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*CITY OF SHELTON
 INLAND WETLANDS COMMISSION
 REGULAR MEETING MINUTES
 Thursday, January 11, Room 303, 7:00 P.M.*

I. ROLL CALL:

- Alvaro DaSilva, Chairman
- Gary Zahornasky, Vice-Chairman
- Randy Szkola, Commissioner

INLAND WETLANDS COMMISSION

Celeste Beattie, Commissioner
Neil Hayes, Commissioner
Norman Santa, Commissioner
Charlie Wilson, Commissioner
Ken Nappi, Commissioner

January 11, 2007

Also Present: John Cook, WCEO
Marianne Chaya, Inland Wetlands Clerk

II. PLEDGE OF ALLEGIANCE

All in attendance recited the Pledge of Allegiance.

III. BUSINESS MEETING

A. PUBLIC COMMUNICATIONS

Attorney Steven Bellis, representing White Hills Homes requested to have his application added to the agenda. We have a piece of property on Meadow Street & Perry Hill Rd. There are no wetlands on the property and thought we could have it looked at it administratively, however, Mr. Cook is right; we should bring it before the Board. It won't take long and I would appreciate having it added to the agenda.

Commissioner Santa MOVED to add the White Hills Homes application to the agenda. SECONDED by Commissioner Wilson.

Commissioner Szkola & Beattie: I thought we weren't going to do that.

Chairman DaSilva: This is just an administrative issue that John just wanted to bring to us. It is something he could handle and is not a major application.

Commissioner Nappi: I believe I brought it up and the Commission members said it would have to be an addendum or revision to the operating by-laws and therefore we would take no action because we needed a time limit to notify all of the respective applicants that do business with us.

Mr. Cook: It wasn't so much that I wished it go before the Board but it was one that as an administrative review I was not going to be looking upon it favorably. I had contacted the applicant and said that because there was an obvious alternative that I could either take it through the administrative process as agent review, look unfavorably upon it, and then they could appeal it to the Commission or take it directly to the Board. They opted to bring it directly to the Board.

Commissioner Szkola: We said we were not going to do it, I think we should stick to our guns. I don't see where we need to and it's our prerogative.

Chairman DaSilva: I was not here at the meeting when you had that discussion.

Commissioner Nappi: I brought it up and the Commission said it couldn't be done and they also said that we also needed time to tell everyone and in all fairness I believe we added something to the agenda last meeting.

Commissioner Beattie: I thought we voted that we wouldn't do it.

Commissioner Nappi: I don't think we took a vote.

Mr. Cook: It was going to be coming up at the December meeting, which we did not have.

Vice-Chairman Zahornasky: Did you advise the applicant that they may not be able to get onto the agenda?

Mr. Cook: Yes. I said it purely at the discretion of the Board. Last year there was one application that wished to be added on and since we had a full agenda it was not added on.

Vice-Chairman Zahornasky: That was a full application.

Chairman DaSilva: I don't want to spend a lot of time discussing this.

A voice vote was taken; all were in favor except Commissioners Szkola and Beattie. MOTION PASSED, 6-2.

Mr. Cook: It will be under New Business, #07-02.

Mr. Richard Jaeger, 2 Coppel Lane

Mr. Jaeger: Although the 2007 Meeting Schedule is on the agenda I wanted to mention that the Board of Aldermen meets at the exact same time and since you are setting up the schedule for 2007 it would be nice if I could attend both meetings.

Chairman DaSilva: We have conflicts with other people that need to be at other Wetlands in other towns and we have been doing our meetings on the second Thursday of the month for about 20 something years.

Mr. Cook: It changed in 1988.

Chairman DaSilva: We will address it later on and I can tell you right now for me it would be a conflict to change it because it works for my schedule and I am on other Boards also.

B. OLD BUSINESS

1. PERMIT-APPLICATION #06-40, MEDICAL OFFICES – 897-909 BRIDGEPORT AVENUE. Reconstruction of developed parcel involving discharge of stormwater and grading within regulated setbacks.

Jim Swift, Professional Engineer, Landscape Architect

Mr. Swift: This is office building on Bridgeport Ave. and we have been through all the details and the outstanding item was to notify the Beaver Dam Lakes Association, which has been done and they have received letters and are fully apprised of the application. Secondly, we had a not so positive letter from the City Engineer. I have been in contact with him and prepared some more engineering calculations for him and I believe we have new letter from the City Engineer and gives the project a thumbs up.

Mr. Cook: Comments from the WCEO Report: The applicant has provided notice to Beaver Dam Lake Association dated November 29, 2006. The past president of that association visited the Inland Wetland Office on December 5, 2006 to review the file and he was appreciative of the notice. At that time he did not indicate if comments are forthcoming. There are no plan revisions as of this composition relative to City Engineer letter of November 7, 2006. Maximum extension possible is to January 22, 2007. Stormwater management and water quality discharge are the prime concerns with this proposal. As of the City Engineer's contact with the applicant's agent, in the Commissioner's packet you will find a December 13, 2006 letter addressed to myself.

Re: 900 Shelton Plaza Associates Partnership, 897-911 Bridgeport Avenue;

- 1) Site Plan Sheets 1 through 5 all dated August 30, 2006, revised 11/16/06
- 2) Topographic Survey dated July 5, 2006
- 3) Storm Drainage Report dated October 2, 2006

Dear Mr. Cook:

The drawings for the above referenced application have been revised and a Storm Drainage Report submitted in response to our review comments dated November 1, 2006. All concerns have been addressed and the applicants engineer has confirmed that there will not be a major increase in the impervious area of the property. There is no increase in the post construction runoff rates and a stormwater quality enhancement structure is proposed in the ConnDOT right of way.

Having no additional comments or concerns I endorse the application for construction subject to the following conditions:

- ConnDOT approval of the stormwater discharge in their right of way is required.
- The applicant shall also submit the inspection and maintenance schedule for the onsite stormwater collection and treatment system detailed on Sheet 2 as an SW x 11" document for the City project files.

Robert F. Kulacz, P.E. City Engineer

CC: Richard D. Schultz, Planning & Zoning Administrator

Sal Ciarlegio, ConnDOT District 3 Permit Section

James R. Swift, P.E.

Commissioner Szkola: Is there any monitoring of the maintenance?

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Mr. Cook: The most successful monitoring program has been established by Homestead Village in the 1997 application. To our office, not only have they done their maintenance but have followed it up much longer than required. They had a three-year monitoring program and they continue to submit those analyses to us. Many of the others that have been installed, until there is an improved program, both, including the City have to step up to improve the stormwater management based upon the new requirements from the State of CT. There is going to be a change demanding those structures maintained and the City has to develop a maintenance plan.

Commissioner Szkola: Do you have the time to review the report they submit?

Mr. Cook: Essentially it's a report of what they collected. Typically it is a yearly or semi-yearly basis on most of these. The most predominant one is from the Homestead Village but the multitude of the others installed we would have to go back through the files and track them down and see if they are doing the maintenance. Some of those are condominium projects and retail complexes. Once the maintenance is set up it becomes part of the operational program of the facility, especially on the commercial facilities. As far as any of the other agencies returning the reports to the City, that has not taken place.

Mr. Swift: (Detailed the location and summarized the intent).

Chairman DaSilva: So you are adding a building in the front or is it a drainage issue?

Commissioner Santa MOVED to approve application #06-40, subject to the City Engineer's conditions. SECONDED by Commissioner Nappi.

A member of the public asked to address the Commission.

Chairman DaSilva: Yeah, as soon as the motion is made I will let you.

Roger Pleasanton, 350 Beaver Dam Access Road, Stratford

Mr. Pleasanton: On behalf of the association I am here to present a petition with 50 signatures in opposition to the project. (Presented it to the Commission)

Commissioner Szkola: Is there a basis to your opposition.

Mr. Pleasanton: Of course. We have not yet seen any plans that our engineers can take a look at. I would not be comfortable with what I have seen so far. I know that the runoff is going to go directly into a stream that would feed into what is called Black Brook and that goes directly into our lake, and we've been through this before.

Chairman DaSilva: Were the people of Beaver Dam notified and given the opportunity.

Commissioner Nappi: I believe they were notified November 29th. I believe one member from Beaver Dam Association came out and viewed it with staff; I don't know who that was.

Mr. Cook: They came in the office on December 5th.

Chairman DaSilva: All the drainage that is coming off of that property is going down to your lake at this point, is it not?

Mr. Pleasanton: Yes, except what that seeps through those areas – there is some now.

Chairman DaSilva: That is a paved area and there is a parking lot; I am familiar with the lot. There are very poor conditions.

Mr. Pleasanton: Yes that is correct.

Chairman DaSilva: So under actual uses there are no control structures of whatsoever and it's all going to the lake right now. I think what is proposed is a great improvement to what is there.

Mr. Pleasanton: That is a viewpoint I would not care to dispute. That is for the engineer to determine.

Mr. Swift: With respect to you we have been through this for quite some time and I think the applicant has consideration to act promptly on some of these things. Since we are cleaning up the site we would be more willing to take input when the engineer gives it but with due respect without any evidence that there are any issues.

Chairman DaSilva: Since you were notified back in November, why didn't you get your engineer to meet with the applicant? We are into January now.

Commissioner Szkola: We didn't have a December meeting.

Chairman DaSilva: I understand, but they could have met with the applicant.

Mr. Pleasanton: This is as far as I know the first opportunity I've had to attend a meeting.

Chairman DaSilva: I am not saying to attend a meeting; I am saying that you were notified that something was happening on the property and you were given the opportunity to get your engineer to meet with the applicant's engineer. Why didn't you do that?

Mr. Pleasanton: Because my instructions from my lawyer were to present this petition to deny and then we would go to a public hearing.

Chairman DaSilva: So your focus was to deny and not to try to correct the situation?

Mr. Pleasanton: We shall see.

Commissioner Szkola: Did you avail yourself to the Association?

Mr. Swift: I spoke with the gentleman on the phone and you sent me an email requesting some information.

Mr. Pleasanton: Oh, yes.

Vice-Chairman Zahornasky: We've always strove to protect Beaver Dam on any application that has come before us and Commissioner Beattie asked them to notify you. I think this Commission feels that you didn't respond before now and so there must not have been any concern or anything bothering you. I think with the vortex unit and everything else I can guarantee it's going to be must better post-construction than pre-construction. The quality of what is going into Beaver Dam is only going to be better, not worse.

Mr. Pleasanton: It depends on the population as compared to now.

Mr. Swift: I don't know what the population has to do with it.

Mr. Pleasanton: The building not being used doesn't have much coming from it.

Mr. Swift: That parking lot is being used; there are trucks parked there. Let me reiterate that we are not closing the door to any input from the Beaver Dam Associates. If your engineer should want to speak to us we would welcome it.

Vice-Chairman Zahornasky: If we approve this tonight, you are not going to start construction tomorrow. You still have time for your engineer to review the plans and if you have any concerns come back and meet with the applicant and they could come back before the Board. The door is always open. I am sure the applicant would be more than happy to make the project better, for everyone's concern.

Chairman DaSilva: Do you have any faith in our City Engineer who has approved the drainage plan?

Mr. Pleasanton: At the time I believed he did not.

Chairman DaSilva: He has approved it now.

Mr. Pleasanton: I have to look and see what he feels. It is only me at this time.

Commissioner Szkola: Because we didn't have our December meeting.

Vice-Chairman Zahornasky: They still didn't submit a report. They could have submitted it by December they could have at least made it by January.

The Chairman asked for a vote.

Commissioner Szkola: Can we clarify it some way as far as the door being open.

Mr. Swift: My statements are on the record. The applicant is more than willing to work with the Beaver Dam Association to make changes that might be required in accordance with the City Engineer.

Commissioner Nappi: Maybe the motion could be amended to encourage the developer to meet with the Association.

Commissioner Szkola: How about if the Beaver Dam Association recommendations made be also reviewed by the City Engineer; how does that sound?

Vice-Chairman Zahornasky: Any changes they make they have to go across the City Engineer.

Commissioner Beattie: Is there any place for a disagreement to be solved?

Commissioner Szkola: Here.

Chairman DaSilva: If there any major change to the drainage, and you have to remember this is strictly a drainage improvement they are making on the property. With all due respect to the Beaver Dam Association, and we do everything and will continue to do so, and they had ample time when they were notified in November to get together with the engineer for the applicant to work with them and see what was going on. Nothing was done. The gentleman just stated that what he wanted to do from a legal point of view is to collect signatures to deny the application. If he is improving the situation, why not work with the applicant rather than try to deny the application? That, to me doesn't make sense.

A voice vote was taken; all were in favor, MOTION PASSED.

2. PERMIT – APPLICATION #06-41, PAWTUCKET AVENUE EXTENSTION. Proposal to construct (7) single-family dwellings involving wetland fill, road construction, stormwater discharge, and grading within regulated buffers.

Chairman DaSilva: There are two pieces of correspondence; one is a letter from the applicant's attorney to our town counsel. The other is a response from our town counsel. Let it made part of the record. I will ask John to paraphrase both letters and the concerns. The following is a copy of a memo from Bernie Pellegrino to Thomas Welch (Corporation Counsel):

TO: 10022001 - Ianucci/Shelton

FROM: BP

DATE: January 10, 2007

What type of conditions may be imposed by Inland/Wetlands Commission on property subject to its jurisdiction by virtue of the submission of an application to conduct regulated activity?

Pursuant to C.G.S. §22a-42a, (d)(l) an Inland/Wetlands Commission "...may grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity which are designed to carry out the policy of sections 22a-36 to 22a-45, inclusive. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (A) prevent or minimize pollution or other environmental damage, (B) maintain or enhance existing environmental quality, or (C) in the following order of priority: Restore, enhance and create productive wetland or watercourse resources."

In the present case, the applicant has proposed only grading on lots 303-306. The Wetland Enforcement Officer is advocating that conditions be placed upon those lots preventing any future residential development upon those lots.

In addition to such a condition resulting clearly in a municipal condemnation or "taking" of the current owner's vested rights in said lots, such a condition runs afoul of the statutory criteria referenced above, especially in light of the proposed regulated activity.

When reviewing conditions placed upon approvals by land use agencies our Appellate Court has stated that the conditions must bear a substantial relationship to the activity sought to be conducted. See, Farmington v. Viacom Broadcasting, Inc., 10 Conn. App. 190 (1987). Kobyluck v. Planning & Zoning Commission, 84 Conn. App. 160 (2004). Such cases have permitted conditions related to project phasing to control sedimentation disposition, removal of excess material from a site, setbacks from wetlands and other reasonable measures that insure the public health, safety and welfare, in relation to the activity sought.

In the present case, a condition that would forever prevent future development of these lots from activity that is not even proposed, is not appropriate under this standard. Certainly, issues such as the appropriateness of sediment and erosion controls, the type of fill to be used and the timing of construction would be permissible conditions for the activity proposed on these lots. However, the imposition of a conservation easement upon each of the lots when only minor grading is proposed does not appear to be a reasonable condition that bears a substantial relationship to the activity sought to be conducted.

It is also important to note that in the event any future regulated activity, including but not limited to the construction of a residence of these lots is desired, the property owner would have to apply to the Commission for a permit to conduct such activity. At that time the Commission would have the opportunity to review the scope of the regulated activity sought, and then, determine whether or not such activity would be permitted. To condition the present application, forever precluding any such activity in the future is clearly premature. The applicant is willing to specifically note on its plan and accept as a condition of any approval, that any future activity on said lots would require the further review and approval by the Commission.

Mr. Cook: The applicant had received copies of the staff's December comments and staff had met with counsel to go over the issues. If the Commission recalls there were several parcels that the applicant stated were not part of the application but were in fact by proxy part of the application because there were regulated activities occurring. They were not in the group of owners that were proposing to build.

Chairman DaSilva: Just for clarification, didn't those people also sign the application.

Mr. Cook: They submitted a letter of consent for the regulated activities occurring. In Tom's reviewing staff's comments, counsel for the applicant submitted their objections to some of those recommendations and citing some of reasons for their position. In response to that January 11, 2007, Shelton Corporation Counsel submitted a memo to us via email that came in this afternoon stating the nature of the Commission's purpose as far as what is concluded with an application, but more specifically when Tom Welch goes into standards and criteria and paraphrased two particular sections regarding short-term uses and maintenance of long-term productivity of regulated resources and the extent to which the proposed action either forecloses or predetermines future options.

MEMO TO: INLAND/WETLANDS AGENCY

FROM: THOMAS J. WELCH CORPORATION COUNSEL

DATE: JANUARY 11, 2007

RE: EXTENSION OF PAWTUCKET

Please be advised that this office has been contacted relative to the above referenced application and presented with an inquiry as to the application process.

Pursuant to Section 7.5 of the Shelton Inland/Wetlands and Watercourses Regulations, all applications shall include the following information in writing:

- a) The applicant's name, home and business address and telephone numbers;*
- b) The owner's name, address and telephone number and written consent if the applicant is not the owner of the property involved in the application;*
- c) Applicant's interest in the land;*
- d) The geographical location of the property which is to be affected by the proposed activity, including but not limited to a description of the land and sufficient detail to allow identification of the inland/wetlands and watercourses, a computation of the area(s) (in acres) of wetland or watercourse disturbance, soil type(s) and vegetation;*
- e) The purpose and a description of the proposed activity...;*
- k) Any other information the agency deems necessary to the understanding of what the applicant is proposing.*

In addition, Section 10.2 of the Regulations is entitled "Standards and Criteria for Decision". Said section states "The agency shall consider all relevant facts and circumstances in making its decision on any application for a permit, including but not limited to the following ...

- c) The relationship between the short-term uses of the, and the maintenance and enhancement of long-term productivity including consideration of the extent to which the proposed action forecloses or predetermines future options;*
- d) Irreversible and irretrievable commitments of resources which would be involved in the proposed activity..."*

If you need any additional information, please do not hesitate to call upon our office.

Mr. Cook: If the Commission recalls, in my December comments I stated that counsel believes that parcels 303-306 as consenting are part of the application. Parcel 303 has regulated activities – wetlands fill occurring on that parcel.

Commissioner Nappi: Mr. Cook, if there is further development on the three parcels would they have to come back to the Board for approval?

Mr. Cook: Correct. Parcel 303 has grading on it even though one of the other parcels proposed in order to construct that lot is showing a wetland fill.

Commissioner Nappi: So there is nothing that bypasses the Board if it's later developed?

Mr. Cook: No. The only thing that would come into play once that road is in, they would not just be raw parcels of land that are presently assessed nominally. They would be assessed at pre-existing non-conforming building lots, which results in more taxes to the City. But if regulated activities were subsequently denied it would be more costly to the City.

Commissioner Nappi: They still have to go to P&Z to get approved for building lots is what I thought the first discussion was.

Mr. Cook: No. Only for zoning compliance because the road layout was created back in the 1930's.

Commissioner Nappi: So they don't need a subdivision type of approval.

Mr. Cook: Correct.

Chairman DaSilva: They still need to approve the extension of the road.

Mr. Cook: Right, and the Board of Aldermen have to act on the road extension.

Commissioner Szkola: Does the City Engineer approve of the extension of the road?

Mr. Cook: No. There is a letter in the Commissioner's packet that has a detailed analysis.

Chairman DaSilva: Here is the dilemma that we have. We can't get involved under our regulations on the road extension. That is a Board of Aldermen decision. What we have the authority to get involved in that questionable wetlands that exists in the middle and the impact on that and the buffers where the grading is taking place along the wetlands. If I remember correctly we had requested an independent soil scientist to evaluate it. Did we get that report? (Several individuals answered yes)

Attorney Steven Bellis, representing the applicant

Mr. Bellis: The issue the board has was the area in the middle of the roadway. If you remember correctly a sewer line was installed by a prior developer (Salemme), and when we covered up the area he created a dip. That dip has been accumulating water. The question was if this was a significant wetland. Based on that you asked for a soil scientist that we could both agree upon. We did that and Mr. Roy Shook was the person that went out with John Cook. He submitted a report. I don't think that there is any question that his conclusion that it is not a significant wetland and it may not even be a wetland at all. It was created by the sewer construction. That issue has been addressed.

WCEO COMMENTS: The applicant requested pulling the application from the November agenda. Staff reiterates the October comments specifically from paragraph #2&3. Corporation Counsel is expected to provide written opinion that the (4) lots that are part of the application for grading but not designed **are** part of the application and as such the Commission can require a full analysis of these parcels. It can act on the application as submitted and issue conditions involving these parcels. In addition, parcel #302 development is dependent on regulated activities to parcel #303. The clock is expiring on this application and without an extension the following options include but are not limited to:

1. Deny the application without prejudice as incomplete as there is an incomplete analysis of the (4) outstanding parcels likely regulated activities and impacts.
2. Approve the application without authorization of regulated activities for home construction on parcel #302, but allowance for road grading regulated activities only on parcels #302-306. These 5-parcels may be protected from future encroachment via conservation easement or in-fee dedication as open space similarly to the other parcels involved with this application. In this manner, the majority of the goals of the applicant are achieved (allows lot development along the left side of Pawtucket due to the elimination of the minor wetland to build the road) while the majority of the resource and the major wetland is permanently protected. This approach is consistent with Commission decisions on other applications on this wetland.

Chairman DaSilva: I tend to agree with John's assessment. Lot 302, which is encroaching into the next lot, that that lot be restricted as far as building is concerned due to the proximity of the wetlands and the encroachment into the other lot. As far as lots 303-306, with the grading that is being done for the road, with the grading that's being done for the road with the wetlands immediately after that, that there are no way those lots will ever get permission to be built. They are basically 90% wetlands. I think the suggestion to restrict lot 302 or to come back?

Mr. Cook: Either use the same technique – either as a conservation easement or add it to the other lot so that it's not going to come back.

Mr. Bellis: This is kind a unique situation even there is consent on the application. There is not one owner. These are all by and large separately owned parcels. In this particular case because of the different owners I think you have to keep that under consideration. The other think I wanted to point out is that I don't disagree with John or Tom Welch and I didn't get to see the letter. There is no question that there is regulated activity on these lots so they are part of the application. There is a huge difference in what John is saying about putting a conservation easement or saying that you can't build on these lots ever. Then I am afraid if you do that the property owners will feel that there is effectively a taking of our property. I think the Chairman's point is probably better when he said, you know what, in all practical purposes they are never

going to be able to get anything on these lots anyway because of the grade here and the wetlands in the middle. So when they come to the Commission they would not be able to get anywhere. I would caution the Commission, and there is no question, and I will even put it on the map if it would make it everyone happy that these lots (303-306), note it so on the map that they have to come back to the Wetlands Commission if you ever wanted to have a proposed activity on the lot. I think if you say now you cannot ever build on these lots you are setting yourself up for a taking – that's just a caution.

Chairman DaSilva: For clarification I think he is saying that we have to consider the facts that there are different ownerships. I don't think we agree with you. The application before is as a whole and therefore whoever owns the lot doesn't matter to me. Our action is going to be the same – is it impactful or not on the wetlands? Putting that aside, I think what the Commission has to be careful in doing here is to make sure that if you are going to give approval for the road extension that lot 302 would have to come back to this Commission with a blown-up site plan to see exactly what is happening to the other lot. As far as the other lots are concerned I think I can't just put a blank conservation easement over some people's property just because I feel like it. However, all those lots(303-306) should be deed restricted or put it on the map that they are not approved as part of the application even though they are part of the application. The approval is strictly for the road construction and grading into those lots.

Mr. Cook: I would like to clarify the interpretation on staff's comments. The idea of, and it's not so much advocating that technique quite simply. After multiple conversations with Tom Welch is that those parcels were in fact part of the application and the analysis on how those would be developed is not provided to the Commission then they could be restricted, and how would they be restricted is one of the techniques. I am not saying one technique is better than another. If there is an incomplete analysis of a regulated activity the Commission can deny it as an incomplete application.

Chairman DaSilva: That's basically what we are doing. What I am saying is we are taking those lots out of this application and saying you have no approval.

Commissioner Szkola: John is saying Tom Welch says we can restrict it without it being a taking, is that correct?

Chairman DaSilva: Here is where I go from Tom's opinion where he says it's fine if it is one ownership. Here we are dealing with four or five owners and I didn't have the ability to talk with them and tell them we are going to put a conservation easement on your property. You can accomplish both by taking those lots out of the approval process and they exist as they do today.

Commissioner Szkola: I think we are making a more than reasonable compromise by allowing a road to go through a wetland, whether it's viable or not, and going against the City Engineer's report.

Chairman DaSilva: The City Engineer's report is based on not only the wetlands but more so on the construction of the road.

Commissioner Szkola: If we eliminate 302 – deny it to be built upon – as part of the application and get easements on 303-306, I think that is more than reasonable. I think if we are afraid of a taking, my recommendation would be just to deny the entire application.

Commissioner Nappi: This is confusing the issue; the application before us is the road extension.

Chairman DaSilva: And to build on both lots.

Commissioner Nappi: And the City Engineer says that we should consider all relevant facts. He didn't say it was ok to have a taking of the property. By the stipulation the Chairman is recommending that the individuals or developers who want the construction have to come back before this Commission for final approval before they proceed. So we're doing both things by letting the road construction go but retaining our right to look for the development when it has to come back to us.

Commissioner Szkola: Never say never.

Commissioner Nappi: When they have to come back to us we are saying we have to re-look at that situation.

Chairman DaSilva: I think this thing with the taking and the government taking property and so forth, I am one of those that believes on that, we should not just take people's property and put restrictions on it because we feel like it. I am a firm believer that this is a still a free country and the government would stay out of my way. In this case, I am saying, no approval on those lots. Those lots are out of the application. If you want do something with them come back here and come back to P&Z, whatever you have to do.

Vice-Chairman Zahornasky: In prior applications, if you take Atty. Bellis' statement about if they are single owners, and take those lots down there, how many times has this Commission sat and said can you go to your next door neighbor and making get a little of the property or get an easement from him to allow for a filling? It's basically doing the same thing. Those folks that own those 4 lots, they are willing to sign off on grading knowing full well that those lots may not now comply to any regulations. That is up to them, they have agreed to it. That is not our decision to make for those people. We can't say whether they can build or not. Let's just say lots 302-306 all come back to the Commission for approval. Those are the only issues before this Commission. I want to make a motion to approve it.

Chairman DaSilva: I probably shouldn't say this but I will. I personally, if I could, would not approve this application. Because I don't think it's a good application. However, I sit on this Commission as a member and my personal feelings have nothing to do with my decision. If I can't do that, I shouldn't be sitting here. I don't like the application but I have to vote what is presented before me and what I can do within the regulations and what's legal. My concern was that wetland in the middle that was created recently. That is why I asked for them to hire an independent soil scientist. He came back and said it's not a viable wetland. That was the issue. The grading is taking place in the buffers. We have allowed grading within buffers.

Vice-Chairman Zahornasky MOVED to approve application #06-41 to extend the road and allow grading on lots 302, 303, 304, 305, 306 within the buffer of the wetlands. Lot #'s 302, 303, 304, 305, & 306 do not have approval for building and would have to come back before the Inland Wetlands Commission if any further work is desired. A site monitor is to be hired by the applicant for the grading on the wetlands and buffers, reporting weekly to John Cook. SECONDED by Commissioner Nappi.

Discussion:

Ingrid Waters, Long Hill Cross Roads

Ms. Waters: I am grateful that the Commission is so cautious. What does it mean for wetland filling? I thought wetlands were not to be filled.

Mr. Cook: The definition of the CT Wetlands program is wetlands and watercourses and the natural resources that are held in the public trust. The state of CT legislature passed the act in 1973 they gave a whole litany of values and functions of wetlands and watercourse resources and why those areas should be protected. It also had the caveat in there while the protection and preservation of those resources for the public good it also had a clause in there for balancing the need for economic growth and using those resources. What the Commission does is trying to evaluating the balancing act of the outlet preservation which is the complete preservation that would not be any regulation it would be just enforcement versus what is expendable. In some cases what is expendable – some things are expendable, and some things are not. Where that point is what the Board wrangles with when they look at proposals. In this particular case, lot 302 is proposing to fill in order to construct a dwelling and also the fill of wetlands to construct a road. What the Commission is evaluating is what is justifiable.

Commissioner Hayes: When I got on this Commission, John said look at it this way, when you are looking at things there are different alternatives. In Maine, there are a lot of wetlands up there and if you fill an acre here or there is not going to make a difference. In CT, the wetlands are small in comparison. So we are looking at maybe 35' as opposed to acres. So that is why there is a balancing act.

Deirdre Lazar, Cranston Ave.

Mrs. Lazar: I've been to numerous meetings on this application. If you were to look back at the very beginning when this whole thing started it was whether or not wetlands was behind us and whether or not they should be able to build on it. Back in 1995 when Mr. Salemme built on Pawtucket he petitioned the Commission to build behind us, and as a matter of fact I talked to him about it, and you denied it based on the fact that there were wetlands in that area. Now you are saying it is not wetlands, excuse me; you are saying it's not as wet. At that time you said you couldn't....Stop shaking your head no, let me finish. I may not speak like you.

Vice-Chairman Zahornasky: He just said they created it by the fill by the pipeline and AI put in.

Mrs. Lazar: Can I just finish? Salemme added this extra piece or line back there, which is what you just said that you would never let happen, that's why you had this special person come out to make sure they don't extend it farther and create more area that could be built on later on, which you said you would never let happen. Apparently that's what you said about the property that's behind us that you are talking about right now. I want to know why we've gotten so far away from the initial meeting where should we make the person who destroyed this wetland put it back and make it back to wetlands, or are going on to approve it because it's not really that wet. What I am

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trying to say is this committee is supposed to be here to preserve the wetlands. Back in '95 Salemme did something that supposedly caused this to not be as wet; so now it's buildable, or might be buildable. Why isn't this committee making Mr. Salemme fix the wetlands that he took away? If that is what your job here is. The committee here is to supposedly preserve wetlands. At that point you all agreed and you had soil scientists there stating that land could not be built. You would not let him extend it.

Chairman DaSilva: Would you go up and show me which wetland you are talking about?

Mrs. Lazar: That whole back end behind those roads.

Chairman DaSilva: Are we approving anything on those wetlands?

Mrs. Lazar: If you approve this application, then yes you are.

Chairman DaSilva: Could you please point out the wetlands that we did not allow Salemme to go through? (An area pointed out) That's not wetlands.

Mrs. Lazar: It was in 1995. You refused to let him build.

Mr. Lazar: You refused; I know, he told me that. You had to say that the action he took, if I'm not mistaken, created this.

Chairman DaSilva: Address me, not the attorney.

Mr. Lazar: At that time this was wetlands. Now, it's not.

Mrs. Lazar: If you go back and look at the application.

Chairman DaSilva: You show me a wetlands map, and if John can pull up a wetlands map that showed that entire area was wetland at one time.

Mr. Lazar: If you pulled up the '95 application about Salemme and it was denied; what would have been the basis for the denial?

Mr. Cook: That was part of the discussions that took place when this was known as #06-16. There was quite a bit of discussion in my reports about that significant discrepancy and how the contour line. Effectively in that '95 plan what was submitted to the Board and accepted and flagged by the soil scientist was a wetland line through that location. That was the reason why the Commission said don't provide any laterals because it is all wetlands anyway. Through the evolution of getting that additional soil scientist out there, and I was present with him, is a soil scientist who has worked for the State, has taught at many of the workshops and seminars. He did a multitude of samplings through that area that was plotted as wetlands in '95. He was specific in that they should have never been flagged as wetlands. They were not wetlands in '95 and were not wetlands now. The coloration of the soil was basically a light tan color. This is the area that is north of the AQ or what is now that pocket wetlands and I don't know if this is the forum to address why the soil scientist in '95 flagged that entire area. Apparently, and forgive me if I am speaking out of turn, but basically he believes that person did not walk the site when he flagged it for the sewer line. He more or less drew a line across and called it good.

Mrs. Lazar: But it is convenient how all of a sudden it's not wet.

Chairman DaSilva: Now that's not fair for you to say that. You are questioning an independent soil scientist that I asked to be hired by John Cook and the applicants soil scientist. They both decided on an independent individual to go out there and as John just said, works for the State and is a very qualified individual. Independent, ok. He took soil tests. You have to remember that wetlands are decided by soil type, not because it's wet. The legal description of wetlands is by soil types, not because water sits on top of the soil part of the year. For you to accuse the Commission or this individual, who has a license to say, it's very convenient for it to not be wetlands.

Mrs. Lazar: Don't you think Mr. Salemme would be saying that right now? Since he was turned down.

Chairman DaSilva: If I was him I would be upset. The soil scientist he hired did not do the job. He would probably been able to build on this property. But he took the word of that individual and so did we.

Vice-Chairman Zahornasky: That's why we went and got an independent; we didn't take the applicant's word that it was a wetland. We wanted to see more of it because we were under the impression as you were that it was wetlands, but it's not.

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Chairman DaSilva: John was there with the soil scientist. I already told you that I personally don't like the application but I can't decide on that because if I do I shouldn't be here. Next time if I have somebody like you sitting there that is on my side and I go with them, I don't belong here. Any other individuals from the public who wishes to address the Commission on this application? If not, let's take a vote.

Commissioner Beattie: Can you read back what the motion is? (the clerk read: to extend the road, grade lots 302-306 and the buffers within the wetlands. Lots 302-306 have no approval to build on. If they ever wish to build on them they have to come back to the Commission. Also, to hire a site monitor, reporting weekly to John Cook).

A voice vote was taken; all were in favor except Commissioners Szkola and Santa. MOTION PASSED, 6-2.

3. PERMIT – APPLICATION #06-42, A&A BROTHERS INC. – 163 LONG HILL CROSSROADS. Proposal to construct 46,000 sq. ft. of light industrial and office space with associated parking involving construction and grading within regulated buffers and fill and discharge of stormwater to regulated area.

Chairman DaSilva excused himself from the discussion

Attorney Ian Cole, from Attorney Dominick Thomas' office
Joe Pereira, Engineer from Pereira Engineering, Shelton

Mr. Pereira: I am here to present the plans for a light industrial building on Long Hill Cross Roads. I will recap what we discussed at the last meeting in November. Involved in the construction is the filling and construction of a retaining wall along with some wetland mitigation areas on the wetland. Part of that project also involved filling one particular piece of wetland and installing a pipe culvert.

Commissioner Szkola: What was the square footage of that mitigation?

Mr. Pereira: The area to be created was 12,500 sq. ft. The area to be filled was 12,300. It was a net of 200 sq. ft. To date, the retaining wall and some of the grading and filling has been constructed.

Commissioner Szkola: So the majority of the filling has been done. Has any mitigation been done?

Mr. Pereira: No. Our client was progressing along with the site work for the building and the reason why we are back today is because the market has changed. We no longer see the big push for commercial office space.

Commissioner Szkola: What is the status of the other application, is it expired?

Mr. Pereira: Correct.

Commissioner Szkola: They didn't do any mitigation but they did filling.

Mr. Pereira: One of the things that remains is the removal of this rock knoll on the west side of the property abutting the wetland area. The site has been somewhat prepped.

Commissioner Nappi: Didn't you move the building forward?

Mr. Pereira: The building has completely changed. Previously we had one 30,000 sq. ft. building. We now have two buildings that are about the same sq. footage footprint. One building is a two-story. We have a net increase of about 3000 sq. ft. We are using a 3/1 ratio on the parking.

Commissioner Szkola: What about the parking lot footprint?

Mr. Pereira: I didn't calculate that. I would think it is only a little increase in the back area. What I would like to go through next are the action items or recommendations made at the last October meeting. 1) Provide a planting shelf along the retaining wall. The previous drawing had the retaining wall along the wetlands. We pushed the parking area away and reduced the size of the lower building and provided a 4' wide planting shelf between the paved area and the wetland. The elevation is the same. 2) Provide a parking area for the open space. The open space is in the back. I discussed this with the City Engineer and he made us aware that Old Woods Rd. has not been officially abandoned; although it was pursued at one point. That is viewed as future access to the back. 3) The City Engineer review our drainage calculations and review our proposal for stormwater management; specifically in the west corner where the wetlands currently

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overflow when there is a large storm event. The practical solution is to build this up and provide a barrier to keep it from over-topping the trail. There is a letter from Bob Kulacz, dated December 7, reviewing our proposal. 4) To relocate the vortecnic unit and provide a bio-filtration area to treat the stormwater. We have done that and re-graded the site and pushed all the stormwater to one central location and still have that vortecnic unit and carved out a bio-filtration area. We see that more as a polishing of the stormwater before it enters into the wetland area.

Commissioner Szkola: That would take all that stormwater off that parking lot?

Mr. Pereira: Correct; there is one central discharge area. That area is approximately 0.06 acres, which gives us the 2/1 ratio for the actual wetland disturbance area. That is a total of 0.03 and we are mitigating .06. The impacts to the wetland buffer area remains relatively the same. The wetland limits have not changed since the wall has been constructed and we had been previously approved to disturb that entire area including the removal of the knoll.

Commissioner Szkola: How much did you reduce the building size?

Mr. Pereira: 1000 sq. ft. The next thing I want to do is re-cap the November meeting. At that meeting there was a letter read into the record from Darlissa and Daniel Ritter. There were a bunch of points that were raised and I picked out the major points, the ones we felt were really applicable to this application. The first point is there was a statement made that the front corner of our building was too close to the property line. Although that is a zoning issue it is not an issue with setbacks. This is considered a side setback; you don't need a 75' setback there. The second issue was regarding grading along the rear of the property. We had previously raised this grade approx. 4' and based on the comment made by Mr. & Mrs. Ritter what we have done was to drop this to match the existing grade so we no longer need that retaining wall and it basically follows the existing grade. All limits of the paved area will have curbing so there won't be any discharge from the pavement directly onto any abutting property. Open Space was brought up in that letter as well. Access to this open space is to be provided by Old Woods Rd, or what is currently there for access.

Commissioner Beattie: Are you sure that wasn't dealt with before?

Mr. Pereira: Yes, it was pursued for quite a while and Bob Kulacz had records of the initiation of the abandonment of that right-of-way but it was never finalized.

Commissioner Szkola: Under the previous permit you had 12, 523 sq. ft. of mitigation; what is your mitigation number this time?

Mr. Pereira: Approximately .06 acres – about 3000 sq. ft.

Commissioner Beattie: There was a question on the snow islands before – have you made any provisions for that?

Mr. Pereira: Yes, we not only have a snow shelf around the entire property but there are some snow islands.

Commissioner Szkola: I think you did a really good job in addressing the concerns; not that I agree with everything, but I think you did a good job.

Mr. Cook: WCEO COMMENTS: Reports from City Engineer and Conservation Commission have been received and are attached for reference. The plans were changed to respond to points previously made. Beside a slight SF building reduction a bio-filtration basin approximately 1,000 SF of which could likely be considered for mitigation is shown. However, the original mitigation proposed and approved for offsetting the 1998 encroachment was between 8-10,000 SF. This represents a significant decrease. Additionally, the outlet control structure has been reintroduced. This was deleted from the approved plan. If the applicant incorporates a similar technique as employed with Split Rock, Shelton Research Park Lot 9, and Todd's Ridge multi-family they may be able to achieve an acceptable level of stormwater control without this feature. By eliminating the extra crossing for the outlet control, regulated impacts are reduced and the upland portion that was cleared by the 1998 work could be used to expand the deficiency of mitigation. Alternately, simply reduce the size of the facility to maintain sufficient mitigation as was provided for in 1998. The trees were cut, the wetland filled and piped but the mitigating efforts were not initiated.

Commissioner Szkola: Where is this outlet control? (Pointed out) Why was that affected?

Mr. Pereira: I wouldn't call it an outlet control because it was meant to be an access for cleanout.

Mr. Cook: The original plan in '98 had that same crossing with as you see past the parking. This was the approved plan in '98 (shown). The earlier version had this structure (shown) going across the wetland. That was eventually deleted in the final approval because this was all going

to be mitigation. This was just going to be brought down to grade and so you would have an area for mitigation because it was such a sizable wetland. That is why I say it's been re-introduced.

Vice-Chairman Zahornasky: The blue lined area was mitigation. The red area was the fill?

Mr. Cook: Yes. The reason why I mentioned those other projects is they were using galley type of structures on-site to control any changes of a stormwater increases from post-development activities rather than using a structure that would raise it and lower it.

Mr. Pereira: John, just for clarification, you are saying they eliminated the berm and introduced galleries in the approved plan?

Mr. Cook: No, they were just using the wetland itself. In the '98 plan they did not have galleys as part of that approved design. In '98 there wasn't as much effort in some of the things that come across the table later in time – as far as efforts on water quality and stormwater management.

Commissioner Szkola: So this structure is going to be used decrease the post amount of water leaving the property. Is there going to be a zero increase in runoff of the property but not the wetland, per se.

Mr. Cook: Correct. The technique that was used widely in year's past was to using the wetlands to flood the wetlands for stormwater management.

Commissioner Szkola: And now we use galleys.

Mr. Cook: Particularly in the basins or in those sites where many of which don't have a substantial area of wetlands, and in this case here, by eliminating that berm that provided the area that was going to be used for mitigation. Now the parking was ending so much further back.

Commissioner Szkola: I think I remember why we eliminated it but prior to that we had one of those structures on Forest Parkway that failed and we lost all those trees on that entire area.

Mr. Cook: Right; it inundated it so much because it was a forested wetland and the water levels changed so much.

Mr. Pereira: Can I just clarify a few things? One is the use of galleries; although it may reduce the total flow going into the wetlands when you do a hydraulic design of a project you don't look at necessarily what's happening within your site because you can control that. What you need to is you have to look at what's going off-site. In doing so you pick a control point and that is what you need to look at. How much flow do I have coming off pre-development and how much do I have once it's done. You don't necessarily look at how much flow is running into the wetlands itself. You do however have to look at stormwater quality and that is what we have done. We are going to have deep sumps in all the catch basins and hooded outlets. That in itself is going to trap a lot of sediments and oils. Along with that we are also providing a vortecnic unit plus a bio-filtration area.

Mr. Cook: I wasn't questioning the intensity of the upper water quality aspect but more the change from what the Commission had approved in 1998 and what they never did get. That is the biggest deficiency I see as far as this plan versus the other one.

Vice-Chairman Zahornasky: But if it's technically a stormwater discharge because we are not really impacting a lot of wetlands but now, judging from the last plan to this plan, this plan is much better because the water quality exiting this site is much better. In my mind there is more mitigation than there was before. Just creating some wetland area doesn't necessarily make the project work or not work. Just the sake of mitigation to add something just for the sake of doing it doesn't accomplish anything is just a waste of time.

Mr. Cook: Part of the reason for mitigation is this site was a part of a much larger wetland system; a high value wetland system in the Long Hill Cross Roads, Platt Rd, Forest Parkway area, which was filled in starting from the 1973 construction of Route 8 by a previous owner. That filling continued over years. You are taking a significant wetland resource that had been filled prior to wetlands enactment and protection then what was continued over a period of years from a multitude of owners. There was a litany of correspondence without going through all the old files.

Vice-Chairman Zahornasky: For the sake of creating a few extra thousand feet of mitigation doesn't correct that. I am more interested in water quality.

Mr. Cook: I would suggest that before any regulated activities take place then any mitigation that is offered to this Commission should take place first because if they do the regulated activities and fill the wetlands and then don't do the mitigation that was promised from the previous plan.

Commissioner Szkola: Then it's a violation almost.

Mr. Cook: As far as the stormwater management component I think they are top-shelf.

Vice-Chairman Zahornasky: I like this plan better and feel more comfortable with the water quality component. That is basically the whole application, which is stormwater discharge.

Mr. Pereira: I realize it could be viewed as a violation but I think the market, if it were right at the time this original building would have been built. I am sure the neighbors are here tonight because they are not happy with the way the property looks. What we are proposing here is a path or road to clean this site up and finishing the project.

Commissioner Szkola: I would like to hear from the public.

Commissioner Santa MOVED to approve application #06-42. SECONDED by Commissioner Nappi.

Discussion:

The City Engineer's report is as follows:

Re: A&A Brothers, Inc., 163 Long Hill Cross Road;
1) Site Plan Sheets 1 through 4 dated September 28, 2006, revised 11/27/06
2) Stormwater Management Report dated November 28, 2006

Dear Mr. Cook:

This office has reviewed the above referenced application to develop the property adjacent to Woods Road which features an extensive wetland system. The stormwater management plan is sound and provides stormwater detention which significantly reduces post construction runoff rates to levels below existing pre-construction rates. Best management practices have been proposed including a bio-filtration basin and a stormwater quality enhancement structure.

My only comments on this application are the following:

- An A-2 Survey should be included to confirm the parcel boundaries and the flagged wetland limits.
- The fire lanes may need to be increased from 24 to 26 feet as required by the Fire Marshal which may impact the overall site plan.

I endorse this application for construction as submitted.

Very truly yours,
Robert F. Kulacz, P.E.
City Engineer

Mr. Pereira: We submitted an A-2 survey and I think the problem is that he did not get a copy of the survey map. He now has it.

The following is a letter from the Conservation Commission:

RE: A&A Brothers Inc., IWC **06-41** COMMISSION
163 Long Hill Cross

Dear Mr. Cook:

The Conservation Commission respectfully asks the Inland Wetlands Commission to consider the donation of Open Space for the above referenced application as mitigation for past and future impacts to wetlands on this site.

As part of our ongoing update to the Open Space Plan, we have identified a new greenway, titled the "Long Hill Greenway", which encompasses the southern portion of 163 Long Hill Cross (attached). The A&A Brothers site is contiguous with substantial existing Public Open Space associated with Long Hill School.

Moreover, there is an existing "paper street" and roadbed called "Old Mill Road", likely an historic roadbed, which runs along the entire western edge of the site and which provides potential recreational access from Long Hill Cross to the Greenway. Preserving the land adjacent to this historic road is a worthy goal.

The Conservation Commission would prefer to see the entire wetland area and all upland areas south of those wetlands donated to the City as Public Open Space. Alternatively, a Conservation Easement over the same area would at least preserve the area, although it would not allow public access.

Thank you for your consideration,

Thomas Harbinson, Chairman
CC: Rick Schultz, Planning and Zoning Commission

Vice-Chairman Zahornasky: Has the applicant given any thought to that?

Mr. Pereira: I have and I have read the letter and have a copy of it. The part dealing with Open Space is a P&Z issue. We are prepared to deal with that when we file with P&Z. The third paragraph down mentions preserving the land adjacent to the historic road. I think we've done that. What we have is a landscaping buffer along the perimeter of Old Woods Rd. throughout our development.

Vice-Chairman Zahornasky: Conservation called it Old Mill Road.

Mr. Cook: It is actually Old Road. Just to digress; further down on that watershed as you get closer to Beard Sawmill City Rd. there is a street called Old Mill Rd. The conjecture is that Old Mill Rd. at one time may have come through the same area.

Commissioner Beattie: It seems to me that there was something either through this Commission or Open Space that we gave up rights to that part. I thought we abandoned it.

Vice-Chairman Zahornasky: They are saying it's not abandoned.

Mr. Pereira: I had a conversation with Bob Kulacz and he confirmed that it officially has not been abandoned.

Vice-Chairman Zahornasky: Who makes the request to abandon it?

Commissioner Nappi: I would imagine it would come from P&Z.

Darlissa Ritter, 157 Long Hill Cross Roads.

Mrs. Ritter: I can shed some light on that issue. I followed that for two years and the final abandonment went through the Board of Aldermen and I have a letter saying that it was abandoned. I can get a copy to you, if that helps.

Vice-Chairman Zahornasky: Yes, we would like a copy and maybe send a copy to the City Engineer.

Mr. Pereira: Do you know if it was ever recorded?

Mrs. Ritter: I don't know about that but I have my letter and it says the City abandoned it.

Commissioner Szkola: I agree with Gary about the stormwater quality has increased and I commend you on that. We have lost entire forests that were drowned and I am very concerned about the outlet control. I don't like that there. I would rather see it go to a galley system to achieve the same effect of zero increase in runoff. If it fails somehow, and the system isn't maintained, which certainly happens, we lost all of the trees on Forest Parkway due to the trees being drowned, so I am in total disagreement with the outlet control structure or putting water into the wetlands to achieve our zero increase in runoff. Also, even the stormwater quality went up our mitigation went from 12,000 sq. ft. to 3,000 sq. ft. I think that's a big difference. I think a letter to P&Z or a requirement from us the fact that the road does get deeded to the Conservation Commission or whoever wants it would go a long way in my mind to owning up to some mitigation that was under a prior approval. I agree with John; you can't take an approval and just do what you want to do – do the filling but not the mitigation. You can't take what you want. In my mind it sits as a violation. We ought to at least get that out of it. If not, I think we ought to write a letter to P&Z endorsing the acquisition of open space due to the fact that we have a decrease in mitigation in this plan versus the prior approved plan.

Tape 2, Side A

There was discussion regarding the ownership of the road and access to open space.

Commissioner Beattie: When this first came up about this road they were going to make some way through there parking lot or something to that open space.

Commissioner Nappi: If they don't own that property or road that we shouldn't make that part of the motion.

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Commissioner Szkola: I think this goes back to where I think someone said to provide parking.

Commissioner Nappi: We could make another motion after that for a letter to P&Z to recommend to look at it; but they don't own that road.

Vice-Chairman Zahornasky: It would be better to be separate.

Commissioner Szkola: Then they could walk away without any mitigation.

Commissioner Nappi: But they don't own the road now.

Commissioner Szkola: Then let's forget about the road. We will mitigate it in another way then. Have them somehow provide access to that open space as per the request from the Conservation Commission and own up to their mitigation they were supposed to do from the earlier application.

Mr. Cook: The area the Conservation Commission is referring to is not just the road they are talking about the wetlands south of the developed portion of the site and the uplands south of the developed portion of the site.

Vice-Chairman Zahornasky: That is a P&Z issue; you can ask them but I don't think it can take place as a condition. I think if you are going to ask them to donate the space in the back that they own, it's another thing, that's fine, but you can't ask for the road.

Commissioner Nappi: You can ask them to consider donating that to the Conservation Commission.

Commissioner Szkola: What can we do to have them own up to the previous mitigation? Can we ask them for that as open space?

Vice-Chairman Zahornasky: We can ask them.

Mr. Cook: That was done last year on Oak Valley Rd. There was a man-made pond that was approved to be filled in. What they ended up doing to provide a public benefit is they created a conservation easement adjacent to an existing city open space, without public access, so that the yard space would not expand to that. That would provide further protection to some other ponds that were in the City open space.

Commissioner Szkola: We can ask for them for open space and access to the City open space down below.

Commissioner Nappi: I think you said in your presentation that you would provide access to a road.

Mr. Pereira: We abut Old Woods Road but we don't own it. If you are looking for access to the open space you need to talk to whoever owns it. That is the way you are going to get access. We abut it but we don't own it.

Commissioner Beattie: That lot is only x by x. Where you're plan would approach the other part that's going, so if you made some arrangements for some deeded parking spots and if the City still owned the rest of that road or it was possible to do it, then you could do that. We have asked for deeded parking spots in other applications.

Mr. Pereira: The problem with deeded parking spaces is liability. What we could do is maybe offer a path along this berm. I don't know if it makes sense to offer a trail out to this right-of-way. If it has been abandoned then we are really leading people to private property.

Vice-Chairman Zahornasky: How about if we have the applicant explore whether the road was abandoned or not. If it hasn't been abandoned then you can provide us with a pathway. If it has been abandoned then we can have it for open space access and we don't need the access on your property.

Commissioner Beattie: But we would like access to the open space one way or the other.

Mr. Cook: As I mentioned about the parcel on Oak Valley adjacent to the Abbey Right open space and where there was a regulated activity they dedicated a conservation easement, recorded the map where they still own the property and does not provide for public access and will keep that property in it's natural state providing a better buffer for their residential property as well as a buffer for the open space activity. But also along the lines for that public benefit there is justifying a regulated activity. Recognizing then in it's present plan the mitigation the applicant does not want to do the mitigation that was designed in '98 and this plan doesn't allow for it but

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adjacent to the existing open space if a like amount of property was set aside with a conservation easement so that it would provide a better buffer to the existing open space.

Vice-Chairman Zahornasky: You were saying where they have a pathway?

Mr. Cook: There are all kinds of public access from Long Hill Ave. where there are a half a dozen parcels that were acquired. The difference between from the mitigation in '98, recognizing the piece that was Klapik is now the City of Shelton, that differential if were set aside as some sort of conservation easement with the idea of access is irrelevant if you are protecting land to improve the buffer of a City open space. Is that public benefit then warrant the relaxation of not having them do the mitigation that was promised in '98?

Commissioner Szkola: What are you thinking?

Mr. Cook: The Conservation Commission is looking to acquire this piece to the east which is part of another engineering firm and they have all the pieces down to the south but the existing open space is in this vicinity (shown).

Commissioner Szkola: Why not ask for the entire piece; it's all wetlands anyway, they are not going to do anything with it.

Mr. Cook: I was trying to go towards the discrepancy between the mitigation in '98 and the mitigation now. The Commission can recommend a conservation easement for the whole thing. It would be part of the condition.

Vice-Chairman Zahornasky: So you are saying roughly an addition of 9000 sq. ft. of conservation easement along that back section to make up for the mitigation?

Mr. Cook: And it doesn't affect their ability as far as using that square footage for the square footage of the building.

The motion is now as follows:

Commissioner Santa MOVED to approve application #06-42 with the condition that the applicant will investigate the ownership of the Old Road and if it was abandoned. The Commission wants access to the open space, whether it be through the abandonment of the Old Woods Road or by a pathway along the berm. The Commission also requests that in lieu of the mitigation as required for the prior permit issued in 1998 that the applicant provide a conservation easement along the southern boundary of the property of approximately 9000 sq. ft. SECONDED by Commissioner Nappi. A voice vote was taken; all were in favor, MOTION PASSED.

Commissioner Beattie: We are talking about the room on the lower part; is there room on the upper part in any way to fulfill that requirement?

Mr. Cook: The reason I mentioned the southern portion is to provide that nexus between the public benefit where there is an existing open space or other resource. They are looking to expand this Long Hill Greenway.

Commissioner Santa left the meeting.

4. PERMIT – APPLICATION #06-43, RESERVOIR CORPORATE CENTER, FLEET PARKING PROJECT – 20 COMMERCE DRIVE. Proposal to create a 198-space vehicle storage yard involving clearing & grading within regulated buffers and discharge of stormwater to a regulated area.

Chairman DaSilva returned to the meeting

Mr. Cook: We have a letter of withdrawal.

VIA E-MAIL AND REGULAR MAIL

Mr. John R. Cook
Shelton Inland Wetland Commission
54 Hill Street
Shelton, Connecticut 06848

Re: 20 Commerce Drive, Shelton - Application For Inland Wetland Permit

Dear John:

INLAND WETLANDS COMMISSION

January 11, 2007

Confirming our telephone conversation, I have just learned that it does not appear that the Enterprise Rent-A-Car transaction will be going forward in the foreseeable future.

Accordingly, I hereby request that the pending application submitted by Second Treetops be withdrawn.

My clients very much appreciate the courtesy and patience that both you and the Commission have shown them in this matter. Once a new tenant has been identified, the appropriate applications will be resubmitted.

Best wishes for a happy holiday season.

Sincerely,

Charles K. Campbell, Jr.

[5. PERMIT-APPLICATION #06-44, TODD'S RIDGE – 74 TODD ROAD. Proposal to create a 150-unit multi-family project involving discharge of stormwater to a regulated area and excavation within regulated buffer. Receipt of application withdrawal.](#)

Mr. Cook: We have a letter of withdrawal:

December 8, 2006

John Cook, EWEO
Thomas Sym, Sewer Administrator
54 Hill Street
Shelton, CT 06484

Re: "Todd's Ridge"-Todd Road

Gentlemen,

On behalf of the applicant, I wish to hereby withdraw all applications submitted for this project.

Yours truly,
James R. Swift, P.E., ASLA

[6. VIOLATION/SHOW CAUSE HEARING, DIMARCO PROPERTY – 11 HOLLY LA, AFTER-THE-FACT PERMIT – APPLICATION #06-22, DIMARCO PROPERTY – 11 HOLLY LANE. Proposal for timetable of restoration. Letter of waiver on statutory requirements.](#)

Mr. Cook: In the Commissioners packet I did get a report from the consulting arborist, received on December 12. It goes through his analysis.

Chairman DaSilva: This is something you have to evaluate. He submitted the replanting schedule.

Mr. Cook: He qualified his report. The analysis was to make assumptions based on existing trees. He qualified his report by stating there is not an evaluation of the cut trees since only the stumps remain. The trees were cut may have been dead or poor vigor before the tree cutting. He just established a firewood value based on the size of the stumps and replacement cost of cut trees since the trees had a screening shaped values. While he does go through all the detail of the stump counts and he makes assumptions over certain sized trees based on the cord value and came up with a total value in his report. The only thing I think is lacking is if you are making assumptions that it the wood was good for firewood but not good to determine that it was sound wood.

Commissioner Szkola: There was no value to the protection of the wetlands or landscape value or anything like that.

Commissioner Nappi: The letter was dated November 11.

Mr. Cook: It was faxed to me on December 12.

Commissioner Nappi: On the third page he is saying that the replacement value of the cut trees is \$42,000. Is that how I read that?

Chairman DaSilva: That is the cost of what he is proposing to plant there.

Commissioner Nappi continued to question the meaning of the statement.

Mr. Cook: Not of the value of the trees, it's the value of what he's planting.

Commissioner Nappi: I understand that but that's not what he's saying. Is he satisfying your terms?

Mr. Cook: No.

Chairman DaSilva: If we get the replacement value of those cut trees, let's determine what we are going to do with that information. The objective is, a violation has been committed. We have to correct that violation right now. The main objective should be for us to do the right thing in taking care of what's there and making sure the replacement value, it's nice to have but to me it means nothing. What I want to know is for someone like Randy or John to say, what he is proposing, the types of trees, the size of the trees, what is the right thing to place there.

Commissioner Nappi: I thought we were concerned of the replacement value in case there is a monetary fine that had to be established.

Commissioner Szkola: Gary and I came up with a number at one point.

Vice-Chairman Zahornasky: We also had a different number on the plantings than they did. We recommended increasing the number and sizes. We also discussed certain penalties for certain individuals.

Chairman DaSilva: Is this a result of their request?

Mr. Cook: No. This was a result of the initial order, which was to do a tree appraisal to help guide us. So that with the appraisal if the trees were worth \$50,000 we know that \$20,000 worth of plantings is not an absurd amount to ask for.

Chairman DaSilva: It can also work against us. I think we should say we want a plan of what you are proposing and review it and respond to it.

Mr. Cook: This was the summary provided to counsel from the committee (the plantings). That planting plan has not come back.

Chairman DaSilva: What I recommend is that Randy and John look at the schedule. Send a final letter to his counsel saying we want a site plan showing the locations of the plants, the types and sizes. If you don't think this list is sufficient then let's get more or the right types of plants. We want a representative at the next meeting and if they are not here and ready to plant when the season begins in the spring then we will fine them whatever we can fine them on a daily basis.

Commissioner Nappi: We have done that, Mr. Chairman. We've asked for the restoration plan.

Commissioner Szkola: We gave them our list of recommendations.

Chairman DaSilva: Then ask town counsel to send them a letter with what we just said before.

Commissioner Nappi: Did they send the plan in?

Mr. Cook: No.

Commissioner Nappi MOVED to refer the VIOLATION/SHOW CAUSE HEARING, DIMARCO PROPERTY – 11 HOLLY LA, AFTER-THE-FACT PERMIT – APPLICATION #06-22, DIMARCO PROPERTY – 11 HOLLY LANE to Corporation Counsel for appropriate action. SECONDED by Commissioner Szkola. A voice vote was taken; all were in favor, MOTION PASSED.

7. PERMIT-APPLICATION #06-50, ASPEN RIDGE – COMMERCE DR/BRIDGEPORT AVE. Proposal to construct a 12-unit condominium complex involving construction within regulated setbacks and discharge of stormwater to the Far Mill River.

Commissioner Hayes excused himself from the discussion.

Jim Swift, Landscape Architect, Professional Engineer

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Mr. Swift: This is a Planned Development District that the Commission had seen some time ago in the form of a conceptual application. We have since received WPCA & P&Z approvals.

Chairman DaSilva: You have P&Z approval for what?

Mr. Swift: For a zone change. We are here for the wetlands approval and at that point we will be free to apply to P&Z for site development. (The site description and existing conditions were detailed). We have done a complete survey of all the existing trees and are shown on the plans. The original plan was for 16 units and the Commission was not impressed with that layout. We came back where we flipped them and also have quite an extensive issue saying that we would do drainage improvements and water quality and evergreen plantings. We are down to 12 units. We have moved the driveway to the upper portion of the site. What this does is frees up some of the drainage issue we had and access for emergency vehicles along our right-of-way. We have a 50' setback to Commerce Drive of pavement. At the end of the site we have an emergency vehicle access (detailed and noted that grass pavers would be used). We have an open space dedication of .061 acres that connects to the Land Trust parcel. It gives a deeded ownership rights to the Far Mill River to the City (shown). The grading works out fairly well; it's not significantly different than the last plan the Commission saw. The grading was shown and detailed.

The drainage system is one where it comes in through a vortex chambers with galleys and an outlet structure. One of the things we added is a separate piping system that comes out to the river. There will be two discharge points at the river, very close together. We placed the pipes where no trees will have to be cut (shown).

Commissioner Szkola: What size pipe?

Mr. Swift: One is a 15" (galley system) and one is a 12". They will be piped together side by side. They are deep enough and at the river elevation where they will discharge right on ledge. There will be no erosion issues.

Chairman DaSilva: What is the elevation of the 100-year flood?

Mr. Swift showed and detailed the 100 yr. flood elevation

Commissioner Szkola: Any chances of it backing up into the galleys?

Mr. Swift: No. (Showed the section through the treatment area). We have sediment and siltation issues, trash floatables and hydrocarbons. This is sort of a three-stage system. The first stage is the catch basins that take this drainage and you will have hooded outlets. This is the first line of defense for sediments. Once that sediment builds up this basin is going to stop flowing. It's going to cause a problem. This corner of the pavement is fairly level. When that system starts to not work because the basin is full, this whole area of pavement is going to become flooded and then they will clean it up. The next is the hydro works water quality separator. That is sediments as well. Anything that gets by that first structure is going to get caught in this one. This structure also works for hydrocarbons and floatables for trash. There is an 80 cu. ft. storage area in the upper levels. Step three is the galleys. We are going to hold 1" of water off all the impervious surfaces. The primary function of that system is temperature. It is trapped in there until it exceeds the capacity of 1". The outlet to the river starts up here (shown). This entire system must fill up, hold the water, and that water has to rise up to this manhole before it gets out of the pipe that you see here. That pipe is elevation 134; the elevation of the river is 129.

Chairman DaSilva: What is the elevation of the 100 yr. storm?

Mr. Swift: It looks to be 137.

Chairman DaSilva: It's still 3' below the pipe.

Mr. Swift: Yeah, but remember that we are taking the first inch into the system. Once you get to the 100-year storm that system has spilled out and it's not functioning.

Chairman DaSilva: I'm talking about backing up. You are still 3' lower at the flood plain than you are with the pipe.

Commissioner Szkola: It's still going to back up into the system. The pipe is 134.

Mr. Swift: It's not an issue because we've accomplished the things we need to accomplish with the system before then.

Commissioner Szkola: What happens to your oils when it backs up?

Mr. Swift: The system is still going to work. They are trapped in here.

Commissioner Szkola: How are they trapped? It doesn't have a one-way valve.

Mr. Swift: There is a floatable chamber in here (pointed out). Let's say the river floods the whole thing and pushes everything back into the pipes. It's still going to start flowing back the other way. The flooding of the river inundating the system can't drag this stuff.

Commissioner Szkola: It's going to come up out of the manhole. That happened before.

Mr. Swift: What's happening is you are pushing it back this way for protection and when the water recedes it's going to go back this way and get trapped. The tops of these structures and all the piping systems are higher.

We have a detailed design on soil and erosion control. You are going to separate operating protections, which I just showed you, to construction protection; which is two separate issues. For that standing water detention is appropriate and has been designed and has been designed in accordance with the State of CT erosion control manual. What that requires is we design a retention pond. Another criteria is that we have to hold a 10 yr. storm water in this retention pond for about 12 hours. It is fed by excavated diversion swales. Once we build this basin and build these swales we protected the site. We are not just building a line of hay bales here and filter fabric and saying no water is going to get by those. We are catching everything.

Another thing the Commission wanted to see is that we said a lot about the existing houses and how the lines go out to the river and what are we going to do about that. We had Mr. Shamus here at the last meeting talking about how we can take and re-create this riparian ecosystem that was there before all these houses were constructed. This plan does detail all those things.

The landscaping was detailed.

We originally said we wanted to do some selective pruning to the river and the Commission said they did not like that idea so we are going protect all the existing trees. The only thing we will take out is some of the invasive grapevines and some briars. We are going to do the in-fill landscaping to create a nice walk by the river.

We don't know what the City and the Land Trust sees in the future or how this is going to be used.

Commissioner Szkola: Not that I agree with it, but you did a nice job on it. What are you planning on doing with the nitrogen and salts?

Mr. Swift: We are going to do the only can do. 90% of the pollutants on any site is contained in the first inch of runoff. When we talk about an average summer shower we feel most of the pollutants will get washed off the site. In that situation none of that water escapes.

Tape 2, Side B

Mr. Swift: As far as the salts, since they are residential units, if it is important to the Commission we can direct that salts can't be used on pavement areas.

Commissioner Szkola: Calcium chloride would be beneficial.

Commissioner Wilson: You could put it in the by-laws.

Chairman DaSilva: John, do you have any issues?

Mr. Cook: While the clock has been ticking on this, this is the first presentation of the final plan. At the beginning of the November meeting there was a request for it to be added to the agenda but there was no discussion. The clock did start. The standard clock is good until January 18. Beyond that time an extension would be in order.

Mr. Swift: Yes, we would request an extension.

Chairman DaSilva: Since is the first presentation, John, you need to do a review of this revision. I agree with Randy that Jim did an excellent job in answering the concerns of the Commission. I think it's a big improvement from what you started with.

Commissioner Nappi: Why wasn't the review done? This has been going on.

Chairman DaSilva: This has been going on since November?

Mr. Cook: Since the 22nd. There was a request to add it to the agenda.

Commissioner Nappi: Did you review the plans?

Mr. Cook: No, because there had not been a formal presentation yet before the Board.

Commissioner Nappi: You don't review them until there is a formal presentation?

Mr. Cook: No, other than brief initial comments.

Commissioner Nappi: It seems to me that it would be worthwhile to the Commission to have you do some review to help the project out prior to us getting it, if you that that much time.

Commissioner Szkola: I think it's beneficial for John to educate himself by listening. You learn more by listening.

Commissioner Nappi: I am sure the engineer would make himself available to John, as he has in the past.

Commissioner Szkola: John also benefits from our comments and concerns.

Commissioner Nappi: I didn't say he had to approve it; I just said his review.

Commissioner Szkola: Right, when he does his review he benefits from our comments.

Mr. Cook: I tend to expedite what I consider a minor development.

Commissioner Nappi: If you didn't review it, you can't expedite it.

Commissioner Szkola: In John's defense, he is up to his ears in violations.

Commissioner Nappi: That is my opinion; you don't have to defend it.

Commissioner Szkola: Right; I don't agree with you.

Commissioner Beattie: We all have been satisfied all along.

Commissioner Nappi: That's good, but I happen to think if we have time to get a review early and he has time, then he can do it.

Commissioner Beattie: I am not aware of the tilt of the road on Commerce Dr. Is there a possibility with massive rainstorms that this is going to pop the curb and come right down?

Mr. Swift explained that they have a double basin protection. We are not getting any water on Commerce Drive.

Commissioner Nappi: What about the maintenance of the stormwater system?

Mr. Swift: It is outlined in the original drainage report. I can outline it in a more formal way. The manufacturers have a maintenance recommendation.

Chairman DaSilva: We would like to see that made part of the condo regulations and be on the record map to have the condo association report back on a 6-month basis as far as the cleaning.

Commissioner Szkola: I am not happy about the nitrogen and salt situation. I am also not happy that it backs up into the system. I can see the oils being flushed back out in a 100-year storm. Mostly I'm unhappy with the fact that it is within the 100' setback of the river. Every other application that comes before us we require it to be out of the 100' setback and we would be setting a bad precedent if we approve this.

Vice-Chairman Zahornasky: It's just a cul-de-sac, right? The other item that the City Engineer mentioned? Is that sufficient?

Mr. Swift: I want to have a chance to talk w/the City Engineer and that is a P&Z issue as well.

There was some discussion regarding the emergency access – that the Fire Marshal will be involved.

Chairman DaSilva: Let me clarify what Commissioner Nappi said about the review of applications, John. I understand and I know that you have a lot of stuff to do. When applications come in we are not going to approve the application because we have to receive comments and the City Engineer's report, however, if it expedites the process for the Commissioners for you to be able to take a look at it and give us more input you don't have to wait. You can review it and as a matter of fact if you review it you would be better informed to ask him questions when he is presenting it. I would prefer for you to do whatever you can to review applications so that you can have a set of questions to ask him while he is here rather than listening to them, reviewing and spending another month going back and forth. If you have the time, do it.

Commissioner Szkola: Speaking of having time, how many times have we asked the Mayor for assistance in this office and we can't get any. As I said, I personally have given him 10 violations.

Chairman DaSilva: I think I was very clear, I said if he has the time to do it.

Commissioner Nappi MOVED to request an extension of application #06-50 until the next meeting. SECONDED by Vice-Chairman Zahornasky. A voice vote was taken; all were in favor, MOTION PASSED.

Commissioner Hayes returned to the discussion.

C. NEW BUSINESS

1. AFTER-THE-FACT APPLICATION #06-49 ZIAM MURTISHI PROPERTY – BRIDGEPORT AVENUE. Resubmittal of application for filling within regulated buffer of Burying Ground Brook.

Mr. Cook: This is a resubmittal of an application several years ago, on Bridgeport Ave. At Burying Ground brook a gentleman had done some filling in the back, filed an application, and it was approved by the Commission but then P&Z denied it. He had wanted to put in a pizza restaurant. Now it has changed and they are not putting in the parking but they still want to maintain the fill. This was filling along the brook.

Commissioner Szkola: Between there and Pioneer Gas?

Mr. Cook: Yes.

Commissioner Nappi: Is this where they did the house over?

Mr. Cook: Yes. I did speak with the agent after the December meeting and informed him that it would be on the January meeting.

Chairman DaSilva: What are they doing building a structure to hold that dirt?

Mr. Cook: I do have the maps if the Commission wants to take a look. What they did have and was a condition of approval was to provide an A-2 survey showing and comparing the contours from the only record that existing which was the 1988 City Topo what the as-built conditions were. That is how they demonstrated how much fill they had brought in. They were going to put in a parking lot and landscaping effort. Right now they are just trying to stabilize it. In order to justify it I would recommend that they continue with some sort of planting along the stream.

Chairman DaSilva: Why don't you look at it and come back to us.

2. PERMIT-APPLICATION #06-52, LONGMEADOW ROAD/FRANK CONNECTOR STORM SEWER PROJECT. Proposal to install catch basins on Longmeadow Road at the Frank Connector and discharge to Means Brook.

Willetta Capelle, Assistant City Engineer

Mrs. Capelle: There are existing drainage problems here and the resident called in to complain several times and in the winter this would create icing conditions. In order to solve the problem we would like to install a couple of catch basins on the roadway and extend the pipes down and discharge into the Means brook. We have a flared end section along with a riprap. We are now calling for 6" but can increase if necessary.

The Commissioners discussed the drainage.

Commissioner Szkola: What is the size of the sumps?

Mrs. Capelle: 2' is standard.

Chairman DaSilva: What is the size of the pipe?

Mrs. Capelle: 15". All are 15".

Chairman DaSilva: What I would recommend is that the riprap be increased from 6" to a larger riprap. What is the length of that riprap?

Mrs. Capelle: It's a 10' length.

Chairman DaSilva: I would like to increase the riprap to 15'.

Mrs. Capelle: Ok, we can increase it but will have to shorten the pipe and bring it back up the hill a little bit.

Chairman DaSilva: That's another 5' and then you can widen the riprap.

Vice-Chairman MOVED to approve application #06-52 with the condition that the riprap is to be increased to 15' and proportionally widen it. SECONDED by Commissioner Szkola. A voice vote was taken; all were in favor, MOTION PASSED.

3. PERMIT-APPLICATION #06-53, HOUSATONIC RISE – HOWE AVENUE. Proposal to create a 4-unit cluster development involving watercourse and upland review regulated activities.

Mr. Phil Tiso, Rose Tiso Company

Mr. Tiso: This is a proposed 4-lot subdivision on Howe Ave. that previously had been submitted and approved but has expired. This has not changed much from the original approval, which was in 2000. One stream runs through the property. On the previous application there was a 6" pipe installed and it is still in place. The only wetland is .03 acres (pointed out). The 50' setback was shown and proposes to encroach into the upland review area by about 25'. There will be piping to an existing 36" pipe underneath Howe Ave. The rest of the intermittent watercourses will be picked up by riprap swales and direct it into a plunge pool. In order to end up with a decrease runoff rate a detention pond will be constructed. The pond will overflow into a riprap swale and then on to the catch basin and out. We are proposing to create a large open space, which is 2.7 acres. Each lot would have over an acre each. There will be a private road. The design is mostly the same except now we are using 4' sumps instead of the 2'.

Chairman DaSilva: Why the conservation easement, why not just deed the property as open space? Is that area part of the square footage of the lots?

Mr. Tiso: Yes. I think it was because of a secondary access.

Chairman DaSilva: I don't have a problem with the access. I was just wondering why you were putting a conservation easement – why not just make it part of the open space, if you didn't need the square footage for the lots?

Mr. Tiso: I am not entirely sure. I think it was because of a secondary access.

Commissioner Beattie: We talked a lot about this at one time.

Mr. Tiso: I don't know how detailed you want me to get.

Chairman DaSilva: That brook that runs through there is it pretty steep? Is it well defined so that the wetland line starts from the edge of the brook?

Mr. Tiso: Yes. When the project was originally reviewed by a soil scientist this was the wetland area.

Commissioner Szkola: So the brook will feed the pond?

Mr. Tiso: No, the brook will continue to flow in its normal course. Other runoff will go in there.

Commissioner Szkola: So the retention pond will not have water at all?

Mr. Tiso: No.

Commissioner Beattie: What is on the other side is there a steep drop? What provisions are made?

Commissioner Szkola: It just continues right down to the river.

Mr. Tiso: At the other side of the highway there is an existing watercourse.

Chairman DaSilva: Ok, we will accept it for review.

4. PERMIT-APPLICATION #06-54, LONG HILL CENTER – 159 LONG HILL AVENUE AND BRIDGEPORT AVENUE. Proposal to create a mixed 4,800 square foot retail complex and 5-unit residential complex involving discharge of stormwater to Burying Ground Brook and grading within its setback.

Chairman DaSilva excused himself from the discussion.

Alan Shepherd, Professional Engineer, with NOK, 415 Howe Ave, Shelton

Mr. Shepherd: (Detailed the area) This is where the box culvert starts at the Burying Ground Brook. What they would like to do is to come in with a mixed-use – commercial and residential. Long Hill Ave. will have the residential and Bridgeport Ave. will have the commercial. No grading is needed. There is a 12' box culvert that goes through the property. It is in the 100' flood plain. I will maintain the contours. We will redefine the driveway. For the drainage I want to go to total recharge into the groundwater table. I didn't want to do a detention area because it is so close to the brook. It would be better to take the water and recharge into the ground. This just holds it back a little longer. There will be no filling of the wetlands.

Vice-Chairman Zahornasky: What condition is the headwall?

Mr. Shepherd: It is in fair condition. It looks like it was put in the 1960's. The box culvert is in good shape. I did make a little change to the radius and would like to submit it.

Vice-Chairman Zahornasky: Ok, we will accept it for review.

5. PERMIT – APPLICATION #07-02, WHITE HILLS HOMES

Attorney Steven Bellis, representing White Hills Homes

Mr. Bellis: This was owned by the Regan's. There was an access from Regan Circle to lot #1. This is on Meadow Street near Perry Hill Rd. There are no wetlands. We thought we could get an administrative review because it is a free-split. There are two houses proposed. The issue of why we are before you tonight is there is a man-made pond made by the Regan's. We are proposing a common driveway off Regan Circle and split to the two lots. The driveway is within 50' of the pond.

Chairman DaSilva: Are you within the easement that exists for the lot?

Mr. Bellis: Yes.

Commissioner Szkola: Are you making any provision for two driveways?

Mr. Bellis: No, Alan Shepherd has proposed to put a 3" rock and to put gravel and a flow spreader.

Chairman DaSilva: It's like a filter.

Alan Shepherd

Mr. Shepherd: What I would rather do than the piping is that it is a low depression and it's not a large watershed that goes through it. I would rather take out the soil and put in 3" stone wrapped in filter fabric and let the water sheet flow off the driveway and also go underneath to the stone. On the low side use a low spreader to keep the sheet flow off the driveway.

Commissioner Szkola: What about coming off Meadow St?

Mr. Bellis: Meadow St. has the area where they did the new reconfiguration to Perry Hill Rd. They took some land for the widening and we had spoken to the neighbors and they are right on the lot line. If we were to put two more houses off Meadow St. you would have 4 houses all jammed-packed together. The neighbors didn't like that. It also slopes down dramatically. You would have at least 2000 yards of fill.

Tape 3, Side A

Chairman DaSilva: I also think the City Engineer would prefer that no more driveways come out onto Meadow St. There are no wetlands in the cul-de-sac and it's a man-made pond that has been there for a long time. I don't see why you can't go through there.

Mr. Bellis: That is why I am here tonight is for your blessing.

Chairman DaSilva: Is that what you were suggesting coming out to Meadow St?

Mr. Cook: They already had it designed that way in May of 2006. They had two frontage lots. The plans were designed with marginal driveway grades that still work in spite of the road work.

Chairman DaSilva: Forget the grades, I'm not concerned with that. I just don't want to have any traffic coming out to Meadow St. with the school buses coming by.

Mr. Cook: It was an alternative where there would have been no regulated activity.

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Chairman DaSilva: Let's be realistic, what's the regulated activity? This is a man-made pond that exists there. There is an easement that was created.

Mr. Cook: It's a beautiful man-made pond.

Chairman DaSilva: Are you disturbing the pond at all?

Mr. Cook: No, they are not in the pond.

Commissioner Wilson MOVED to approve application #07-02 subject to the City Engineer's approval. SECONDED by Vice-Chairman Zahornasky.

Commissioner Szkola: I think you would be better off with a hard pipe and cap at both ends. My concern is if it would back up on the swale. What is going to hurt if they put a 4" or 6" pipe.

Vice-Chairman Zahornasky: It has to be approved by the City Engineer.

Mr. Cook: I did have a conversation with the City Engineer and he has no problem with the driveways on Meadow St. He has no problem with the grades and the site distance is fine. I did go over this and I looked at the cross-sections.

Commissioner Nappi: I am sure the neighbors don't want it on Meadow St.

Mr. Cook: It matches the existing zone. The existing zone is for that frontage.

Chairman DaSilva: I think you are missing the point. You show me the impact that this has on the man-made pond and if it is significant then I will be more than happy to vote for it to be on Meadow St.

Commissioner Szkola: Why don't we wait; I want to take a look at it.

A voice vote was taken; all were in favor except Commissioner Szkola. MOTION PASSED.

D. OTHER BUSINESS

1. ESTABLISH 2007 MEETING SCHEDULE.

Mr. Cook: A email was received from Alderman York requesting the Commission consider changing the meeting to another night.

Chairman DaSilva: I recommend we do not change the schedule because my schedule is already set and I am other boards and this would be a problem for me.

Vice-Chairman Zahornasky: Has the schedule been submitted?

Mrs. Chaya: No, it has not been submitted. We need a vote from the Commission and we have until the end of the moth.

Vice-Chairman Zahornasky MOVED to approve the submitted 2007 meeting schedule. The Commission shall meet on the second Thursday of each month at 7PM in room 303. SECONDED by Commissioner Nappi.

Commissioner Beattie: Perhaps we could do something alternately. If this is in the betterment of the community maybe we should have some alternate meetings.

Chairman DaSilva: We haven't had any complaints.

Commissioner Beattie: Until now.

Commissioner Hayes: If this type of concept is approached perhaps we should consider it for the following year.

Vice-Chairman Zahornasky: This room is used by other Commissions and we would have to consider all the other meetings in City Hall.

A voice vote was taken; all were in favor, MOTION PASSED.

IV. MINUTES

Vice-Chairman Zahornasky MOVED to approve the November 9, 2006 minutes. SECONDED by Commissioner Nappi. A voice vote was taken; all were in favor, MOTION PASSED.

The clerk discussed the changes in the minutes such as the table of contents and how it has the hyper-link feature. The minutes are available on the City web site at www.CityofShelton.org

The clerk also talked about the Google groups to meet the FOI requirements of a special meeting. The Commissioners did not think that they would be using this feature at any time soon.

V. ADJOURNMENT

Vice-Chairman Zahornasky MOVED to adjourn. SECONDED by Commissioner Szkola. A voice vote was taken; all were in favor, MEETING ADJOURNED at 10:25 PM.

Respectfully submitted,

Marianne Chaya
Clerk, Inland Wetlands Commission
3 Tapes are on file in the City/Town Clerk's Office