ENVIRONMENTAL PROTECTION COMMISSION
GENERAL MEETING/PUBLIC HEARING
SPECIAL MEETING MINUTES
MARCH 22, 2006

Room 119
Wednesday, March 22, 2006 **7:30 p.m.** Town Hall

Chairman Hillman called the meeting to order at 7:30 p.m. Members present: Peter Hillman, Craig Flaherty, Reese Hutchison, Ned Lewis, Pete Kenyon, Susan Cameron, Ellen Kirby

Staff member present: Richard Jacobson

Court Reporter: Bonnie Syat

Minutes of February 15, 2006.

The Commission discussed the minutes of February 15th. A Motion was made to approve the minutes with changes by Mr. Hillman and seconded by Ms. Cameron. The motion passed 6-0 Mr. Lewis abstained.

Discussion regarding the Darien High School Project, EPC-49-2001, 80 High School Lane.

The Commission discussed the Darien High School project. Mr. Hillman requested an update from Joe Canas for the April 5th meeting.

Cornacchia appeal - Superior Court decision

The Commission discussed the recent court decision on the Cornacchia appeal. Mr. Hillman read Ira Bloom's letter to the Commission. Mr. Hillman said that the Court's analysis showed that the Judge accepted all of the Town's arguments. He said this is a bittersweet victory because the Commission tries to work with applicants, but in this case the Commission just had to say no to the applicant. He said the case is a road map for other Commissions in writing denials. The Commission gave credit to Nancy Sarner for her expert analysis, which was cited by the Judge in the decision.

Ms. Cameron asked about the ongoing planting requirements which have never been implemented. They should be required. The Commission will request an opinion from Ira Bloom on whether the planting should be pursued.

Chairman Hillman read the next agenda item:

The Chairman stated that new material was provided to the Commission by Mr. and Mrs. Stefanoni. The Commission will receive this information at their regular meeting on April 5th. Town Counsel will be providing an opinion.

Old Business

Mr. Hillman read the next agenda item:

EPC 89-2005, Mona Tjader Slack, 6 Runkenhage Road, requesting a permit for emergency repair of existing septic system within a regulated area. The subject property is located on the south side of Runkenhage Road, approximately 150 feet south of its intersection with Tokeneke Trail, and is shown on Assessor's Map #69 as Lot #33.

Mr. Lewis stated that he has listened to the tape of the public hearing and is eligible to vote. He also suggested that the future revisions of the application form should include a question whether the property is the subject of any civil action and, if so, the applicant should provide details.

Mr. Kenyon questioned whether the flow from the applicant's property is creating the icing conditions cited by the neighbor. He said that no one knows what condition the drainage system downstream is in or what is needed to repair it. Mr. Hutchison stated there appears to be no causal relationship proven between the applicant's project and the icing condition and flooding. He said the flooding appears to be caused by a blockage in the pipe. Mr. Hillman stated that it is in the neighbor's interest to alleviate the ponding condition. Mr. Hutchison said the Commission offered to help and offered support to solve the problem.

The Chairman directed the staff to draft an approval stating there is no significant impact from the project on the regulated area. The approval will include a brief history of the project including the repair and the Health Department notice of violation. Also included will be a discussion of the piping of the intermittent watercourse and the proposed mitigation.

Mr. Hillman read the next agenda item:

EPC 4-2006, John B. Ward, 32 Beach Drive, proposing repair/replacement of existing sea wall with associated excavation and filling within a regulated area. The subject property is located on the west side of Beach Drive approximately 300 feet south of the intersection of Outlook Drive and Beach Drive and is shown on Tax Assessor's Map 53 as Lot 6.

The Commission will review the draft approval for the April 5th meeting.

Mr. Hillman read the next agenda item:

EPC 5-2006, S.E Minor & Co., Inc. on behalf of James & Susan Brewer, 98 Ridge Acres Road, proposed filling and re-grading within 50 feet of a regulated area. The subject property is located on the east side of Ridge Acres Road approximately 700 feet north of the intersection of Highview Road and Ridge Acres Road and is shown on Tax Assessor's Map #4 as Lot #46

The Commission will review the draft approval for the April 5th meeting.

Mr. Hillman read the next agenda item:

EPC 14 - 2006, Michelle and John Sini, 36 Birch Road, Proposing landscaping activities including shrub plantings, tree replacement, dead tree removal, and repair and replacement of walkways, patios and fences within a regulated area. The property is located at the southeast corner of the intersection of Birch Road and Point O'Woods Road and is shown on Assessor's Map #13 as Lot #32.

Mr. Sini represented himself. He said he had been listening to the earlier part of the meeting and he agrees that owners should keep notices regarding wetlands on the property with their paperwork. Mr. Hutchison asked him about the earlier remediation plantings. Mr. Sini said the work was completed within two months of the prior approval. A motion was made to approve the application by Ms. Cameron and seconded by Chairman Hillman. The motion was unanimously approved.

Mr. Hillman read the next agenda item:

EPC 15 - 2006, Loren M. Meyer, Architect on behalf of Robert and Sarah Tricarico, 6 South Trail, proposing an addition and alterations to an existing dwelling within a regulated area. The property is located on the north side of South Trail approximately 300 feet west of the intersection of Old Farm Road and South Trail and is shown on Assessor's Map #65 as Lot #61.

Loren Meyer, architect, represented the applicant. Mr. Meyer provided a description of the expansion of the existing house. Mr. Hillman asked him what the closest point of the house to the wetland is. Mr. Meyer answered 21½ feet. Mr. Hutchison asked when the house was built. Mr. Meyer said it was built in the 1950's. Mr. Meyer said the additions require just a small increase in the footprint of the house. Mr. Hillman asked him about the size of the house. Mr. Meyer said the house is just over 5,000 square feet and the proposed additions will make the house just over 6,000 square feet.

Mr. Meyer said he met with the staff regarding enhancement plantings. Ms. Cameron asked where the plantings are proposed. She asked if all of the wetland area which is now lawn, on the property could be planted. Mr. Meyer said that would be possible.

Mr. Hutchison asked about the septic system approval. Mr. Meyer said that a B-100 Plan has been approved. Mr. Flaherty asked if the septic system is outside of the wetlands' setback. Mr. Meyer responded yes. The Commission discussed the planting plan and the method by which the wetland line will be marked. The alternatives include a split rail fence or a row of boulders. The Commission decided that a planting plan should be submitted for review by the staff and a subcommittee. The plan shall include planting the entire lawn area within the wetland soil and a row of boulders along the wetland boundary. A motion to approve the application was made by Mr. Hillman, with a stipulation that a planting plan be submitted for review. The motion was

seconded by Mr. Flaherty and passed unanimously. Mr. Hutchison requested that the Resolution include a statement that the scope of the additions to the house are not significant.

Mr. Hillman read the next agenda item:

EPC 17- 2006, Gilbert B. Wheless, Jr. Landscape Architect on behalf of Conrad and Mallory Weymann, 62 Deep Wood Road, proposing alterations to an existing driveway and grading activities within a regulated area. The property is located at the southeast corner of the intersection of Deepwood Road & Laurel Lane and is shown on Assessor's Map #26 as Lot #23.

Gil Wheless, Landscape Architect, represented the application He said there is a net reduction in impervious surface within the regulated area and that the applicant will be installing grass pavers for a portion of the parking. He said the landscaping plan includes a grove of Ilex verticillata within the wetland setback. Mr. Hutchison noted that the additions to the house are outside of the 50 foot setback. A motion was made to approve the application by Mr. Hillman and seconded by Mr. Hutchison. The motion passed unanimously.

Mr. Hillman read the next agenda item:

EPC 20- 2006, Paul Harris, on behalf of Althea and Bill Perley, 3 Seagate Road, proposing to construct and addition to an existing dwelling and replace an existing driveway within a regulated area. The property is located on the southwest corner of the intersection of Seagate Road and the Boston Post Road and is shown on Assessor's Map #53 as Lot #58.

Paul Harris, architect, represented the applicant. He said the existing structure will be improved and all of the construction will be over the existing footprint. Regulated activities include repaving the driveway. There is a watercourse within the regulated area along the easterly property boundary. Mr. Perley said there is a large maple tree in poor condition near the house which they are proposing to remove. Mr. Hillman asked the applicant if he would be willing to provide new plantings within the wetland and he asked where they may be located. Ms. Cameron suggested shrubs and ground cover within the wetland area which is now lawn. The Commission discussed the possibility of one or two replacement trees for the tree which is going to be removed. Mr. Harris stated that there are already a number of large trees on the property.

Mr. Flaherty asked if all of the proposed permit work on the residence is outside of the 50 foot regulated area. Mr. Harris answered yes. Mr. Flaherty asked about the two anti-tracking pads entering the property. He said he would prefer that the applicant use the Post Road access. Mr. Harris said that they intend to use the Post Road access for the bulk of truck deliveries. Mr. Flaherty noted that the increase in impervious surface is minor and that the applicant has proposed two dry wells for the roof leader runoff.

A motion to approve the application was made by Ms. Cameron with stipulations that the wetland area which is lawn be replanted and the applicant will provide a planting plan to the staff

and a subcommittee of the Commission. The motion was seconded by Mr. Flaherty and passed unanimously.

Public Hearings:

Chairman Hillman opened the public hearing at approximately 8:30 p.m.

EPC 3-2006, Christopher and Debra Seiter, 459 Mansfield Avenue, proposing to construct a swimming pool within a regulated area. The property is located on the west side of Mansfield Avenue approximately 800 feet north of Half Mile Road and is shown on Assessor's Map #2 as Lot #34

Brandon Jones from Glen Gate Company represented the applicant. Mr. Jones provided an over view of the project and said that revised planting plans had been prepared to improve the south east wetland. Mr. Hutchison asked about the plantings near the pool which are proposed within the easement. Mr. Jones stated that this is not proposed to be a formal garden and that there is no change proposed in the grades.

Ms. Cameron asked about the use of wild roses on the planting plan. Mr. Jones said that the plan will use native roses. William Kenny suggested that the applicant substitute Ilex verticillata for the wild roses on the planting plan. Mr. Kenyon noted that the plans submitted were not certified by an engineer or landscape architect. Mr. Jones stated that the modified plan would be prepared with an engineer's seal.

Mr. Hillman noted that the Commission appreciates that the applicant worked with the Commission in making changes in addressing alternatives. Ms. Kirby asked whether the square footage of the pool is within the wetlands setback. Mr. Jones said approximately 150 feet is within the setback. He said the size of the pool was reduced by 20%. A motion to close the public hearing was made by Chairman Hillman seconded by Mr. Hutchison and passed unanimously.

Mr. Hillman suggested staff prepare a resolution approving the application. The resolution should state that the approval is consistent with the previous Commission's approval of the subdivision. The pool will be 76 feet at the closest point to the most valuable wetland on the property. The pool will be 40 feet from the less valuable wetland on the property. Also, the proposed pool does not drain toward the most valuable wetland.

Mr. Hillman read the next hearing item:

EPC 2-2006, Laurie Stuek, 22 Driftway Lane, proposing demolition of the existing residence and construction of a replacement building and modified driveway and related site development activity within a regulated area. The property is located on the east side of Driftway Lane approximately 1300 feet south of Tokeneke Road and is shown on Assessor's Map #66 as Lot #122.

Mr. Hillman stated that he, Ms. Cameron and Mr. Hutchison had walked the site since the last public hearing. Mr. Kenyon said he had also walked the site recently. Michael Fishman from Stearns & Wheler represented the applicant. He said the house was built on fill within the flood plain. He noted that he had submitted the March 9th report identifying mold within the crawl space and the house. Chairman Hillman asked Mr. Fishman when he had received the mold report from Brooks Laboratories. Mr. Fishman said he received it the night of the March 1st public hearing. Mr. Hutchison asked Mrs. Stuek if mold was noted by the building inspector. Mrs. Stuek said they suspected mold because the house was in the flood plain. She said they did not intend to demolish the house when they purchased it. Mr. Hutchison asked if they had pursued remediation of the mold. Mrs. Stuek said they had not. Mr. Hillman said that people who buy wetlands properties sometimes assume that the Commission will approve major renovations or tear-downs. Mr. Fishman said that the proposed house has been shifted away from Tokeneke Brook and away from the wetland. He said there will be a net decrease in impervious surface within the regulated area. The fill will displace flood plain capacity. The original proposal was to use underground pipes for flood storage. They are proposing to excavate filled wetlands and remove approximately 6 inches of fill and seed with a native wetland seed mix. Rain gardens have been added to the plan for above ground detention.

Mr. Hillman asked Mr. Fishman if the act of demolition is, in his opinion, a significant impact. Mr. Fishman answered, no, not with proper erosion and sediment controls. Mr. Hillman asked how close the existing house is to the watercourse. Mr. Fishman answered 23 feet. Chairman Hillman said that he disagrees and that a staging area and demolition activity within 20 feet of the wetland is a significant impact. Chairman Hillman asked Mr. Fishman if he has ever been engaged by a client where he felt that the project would have a significant impact on the wetlands. Mr. Fishman responded, yes, the sewer line construction across the Goodwives River. Chairman Hillman asked if he has ever been engaged by a private owner where he felt there was a significant impact. Mr. Fishman answered probably not. Chairman Hillman asked him how many projects he has worked on in front of the Darien EPC. Mr. Fishman said approximately 100. He said that projects which are brought to him sometimes have an initial proposal which will have significant impacts. He said his job is to avoid impacts, minimize impacts, and replace functions, where appropriate.

Ms. Cameron asked about the additional impervious surface on the entire site. Mr. Fishman answered that there will be 748 square feet total increase in impervious surface. Mr. Flaherty asked about the total footprint of the house existing vs. proposed. The applicant provided that information. Mr. Flaherty asked Mr. Fishman to describe the function of the rain garden. Mr. Fishman said the roof leaders will be directed to the rain garden and a perforated pipe. Driveway runoff will be directed to the rain garden by sheet flow. Mr. Flaherty said he is concerned about the elevation of the bottom of the rain garden. The proposed input may be below seasonal high ground water. A two foot cut is proposed into the ground. Mr. Flaherty asked if they are replacing flood plain storage volume. Mr. Fishman said yes. Mr. Flaherty suggested that the applicant should provide additional information on the Soil Report describing the UD soils. It would be helpful to know exactly how much fill is in the wetland or to determine whether it

would be better to remove the fill or seed over with a wetland seed mix. He also requested that John Roberge provide a study of the impact on Tokeneke Brook and a backwater analysis. Mr. Flaherty asked if fill is required for the septic system. Jeff McDougal answered that no fill is required. Mr. Flaherty requested a septic system plan which the applicant will provide. Mr. Hutchison requested information on the square footage of the existing house versus the proposed house because of the potential impact. Chairman Hillman asked Mr. Fishman why the first reference to mold was in his March 9th letter. He questioned whether the house needs to be torn down. He said the Brook's report does not state that the house needs to be torn down. He would like to hear from an independent expert whether tearing down the house is the only option. The Commission determined that an outside expert to advise on the mold issue will be retained.

Mr. Fishman addressed the Commission regarding the concerns of the neighboring owner, Mrs. Luce. He said the stone wall which she thought would create new runoff is an existing stone wall not proposed. He said that she will be submitting a later letter stating that she has no objections to the project. Mr. Kenyon requested more information regarding the current house size, the number of bedrooms versus the proposed and the change in the size of the house and usage. He asked why they would keep an existing garage when there is a new garage proposed. Mr. Fishman said that one of the garage bays is a mechanical room. He said that there is no basement allowed for storage or mechanical equipment because the house is in a flood plain. Mr. Kenyon asked about a build-up of debris within the stream. Mr. Fishman said that that is caused by a natural back water area. Mrs. Stuek asked to comment about the proposed square footage of the house. She said there is a master bedroom proposed on the ground floor for medical reasons. The Commission continued the public hearing until April 19th.

Chairman Hillman read the next hearing item.

<u>EPC 92-2005, William W. Seymour & Associates on behalf of Kent & Lisa Eppley, 20 Driftway Lane</u>, proposing to construct a two-story garage and perform related site development activities within a regulated area. The subject property is located on the east side of Driftway Lane, approximately 200 feet northeast of its intersection with Tokeneke Road, and is shown on Assessor's Map #66 as Lot #121.

Michael Fishman from Stearns & Wheler represented the applicant. He stated that decreasing from a three car garage to a two car garage would not reduce the run off significantly. He said they are proposing to remove a shed on the property to reduce impervious area. The Commission reviewed aerial photographs, provided by Ms. Cameron, which show a view of the house prior to expansion in 1973. Ms. Cameron provided a copy of the Zoning Permit application which stated that no disturbance is to be permitted within 50 feet of the wetlands. The Commission discussed that there has been extensive building and expansion done which was never reviewed by the EPC. Mr. Hillman said that at an earlier public hearing it was represented that the garage was full and used as storage. He said that he and Ms. Cameron were on the property they observed a car pulling out of the garage. Ms. Cameron said that the applicant has not offered any alternatives to the project including a two car garage. She said that she feels that there will be significantly more activity in the regulated area associated with a three car garage

and the proposed storage. Mr. Fishman responded that much of the area is already being used actively. He said the wetland on the property is a highly manipulated system and there is no active wildlife use. He said this reach of the Tokeneke brook has been impacted by previous activity. The proposal is to attempt to restore a vegetated riparian corridor along a portion of the Tokeneke brook.

The Commission members questioned why the garage could not be moved up against the existing stone wall outside of the regulated area. Mr. Fishman responded that this would require a zoning variance and that the driveway layout would make it difficult to turn into the garage. Mr. Hutchison asked about the percentage of coverage on the lot. Mr. Fishman answered that the coverage is 8.1%. Mr. Flaherty asked about the width of the proposed buffer. Mr. Fishman answered the buffer will be between 10 to 15 feet planted with shrubs.

Mr. Flaherty said that he believes the three car garage creates a potential for increased impact due to construction and future maintenance activities which will be in much closer proximity to the stream. Mr. Hillman stated that he believes a three car garage will have significant adverse impact versus a two car garage. A motion was made to close the public hearing by Ms. Kirby, second by Mr. Hillman.

The Commission discussed the Eppley application. Ms. Kirby said she feels the entire structure should be moved out of the regulated area. Mr. Flaherty says he does not see a significant impact from the project with the proposed mitigation. Mr. Hutchison said he would like to see the Zoning Board of Appeals review the project. He feels there may be a significant impact with a two or three car garage. He said he does not feel the applicant has shown a need for a three car garage but that he would weigh the potential impacts versus the proposed mitigation. Ms. Cameron said that the development of the property represented a piece-meal approach and all of the activities would never have been approved if they had all been proposed at the same time. She said that, although this project may have a limited impact, every impervious surface increase has an incremental impact. Mr. Lewis said he believes the garage should be moved toward the wall as much as possible and as much as possible it should be removed from the regulated area. The staff will draft a resolution of approval for a two car garage. The Commission discussed that the applicant only reluctantly offered the two car garage as an alternative. The Commission expressed displeasure at the applicant's reluctance to cooperate with the Commission and for the applicant's lack of candor regarding the need for an additional garage bay. Mr. Hutchison suggested that a bond be required to ensure that the planting is completed

Meeting adjourned at 11:25 p.m.

Respectfully submitted,

Richard B. Jacobson
Environmental Protection Officer