be relatively close to the bank. The low areas are subject to flooding on a regular basis; this is the method I have always followed. Because of some of the disturbance, you had channeling. The soils are therefore highly disturbed, and Moeller discussed the property terminology. All the other soils along Kissen Brook, rack lines, debris lines, the rear of the parking area, obvious fill, substantial fill; you just can't make any assumptions what the flood frequency is. That will be covered by the 100 year flood criteria. Moeller next discussed work he did for Wilmorite years ago, which we found to be very interesting: there was over 2-1/2 to 3 feet of fill over the organic soils, which were very compacted. If there was clay under the organic matter, we found that essentially the water would be below the organic soil. Moeller continued discussing the water table on Wilmorite's site. Lees said to Moeller let's discuss this site. I know some of the Commissioners will have some questions for you.

Bill Mills had a question for Henry Moeller on the floodplain characteristics.

Moeller said there was a picture taken 4/14/07 showing some ponding on the site. I did not see any real floodplain characteristics.

Mills asked can you be more specific? You found floodplain soils in parcel B and re-mottling. Henry Moeller answered we don't know if this was the original soil or not, or dredged out of the brook and simply spread over the area. I don't even think it's relevant; the area has been altered substantially. When channeling is done of a brook, you dredge it out and spread it out over the land, Moeller explained.

Mills asked you say it's inconsequential?

Moeller said when it's transported or moved up, you really can't tell; it's no longer relevant. The mottling is going to stay even if it's a well-drained condition. It's simply not relevant. Mills continued with remarks about the State recognizing floodplain soil; he went to 6 to 8 different places, not just an isolated pocket.

Marcus joined in; I'm familiar with when they dredged as my father lived in the area since 1919. When they built the airport, they dug out this channel and dropped the level of water. Whatever mud was in the bed of the river, they put it up on the side, and then covered that up. It was done by Wilmorite and the City of Danbury. They moved Backus Avenue closer to Kissen Brook. Leahy filled the parking lots. When they moved the road over, in the early '80's, they changed the contours of the grade. To Mills Marcus said, you have a very magnetic personality, as the microphone reverberated. The question is, is there any floodplain benefit.

Moeller regained the mic, and explained that in dropping the water level, the alluvial soils; it's no longer active as a floodplain. That can be determined on an engineering basis. You cannot base it on soil characteristics. It's not relevant.

Mills discussed the history from 1980 to 2007: the protection of wetlands has dramatically changed; you can discuss what happened, but things have changed in their protection.

Marcus said to follow that through, to protect the floodplain, you have to excavate the site, which we cannot do. It was done by Wilmorite. If you want to go back and restore the wetlands, you'd have a lot of excavating.

Marcus continued will the development impact further the floodplain? I'll let Moeller explain that. He's the soil expert.

Henry Moeller said, again, I'd worked on the Wilmorite project, and most of the time, there was fill. This has been altered so substantially; we no longer have a wetland there.

Marcus added, on 4/18/07, in a 100 year flood, Marcus Dairy operated just the way we do every day. Maybe what Danzer considered to be flooding, we consider to be puddles, which

he described. We did not take any care 30 years ago when we filled that site. Marcus discussed the tailings; it was clean fill. The ponding I call puddles; all you have to do is excavate. My brother reminds me that on the day they did the borings on that area, my brother drove a car onto that parcel.

Moeller said I ran into frost in the last week of March and it just did not go away all that fast. He discussed the April '07 rainfall: over 5 inches of rainfall over Sunday into Monday. I keep track of rainfall.

Lees said I'm going to hold you right there. We all know there was a lot of rainfall.

Mills said I'll have a lot of questions for later.

Fagan suggested maybe we can get Dr. Danzer here for the next meeting; if we're bringing in the professionals from the applicant, we should have our professionals here too. Fagan referred to the last sentence by Laux. I'd like to see his credentials, as he's reviewing Danzer's report. (Tape 1 flipped here.)

Marcus discussed with Fagan Laux's report and what we are relying on; the urban hydrology is more important than the previous soil. Mills said well that's why I asked the original question; you're going to be adding 4 feet of fill.

Marcus continued, as Virbickas said, we are going to be cutting also.

Virbickas answered that's what I said basically. We are creating more storage.

Mills said just for your information, the mall can only use sand, no salt.

Secretary Lee said we'll need an extension letter.

Marcus answered I have it.

Lees asked is there anyone wishing to speak for or against the application? Feel free to come forward.

Henry Erickson from 51 Bear Mountain Road spoke up, I'd like to know what will be done about the wildlife in that area, and he stated how long he's lived there.

Dan Baroody identified himself, saying I'd like to make a recommendation, as per Mr. Laux's last paragraph. He says it's an academic pursuit, but what we are talking about here is a regulatory pursuit, and we need to know, in order to proceed, where the boundary is. Lees had question for Baroody. Baroody said I think what Laux is saying is that a Geotech is needed. That's our staff recommendation, a Geoprobe.

Bruce Lees asked can it be done in a timely fashion?

Marcus replied we will take that request under consideration. He came back to the mic discussing digging up whatever we have to dig up, but I'm not sure what we are looking for. Fagan said we can find floodplain soils in areas that are not floodplain soils. What the argument is is whether these soils; if there's any great impact because these particular soils can be found outside of a floodplain.

Henry Moeller said that is possible. In my own town, we've run into that problem, but we're discussing the watershed, and whatever soils exist are irrelevant to any flood hazard; that's determined by engineers, by FEMA.

Marcus said we will make our borings available to Mr. Baroody. We won't do the grid unless it becomes necessary. We've already drilled this whole site.

Baroody asked close to the bridge?

Marcus said I think enough were done to answer your questions.

Baroody said the idea is to get an idea where are the wetlands.

Marcus and Baroody discussed what the Connecticut statute requires.

Baroody repeated we need to know where the regulated area is.

Marcus said well, we'll give you the information and we'll send it to Mr. Laux.

Mills said he had an additional question for Mr. Virbickas on adding impervious surface.

Virbickas replied no. I've broken it down and on an overall basis, we are decreasing the impervious surface. It's all A and B together.

Mills said my second question: item number 6, due to site constraints, cannot easily accommodate CT requirements as outlined in the State manual. What is that, and what are you doing about it?

Virbickas explained to Mills their methods for dealing with this without places to put the open storage area there, and the proximity to the airport.

Mills said so you are limited in your primary treatments?

Virbickas answered yes. Again, what we could offer to increase our area for infiltration is perforated pipes, to take advantage of the more pervious soils. Mills and Virbickas discussed this for 2 more minutes.

Dan Baroody said I have two more points: there's a drainage easement within the 100 foot City drainage easement, and that would have to be reviewed and approved by Engineering, and maybe approved by Common Council.

Marcus said we do need the City to review the plan, but not necessarily the Common Council. If the City wants a pipe, we'll put a pipe in, but I'm not sure you want to get into that pipe discussion. We'll do whatever the City wants; it's an old 1940's easement. We will not obstruct their right to drain.

Baroody said they are asking permission to fill within that drainage easement, and the purpose of the easement is to drain the airport. I would also refer this to DEP in the Flood Safety Unit, similar to Batista's application near the Still River.

Lees said to Marcus Mr. Baroody's asking you to contact the DEP.

Marcus replied I'll contact them.

Secretary Lee said I have a name.

Virbickas said she's on maternity leave.

Fagan made a motion to **continue this Public Hearing**. Soriano seconded the motion. The motion carried unanimously at 8:07 pm.

Attorney Marcus asked, if Danzer is planning to be here, let us know and we'll bring Moeller back. If he's coming, let us know.

## **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 Received cut & fill and wildlife report. Received 9/20/07 S. Trinkaus, PE, report & curriculum vitae. Public Hearing opens tonight. Geotechnical & rock removal review received 9/24/07. This issue was introduced by Lees at 8:08 pm. This is an open Public Hearing again, and Lees explained the procedure. Feel free to move your seats up if you are here for this application. Lees said all these files are available for your review in the Permit Center at City Hall. But once the applicant starts, please don't block the map. Maybe the applicant may want to stay after outside of this meeting hall. This is not closing tonight. You will have opportunity to speak on October 11<sup>th</sup>, Lees said.

Atty. Thomas Beecher identified himself, saying I represent Pamela Equities Corporation. This proposal is for a 14 lot cluster subdivision on land off of Bear Mountain Road, in the RA-80 Zone. This will dedicate open space to land already abutting City open space. There will be no impact to the watercourses. Here tonight is the soil scientist from CCA, James Cowen, a registered soil scientist and wetlands scientist and landscape designer, and Theodore von Rosenvinge, PE, with GeoDesign Incorporated also.

Lees asked him to speak more into the microphone.

Beecher said we also consulted a herpetologist to discuss the slimy salamander, and he will be ready with that report for the next meeting.

Steve Sullivan, PE, identified himself and his firm, CCA, LLC. I'll take the mic and talk over here by easel. Sullivan went through the site description, 119 acres, and the development

description, fronting on Candlewood Lake. Bear Mountain is at the top of the map. The New Fairfield Town Line is to the north. There is no development in New Fairfield at all. Sullivan showed where the wetland is located, the steep slopes, and the runoff towards Candlewood Lake. There are existing dwellings owned by others with rights to pass and repass over this existing driveway. The project is for a 14 lot residential cluster subdivision, some open space adjacent to the Bear Mountain Reserve. Each property will have its own septic system and well. The drainage system again, as I mentioned earlier, there is a ridge line; catch basins and culverts in the proposed road, hydrodynamic separator, and underground gallery system designed for peak flows. The drainage system again flows towards Candlewood Lake, to the cul de sac, the common driveway; there's another Vortech system, and it discharges into a wet pond / detention basin. The one primary road ends in a cul de sac with a spur off of that that also ends in a cul de sac. Sullivan described that the homes will be served by common driveways and the individual driveways. Several lots will have vegetated rain gardens, and there are details in the plans. We've also, as part of our alternative analysis, designed a plan which Sullivan described. After consulting with our environmental team, we could achieve less impact with a cluster subdivision, and our packet shows an analysis. We compared a conventional subdivision with a cluster subdivision, which Sullivan described as to roads, wetland disturbance, total project disturbance with percentages. Sullivan discussed the open space also comparing cluster vs. conventional subdivision. We are in receipt of Candlewood Lake Authority's review.

Lees said we still have to do a site walk.

Sullivan said I'll hand it off now to James Cowan.

James Cowan identified himself and his firm Environmental Planning Services. Our firm was retained to guide the development process with regard to environmental impacts.

The entire site is wooded with upland and woodland swamp. Cowan discussed the soil types, a fairly large area that was excavated for, I believe, gravel or sand, and a very small portion in it that we identify as an aquent, which he described: vegetation, leaf litter, canopy, minimal habitat or wetland function. Major wetland system is called a stream valley going back into Candlewood Lake, a swamp, much of it a boulder field, species site. Functions and values, I presume you have our report dated 9/10, where there is a comparison chart on page 6; as you probably aware, the U.S. Army Corps of Engineers has identified categories for looking at wetlands, and there's a detailed narrative in the appendix. With Table 3 Cowan reviewed that isolated pocket wetland; the primary function of this is groundwater discharge. Cowan discussed its function, the isolated infiltration. There was no real depression that could function as stormwater storage, and so little vegetation, so there is not much habitat, and no significant wetland wildlife habitat. Wetland 2 has some pretty high values: significant groundwater discharge, seepage concentrating into a perennial stream; production export is moderate, and in this case produces food for wildlife: berries, etc., and has therefore a moderate value, not a high value. He discussed why it's a moderate value. We would consider it also unique in that it flows into Candlewood Lake. It's a nice looking wetland. You can see it. It's accessible, and has nice views and scenic value. Wetland 2 is a high functioning wetland. As Steve has said, we were involved early on in the design process; we really felt the cluster development was a better approach. So by shifting the gears and engineering, we've worked closely with CCA to come up with this cluster subdivision, reducing the number of units; that's the most significant mitigation: reducing the impact. If you look at page 10, all of our recommendations were essentially best mitigation.

Steve Sullivan said this planting plan the Commission has not seen yet, so just know that it is done, but you do not yet have the planting plan.

Lees said then we'll wait to discuss planting plan until the next meeting.

Cowan continued, in terms of mitigation, the design is the primary mitigation. Additional mitigation that we would propose is (you have this map, Sullivan said): there are several drainage pipes to pick up drainage at three locations off the private drive. Cowan discussed

splash pad proposed, the mitigation, revegetating, and also some mitigation closest to the wetland where there is a proposed wall, and we'll do some mitigation planting below that wall to stabilize that area. That's the closest area of regulated activity. We'd also propose removal of woody invasive species in wetland 2. We think we can maximize the environmental integrity of the wetland, and we will provide those plans, Cowan said.

Lees said clearly point out to us what is mitigation: 1, 2, and 3 bullet points.

Cowan: we will provide an additional letter.

Mills asked are all the wetlands flagged?

Cowan said yes.

Cowan said someone from our office will be here at our next meeting.

Theodore von Rosenvinge, PE, identified himself saying he a principal and president of GeoDesign in Middlebury, CT, the largest geotech consulting firm in Connecticut. I have not been before this Commission before. Von Rosenvinge discussed his credentials, a civil engineer with advanced training in earth structures, soil, which he listed. I have done a fair amount of work in the Candlewood Lake area, and for the dams for Northeast Utilities. I was hired as their blasting consulting up in Brookfield, representing them as a technical person for their blasting. I had the opportunity to walk site 8/29/07 with Steve Sullivan of CCA. I reviewed the published maps for this quadrangle. What I observed was consistent with the geologic mapping and the soil scientist that spoke before me. There's some bedrock outcrops in this vicinity here. But it is largely soil covered terrain, and the soils I'd expect to be dense. Von Rosenvinge discussed the good layer of soil there, but I anticipate bedrock will be encountered, and the most efficient way of dealing with that is blasting. I understand blasting is a cause for neighbors' concerns. We have appended to our letter specifications that outline rock removal by controlled blasting. It's the uncontrolled blasting that causes problems. Hire certified blasting professionals. Von Rosenvinge explained the widely adopted methods for controlled blasting with testing, the recommended procedure for blasting the safest way. There's nothing here that I see that's unusual or not able to be done by conventional methods, von Rosenvinge said. There will be some cuts, particularly along the driveway. There will be some retaining walls, a feasible and normal way to treat that. Von Rosenvinge discussed the roadway cuts, some 25 ft. behind some of the residences. It will be normal cut slope treatment. I don't expect a lot of water bleeding out of these slopes, the engineer said.

Mills asked did you submit a blasting plan?

Theodore von Rosenvinge said I submitted a specification so that down the road, you can hand that to the blasting contractor and tell them this is what we want.

Paul N. Jaber, Attorney at Law, identified himself at the mic, I forgot to announce myself.

There is a significant amount of open space, 47 acres, which fronts all along Lake Candlewood, and Jaber discussed the vicinity and abutters. That's the only piece of the 119 acres that abuts the Lake; excuse me, Lot 12 also abuts the lake. Mr. Montgomery wants to put together a task force to decide what to do with that open space. While it's intended by us for it to be open space, I don't know how exactly it will be dealt with or owned, Jaber said.

Lees said there are a lot of people here tonight, Paul; would you be willing to meet with them? An informal meeting in one of the conference rooms?

Mills said I have a question for Mr. Sullivan: so we have cuts and fills of five feet or more; will you submit a blasting plan?

Sullivan replied I've submitted a cut and fill cubic yards analysis. Von Rosenvinge has submitted a report on how to conduct the blasting plan.

Mills said we'd like to do a site walk. Are houses staked?

Sullivan replied they are staked, and he addressed Mr. Mills' issue regarding pavers versus paved surfaces.

Lees introduced Larry Marsicano.

Larry Marsicano identified himself, stating I am the director of the Candlewood Lake

Authority. He said the site was pretty well described; on a subdivision like this, the Lake Authority is always concerned. There could be a lot of drainage that could potentially go into the Lake. It provides a unique area, as the Lake goes. From the water there is a stand of mature pines. I know Mr. Baroody on a recent visit had the pleasure of seeing two bald eagles in the summer. Only recently have we seen these in the summer time. Just a few notes: when you look at the DEP diversity data base maps, there are about six different species in close proximity of the Lake. We've asked Trinkaus Engineering to go over this, and we will provide that to you and CCA as well. We had him review the site on the water as well. We would ask that, if it's okay, we'd like to participate in the site walk, and we'd like to bring Sean Hayden from the Northwest Conservation District.

Baroody said we have no objection; it would be up to the property owner.

Marsicano continued we do appreciate the open space area on the site plan, but again, due to the close Lake proximity and the steep slopes, we want to provide you kind of a third party review.

Baroody said Dr. Steve Danzer did a quick drive-through, and we will have his report for the next meeting.

Sullivan said just to clarify regarding the bald eagles; with this development the closest activity is over 500 feet from the shore. Bald eagles generally nest on the shoreline.

James Cowan took the mic again: our report does address the natural diversity database, what species, the bald eagle and bog turtle there. There is no bog turtle habitat on the site, and as Mr. Sullivan said, the activity is over 500 feet from the shoreline.

Lees said we will now open this up to the public at 8:56 pm, and Lees instructed the audience about the purview of this Commission.

Please sign in with your address, Lees said.

Henry Erickson, from 51 Bear Mountain Road, said that there is a ridgeline right through here. I've lived here for years, and every time it rains, Mr. Jerry Brunner gets water in his basement. Erickson said he is concerned about all these proposed septic systems, concerned about deer, the wildlife, a sewer system with 3-4 kids, it will eventually end up in the Lake. If you want to put houses there, Erickson said at 8:59 pm, you should put in City water and sewer there.

Lees said to a speaker in the audience you have to come up.

Jerry Brunner from 63 Bear Mountain Road said I have a few issues here when you talk about wetlands. In any heavy rainstorms, there's a berm behind my house with a flat spot. So that is a wet spot. It is an issue. As long as we have some trees, maybe no bigger issue than it is now, are we gonna remove the trees. If that's the case, we're going to have a real problem. All the water, rainwater, roof runoff, goes into the storm drains, and so we are going to have another problem. So wetlands; it's definitely a problem. Another issue: we have a lot of wildlife, deer, bald eagles, rabbits, squirrels, coyote, fox, turkey, all part of Bear Mountain Park. You have got to live up there to see it. Bald eagles I've never seen, Brunner said. The traffic you don't want to discuss. Can you fill me in on the Vortech system?

Lees said it's a filtration system, and again, all these plans are on file.

Jerry Brunner said there was a fellow named Murtishi who was gonna buy here, and there was a real problem with water.

Lees said, unfortunately, that is not a part of this hearing tonight.

Jerry Brunner said okay. The 47 acres, a proposal to give that to the City, that thing is not worth a damn. You've got a 45 degree incline; nobody is going to build on that. I have some more questions.

Lees said mainly we're concerned about the wetlands. Secretary Lee and Jerry Brunner discussed the address versus the assessor's lot number.

Sullivan said I can clarify that. That was a survey stake. We staked out certain parts of the project. That stake was probably not the property line, but maybe a house corner.

Jerry Brunner asked how close will Pamela Equities come to my property? Okay; that's all I

got for now.

Lees said you can leave that for the next meeting. We cannot be approached by the Public. We cannot make any conversation with you about this in all fairness.

Victor Westman from 52 Bear Mountain Road, said from I'm across the road from all this future destruction of this property. I've lived there. It's a unique property; one of the most gorgeous piece of property in Connecticut, Westman said. But the money talks; it's a damn shame to see any of it destroyed. There are places that are suitable. I could, even though we might be trespassing, I could show all the pieces of the property. It's was logged over, and they made a mess of it; a lot of erosion; a lot of destruction of trees. That will all come back. But when you put houses, wells, septic, roads in there; the wells will be 400-500 feet deep. You have to use your head when you live in the country. And I know what it is when you run out of water. Right now we are in a dry spell. People like Jerry Brunner will be adversely affected. There's no way you can do it without cutting trees down. It's just my opinion. Most of the people here would probably at least partially agree with me. I am a member of the Danbury Land Trust. One day I'll be dead and gone, and I want my land to one day be part of the Land Trust. What do you want to do? This is something we should talk about. Thanks for all your time, Westman concluded.

Lees said we will be doing site walks. It's on our part to do a thorough investigation of the proposal.

Charles LaVerne Hutchins, from 11 Spring Street, next signed in and identified himself, stating I have built homes up on Bear Mountain. It's a beautiful site. I'm also a past member of the Loyal Moose Lodge, and I want to thank the City for the sewer system out there. We had leaching before the sewer was put in, and we could not contain the problem. There is nothing wrong with development as long as it's done responsibly, aesthetically. I studied technology. I hiked those open spaces out there, when I need a little time and space. There's a little airport tower up there. It's a nice area, and Hutchins discussed the airplanes. I live presently at 11 Spring Street, he said

Lees said let's keep our comments directed towards this development.

Hutchins discussed his memberships and qualifications. I'll support this development if it's done with responsibility, and it definitely has to have sewer and water put in there. Thank you very much, ladies and gentlemen.

My name is Raphael Geolfeld (?spelling) and I live at 55 Bear Mountain Road. I perused the package this afternoon that was submitted. I find the inventory of wildlife is totally incomplete. They mention the slippery salamander, very offhandedly, with no real results of an evaluation or search. I'd like the State to come in evaluate the wildlife. They have nothing as far as vegetation is concerned. All that is lacking. Another question: how can they be ignoring zoning; how can they ignore zoning by putting so many houses on such small lots. At this point, that's all I have to say.

Lees said thank you for coming out.

Ophir Debarros of 1 Buckskin Heights Drive signed in, saying we have a big problem. This June, all the water comes to a catch basin just in front of my lot. It goes through there then to the Lake. My lot is at the lowest part of the road. And also the water on Buckskin Heights Road; and the pipe was not large enough to receive all of the water. I am working with the City to correct this. This project will worsen the situation. So I would like to see studies that would prevent that, and be assured that my home, my basement will not be flooded. The City paved it again and raised it again. I believe the situation would be worse, so before any approval, I would like you to see that.

Lees asked is there anybody else who wants to speak for or in opposition to this application? We are going to continue this Public Hearing to 10/11/07, another Wednesday evening in October.

Fagan asked is there any comment from Dan?

Lees said to the audience Attorney Jaber is willing to meet with you outside.

Fagan made a motion to **continue the Public Hearing**. Soriano seconded it, and the

motion carried unanimously.

**OLD BUSINESS:**

**110 Long Ridge Road**

**Regulated Activity # 761**

**Alice J. Barnes**

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

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

First 65 Days: 9/28/07. Second 65 Days: 12/2/07. M. Mazzucco, PE. 2.4 acres. Tabled to 9/26/07. Site is staked & marked 8/23/07 for site walk. Extension letter received 9/26/07. Lees said we want to walk this site. They sent a letter for an extension. Baroody said we have a letter asking to table this. Mills made a motion to **table**. Fagan seconded the motion and it passed unanimously.

**170 Great Plain Road**

**Regulated Activity # 766**

**Gary & Keri Baldelli**

Assessor's Lot # J06011, RA-20 Zone.

Date of Receipt: 8/8/07. Screened porch addition.

First 65 Days: 10/12/07. Second 65 Days: 12/16/07. Tabled to 9/26/07 meeting. Revised survey received 9/24/07. Lees introduced this application at 9:24 pm. Jon Fagan recused himself. Gary and Keri Baldelli identified themselves at the mic, and said we were here about a month ago. So I hope we have all our ducks in a row, Gary Baldelli said, and all our site plans (survey map) have been given to you. Lees asked are there any comments at this time? Mills asked we just got this packet? And the very first question is how far will it be from the wetland boundary. Keri Baldelli replied about 10 feet from the boundary. Mills said we generally ask that it be 25 feet, 30 feet, sometimes 50 feet; could you come up with an alternate plan pushing it back from the wetland? Keri Baldelli said we have no where else to put it. Gary Baldelli said we're not digging a foundation. We're putting in Sonotubes. There is no way it could be moved; designed that way. Lees asked what if we had the tubes closer to the house, moved in? Sandy Ahrstrom said I helped them with the design. We are back two feet from the Sonotubes already. It will be hand dug. Gary Baldelli said it is all in your hand-out; no heavy equipment. Lees asked no bobcat? No caterpillar? Gary Baldelli replied on our proposal for the site, it will all be according to regulations, all hand dug, as far away from the wetlands as possible. Dan Baroody said I think we could possibly work with the applicant and work with the Building Department to find out how far we could move those Sonotubes away from the wetlands, and still meet the zoning code. Massoud said that's all we're worried about; the Sonotubes. Lees and Massoud discussed Administrative Approval versus just approving it. Lees asked don't we have like the standard eight conditions of approval? Massoud made a motion to **approve** the application #766 with **conditions**, subject to the standard conditions of approval and the condition that the Health Department may add to the stipulations on the foundations. Soriano seconded the motion.

The motion carried unanimously at 9:31 pm, with Fagan recused. Mills said opposed. Lees said aye. Three in favor; one opposed; Lees concluded it passes. Soriano motioned for a 5-minute recess. Massoud seconded the motion, and it carried unanimously.

**40A Payne Road**

**Regulated Activity # 767**

**MRF LLC**

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

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

First 65 Days: 10/12/07. Second 65 Days: 12/16/07. David Tinker. Lees reconvened the meeting at 9:45 pm. Neil R. Marcus, Attorney, at the mic, said Tinker asked me to take a look at what was the status of the application. I have a copy of the report from ConnSoil from Cynthia Rabinowitz in response to your request. Not surprisingly, she finds that these are wetland soils previously filled. That's a bad word tonight. Basically, David Tinker had done some grading and topping of an old driveway. There was a pipe there indicating it was once an intermittent stream. All you did was grading and topping on there? What type of materials, Marcus asked Tinker.

Tinker replied stone tailings.

Marcus explained what Tinker intends to do at the site: storage and screening. It's a pretty simple application we think. According to the ConnSoil report, she tells you what type of soils are there. She seems to think, to substantiate; he's owned the site for only three years.

Tinker said a survey has been done. It was promised to me this week. I'm just waiting for that.

Baroody said they need to put all this information onto a new site plan. I was out there. Lees asked please get it to us in a timely fashion.

Tinker said it's flagged now.

Mills said I want to do a site walk.

Marcus said just tell us when.

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

Mills seconded the motion, and the motion carried unanimously at 9:50 pm.

Lees said point of order. During the recess, it came out that there have been some false statements on EIC 766 (Baldelli, 170 Great Plain Road). Fagan recused himself again. The wetland is the pond, and this is the buffer. So they are saying it's going to be 40 or 45 feet. Soriano said we are just correcting that for the record. Mills said then I'd like to change my vote.

Baroody clarified the proposed deck is going to be 45 feet, not ten feet, from the wetland, and Commissioner Massoud is the only one that picked up on that.

**Winnebago Trail, Candlewood Pines Regulated Activity # 769**

**Pamela Equities Corp.**

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

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

First 65 Days: 10/12/07. Second 65 Days: 12/16/07. Lots # 1-5. CCA, LLC. Staking to be done 8/25/07 for site walk. Geotech. Engineering review rec'd. 9/24/07. Recommendations from Dr. Steven Danzer rec'd. 9/25/07. Steve Sullivan from CCA, LLC, took the microphone again. We are in the process of

addressing the two comments from Dr. Danzer; and that's all I have.  
Lees said we might do a site walk here.  
Mills asked for a cut and fill map.  
Sullivan said there will be no blasting. I'll get a cut and fill map.  
Larry Marsicano, from CLA, said we did have that site looked at as well, and you have those comments as well.  
Lees asked Marsicano would you like to accompany the site walk here too?  
Marsicano said yes.  
Lees asked is there anything else?  
Fagan made a motion to **table**. Mills seconded the motion, and the motion carried unanimously at 9:55 pm.

**NEW BUSINESS:**

**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.

Lees announced under New Business we have Pembroke Road, #770.

Rod Cameron identified himself from CCA, LLC, and listed his qualifications, including landscape architect and civil engineer.

Lees asked do we have all the maps? Secretary Lee said yes.

Cameron setup plans on the easel and described the undeveloped site and the vicinity. It's all residential homes behind the site. Pembroke Road, as you know, is a major thoroughfare. Cameron described the wetland resulting from the drainage off of Pembroke Road. It also looks like it's been excavated. Matt Popp went out and did an evaluation of the site, and he identified the functions and values of that wetland, but he had another meeting tonight. It had relatively low value, Cameron said; the principal value is as a drainage device off of Pembroke Road. He has, as part of the record, made some recommendations. I sat down with Dan Baroody and showed him one of our earliest designs, and Dan indicated he wanted at least a 25-foot buffer. So we accomplished that with this design. The site is well suited for a daycare center, with a small access drive, a playground area, and a little bit of parking. That's indicated on our site plan. One of the recommendations by Matt Popp was that we come in and revegetate this area, remove invasive species, and introduce native species, which Cameron enumerated. So we believe the proposal will have a relatively minor impact to the wetland, and overall we will have improved the wetland habitat, and also provided an opportunity for an educational site for older children there. That's essentially it, Cameron concluded, at 10 pm. Baroody said staff needs more time to review it.

Lees asked would Mr. Popp be here for the next meeting?

Mills made a motion to **table**. Soriano seconded the motion, and the motion carried unanimously.

**62-69 Kenosia Avenue**

**Regulated Activity # 735 R**

**Artel Engineering Group, LLC**

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

Date of Receipt: 9/26/07.

Jay Earl Associates, LLC / City of Danbury.

First 65 Days: 11/30/07. Second 65 Days: 2/3/08. Revised under-pavement drainage. Lees introduced this final item on the agenda, saying so this is a revision. Dainius Virbickas, PE, from Artel Engineering Group, LLC, identified himself again and said you said there's a limit to 11 pm. This is an application that the Commission had seen some time ago, and Virbickas described the vicinity and the original approved application. In comparison to the old proposal, this proposed a gravel trench to the south side of the parking lot, and plantings to recreate the thicket that's currently there. We took the plans then to the Planning Department, and the Engineering Department got involved. And they did not like our application. They did not like the lease agreement and other items. We were put to task to come up with a different solution to the same problem. Again, we propose to pave the existing parking lot, but propose to now install a catch basin and a subsurface retention / detention system, with storage for the volume of water to be stored inside of the ground and in the galleries we will install. Beyond the first flush, we are detaining the water, putting it through a discharge pipe which goes into the brook. There is a little riprap berm, and we are proposing to continue with a riprap berm to help filter whatever might flow and trap them into the riprap. So, it's a similar proposal, but a different way of treating the stormwater. I was hoping the Commission would either act on it or move it to Administrative Approval, Virbickas said.

Lees read from plan to clarify; will it still remain a gravel lot?

Virbickas replied no, we are going to pave it, and he explained the firm base for the asphalt. It will be more impervious since we are paving it. We intend to grade it in such a fashion so as to not take away any floodplain storage. We prepared the grading plan so as not to take away any floodplain storage.

Mills asked you want to put a catch basin there instead?

Lees asked a Vortech unit?

Virbickas said no, and he described storing a foot of water.

Mills and Lees asked where does the sand go?

Virbickas answered in the catch basin.

Lees said we would look for a maintenance plan, and my labeling that it drains to Miry Brook.

Fagan asked did Dan have an opportunity to review it? Or any other departments? I thought it was a good plan. Dan Baroody commented that if the other agencies did not like it, then we will have to review it again.

Virbickas explained the plans have been forwarded to the Engineering Department for review.

Massoud said I'm always concerned about keeping sediments out of the drainage structures. Is there some other way to keep sediment from getting into the system?

Virbickas offered perhaps I could provide a deep sump with an elbow?

Baroody, Virbickas, and Massoud discussed some sort of primary treatment.

Lees asked is there any other discussion?

Mills made a motion to table. Fagan seconded the motion. The motion carried unanimously at 10:11 pm.

**APPLICATIONS FOR ADMINISTRATIVE APPROVAL:** None.

### **ADMINISTRATIVE STAFF ACTIONS:**

N.O.V. – 8/23/07: One Tarrywile Lake Road, James & Melissa Lefflbine, stone bridge.

N.O.V. - 8/23/07: 60 James Street, Rosa Yunga & Mario J. Landivar, filling.

Lees read the above two categories and asked Baroody to explain the two Notices of Violation. Baroody did, saying we have yet to hear from the Lefflbines' on our letter. Lees asked Baroody what do you propose to do? Mills suggested maybe we could swing by on a site walk. Baroody said this came to us from the UNIT (United Neighborhood Investigation Team).

Mills asked what happened with the Shurgard violation?

Baroody replied they have not responded yet; they are waiting to get an engineer.

Larry Marsicano took the mic and said this meeting is quite a joy compared to the New Fairfield SMP meeting Monday night (Shoreline Management Plan). I want you all to understand the conversation that's going on regarding the Shoreline Management Plan and FERC. FERC required that the utility map the area, and plans to gradually put them back up to the 440 line. Marsicano described the coordinated efforts, the mandatory permits, the required buffers, and the group of lakefront property owners fighting this tooth and nail. Marsicano said they have come out saying that a buffer is not a priority. And they are making headway. They are appealing to those that don't know better. I'm not so certain what is going to happen. I would be heartbroken if you lost the use of this mitigation measure. Some are saying our efforts are over the top. This is for a number of our towns, and I hope you are consulted with by our leaders, and I hope you will support the idea that these buffers are a good idea. Marsicano and Massoud discussed the FERC backing off.

Marsicano said I'm hopeful that they will keep those components in the SMP. I was booted off the stage when I commented that their arguments against the buffers were very flawed. You probably know Ralph Gallagher, and he is a member of the committee which will do a study; Gallagher created a percentage report which is just asinine. Marsicano said you'll know in the newspaper. The FERC folks have gone back to Washington, in answer to Dan Baroody, and described some of the changes requested and a re-hearing. FERC will come back.

Massoud asked isn't the plan already adopted? Doesn't First Light Power have to enforce it if it's already adopted?

Marsicano described what FERC is saying now and what they have to go back and change. Regarding one of your last proposals with the docks (EIC #769), they have said they will not allow any more docks. Now what's going to happen if their proposal passes? Marsicano said I don't know what they are allowing now. I don't have a lot of contact with Brian Wood. We now have a website with 2006 pictures, 2007 pictures, and maybe the minutes from your EIC meetings. This kind of creates an inventory of all the things that are occurring out there on the Lake. We are going to try to meet with Sean and show him the system. I will stop by, Marsicano concluded. (website: [landuse.candlewoodlakeauthority.org](http://landuse.candlewoodlakeauthority.org))

### **CORRESPONDENCE:**

Candlewood Lake Authority, letter from Larry Marsicano, 8/23/07 re: Shore Management Plan (SMP) and riparian buffers (see above testimony).

CACIWAC (Connecticut Assoc. of Conservation & Inland Wetlands Commissions) 30<sup>th</sup> Annual Meeting & Conference, Saturday, November 10, 2007, MountainRidge, High Hill

Road, Wallingford, CT, 3 sessions, \$40. CACIWAC Summer 2007 Newsletter.

**EIC ADMINISTRATION & FUTURE AGENDA ITEMS:**

Soriano will do a fee subcommittee progress report at the next meeting.

**ACCEPTANCE OF MINUTES:** 8/22/07 and 9/19/07 Meetings. Motion to accept the 8/22/07 minutes by Fagan. Second by Mills. The motion carried unanimously. Massoud suggested wait to accept 9/19/07 meeting minutes till the next meeting.

**ADJOURNMENT:**

Motion to adjourn by Mills. Second by Fagan. Motion carried unanimously at 10:27 pm pm.

The next regularly scheduled DEIC meeting date is October 10, 2007.

Respectfully submitted,

Patricia M. Lee, Secretary