

**ENVIRONMENTAL PROTECTION COMMISSION
MINUTES
GENERAL MEETING/PUBLIC HEARING
July 6, 2005**

Room 206, Town Hall

7:30 PM

Commission Members Present:

Chairman Peter Hillman, Nina Miller, Pete Kenyon, Reese Hutchinson, Ellen Kirby, Ned Lewis

Commission Staff Present: Director of Planning, Jeremy Ginsberg

Court Recorder: Syat

Old Business:

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

Nobody was present to discuss this item.

Mr. Hillman then read the next agenda item:

EPC-60- 2005, Anthony Totilo on behalf of Anne Pankowski, 17 Mystic Lane, proposing additions and alterations and related site development activity within regulated portions of the property. The site is located on the southwest side of Mystic Lane approximately 500 feet south of the intersection of Mystic Lane and Leroy Avenue and as shown on Tax Assessor's Map #18 as Lot #62.

Mr. Hillman noted that this is a somewhat involved application with some interesting materials and it deserves the full scrutiny of the Environmental Protection Commission. He believed that a public hearing is probably not necessary but that there will not be enough time for the EPC to consider this application this evening. Mr. Anthony Totilo was present on behalf of the property owner and said that he was understanding of the situation.

Mr. Hillman then read the next agenda item:

EPC 61-2005, Tucker & Elaine Scott, 655 Hollow Tree Ridge Road.

Mr. Hillman also noted that the Commission would not be able to get to this agenda item either and instructed Mr. Ginsberg to put it on the August 3, 2005 EPC agenda solely due to time constraints at this evening's meeting.

Mr. Hillman then read the next agenda item:

EPC -33-2005, Divesta Civil Engineering Associates on behalf of Gordon Jelliffe, 77 Brookside Road, Public Hearing concluded on June 15, 2005

EPC members reviewed the draft Resolution prepared by Mr. Keating. Ms. Miller had some minor comments on the draft Resolution. On a motion by Mr. Lewis, seconded by Ms. Miller, the following Resolution was approved by a vote of 6 to 0.

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- A. On behalf of Gordon Jelliffe of 77 Brookside Road, Darien, an application has been submitted to the Environmental Protection Commission by DiVesta Civil Engineering Associates, LLC. The application involves the proposed construction of a detached structure that will be utilized like an extension of the existing home on the property but it will not be another dwelling or apartment or residence. There is an existing, single family dwelling located on the northeast corner of the site and that structure is approximately 270 years old. Construction of an addition to the existing building could adversely impact the historic character of the building, and thus the plan is to construct the proposed separate detached structure to contain a large family gathering room and some loft space and a storage basement.
- B. The proposed structure appears to comply with the Darien Zoning Regulations with respect to zoning setback requirements, but it would be located within the flood hazard area adjacent to the Goodwives River and within the 100' area regulated by the Environmental Protection Commission adjacent to the Goodwives' River and just beyond the 50' regulated area adjacent to the wetlands near the Goodwives' River. The site disturbance and drainage system would be within the 50 foot regulated area around the wetlands.
- C. A public hearing was started by the Environmental Protection Commission on June 15, 2005. As a result of the discussions at the public hearing, the applicant volunteered the creation of a conservation easement that would extend from the westerly property line (along the Goodwives River) up to approximately contour elevation 82. Another concern discussed at the public hearing was the storm drainage management plan and how it could/would be modified to reduce the amount of disturbance within the regulated area.
- D. Applicable maps and drawings that are the most recently received by the Commission include:
- Jelliffe Residence 77 Brookside Road Darien, Connecticut Proposed Site Development Plan prepared by DiVesta Civil Engineering Associates, LLC dated 4/11/05., Sheet 1 of 2 and the Details Sheet, 2 of 2, and
 - Survey of Property for Gordon Jelliffe and Alta Jelliffe 77 Brookside Road Darien, Conn. prepared by Roy G. Cary and revised most recently on August 24, 2004
- E. At the public hearing, the Commission members expressed concerns about the proposed impacts upon the Goodwives River, the wetlands adjacent to the Goodwives River, the flood plain adjacent to the Goodwives River and other impacts that the proposed development could have. There was considerable discussion regarding the amount of site disturbance, filling and regrading to accommodate the proposed structure and proposed driveway. The applicant agreed to revise the drainage plan to minimize site disturbance, filling and regrading.
- F. Commission members recognized the limited development capability of this property due to its shape, the Goodwives River that flows on the westerly portion of the site, the adjacent wetlands along the Goodwives River, the areas regulated by the Environmental Protection Commission within 50 feet of the wetlands and within 100 feet of the River, and the flood plain that encompasses portions of the site.
- G. The proposed building would not be a separate residence or a dwelling unit. It would not have any kitchen or cooking facilities and it would not allow for the creation of a separate lot or division of the property. The Commission eventually concluded that, from an Environmental Protection Commission perspective, the proposed limited filling and regrading and modest size and use of the structure and driveway turn-around area as

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proposed on the most recently submitted plans and drawings seem to be the only feasible and prudent alternative for the reasonable use and development of the subject property.

H. Based on that finding, the Commission hereby approves the application in accordance with the most recently submitted drawings, plans and application materials and subject to the following conditions and stipulations:

1. As discussed at the Public Hearing, revised plans and drawings to clarify the location of the conservation easement and the revised drainage plan need to be submitted for review, and if everything is in order, to be signed by the Chairman as being the final, approved plans. Construction shall be in accordance with the final plans. Any deviation, modification, expansion or other changes from the plans submitted to the Commission shall not be valid unless and until they are submitted to the Commission for review and are found to be acceptable to the Commission.
2. The Commission notes that the proposed construction and alterations to the site seem to have maximized the development potential of the property based on the constrictions imposed by the Zoning Regulations with respect to setback requirements, the slope and grade of the terrain, the floodplain, the Goodwives River and the wetlands. The amount of development being authorized by the Commission at this time should not be expanded upon or extended closer to the wetlands or to have any additional structure, building, deck, patio, lawn or other development as close to the wetlands as those being approved at this time.
3. This Permit is valid for 5 years, until July 6, 2010, but once the work within and adjacent to the wetlands has been started, that work must be completed within one year.
4. Once the foundation for the structure has been installed, the applicant shall submit an updated As-Built survey map prepared by a licensed land surveyor to verify that the construction activity complies with the plans submitted as part of this Permit. A similar As-Built map shall be required to verify that the storm drainage and regrading of the site is in compliance with the approved plans and that no filling or regrading is closer to the wetlands or river than approved herein. The As-built survey of the developed conditions is required prior to issuance of a Certificate of Zoning Compliance and/or use of the structure.
5. The Commission notes that the design proposed by the applicant and approved by the Commission, leaves very little backyard play area or lawn area on the west or south sides of the structure because the proposed development activity is so close to the wetlands.
6. The Commission has based its action upon the representations made by, and the plans and materials submitted by the applicant and her representative and if any of the plans or representations are false, deceptive, misleading, or inaccurate, the Commission reserves the right to void the Permit. Such action shall not be taken by the Commission unless and until a public hearing is conducted at which time the applicant will be given an opportunity to explain the situation.
7. As noted at the Public Hearing, the applicant has proposed to create a conservation easement to cover the wetlands on the east side of the Goodwives River as it passes through the entire property and the area near the wetlands up to approximately elevation 82. The Commission accepts the offer to further protect the environmental sensitive portion of the site. The exact location of the easement shall be shown on the plans and might vary slightly from elevation 82 in order to provide for straighter survey lines that

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are easily marked and/or monumented on the site and reproducible in the future. The language of the easement shall be drafted using the standard language to be provided by the staff and shall specify that the area is not to be a lawn or active recreation area nor is it to be developed or built upon. The final language shall be subject to review and action by the Town Attorney and the conservation easement must then be filed/recorded in the Darien Land Records as a permanent restriction upon the land that can and will be easily discoverable by future owners and/or prospective owners of the site. The conservation easement shall be shown on all future maps of the site and shall be filed/recorded prior to the issuance of a Zoning Permit for the proposed structure and prior to any disturbance of the site.

Mr. Hillman then read the next agenda item:

Requested modification of EPC-25-2005, Thomas & Linda Hoyt, 17 Lynn Court, regarding shed to be relocated within regulated area. The subject property is located on the west side of Lynn Court approximately 550 feet west of the intersection of Lynn Court and Hoyt Street and as shown on Tax Assessor's Map #31 as Lot #20.

Mr. & Mrs. Hoyt presented their application. Mr. Hoyt said that the shed on the north side of the property would be moved to the south side of the property near the end of the driveway. Mr. Ginsberg explained that one of the conditions of the recent Zoning Board of Appeals approval was that the shed be moved to a conforming location. Mr. Ginsberg and Mr. Hoyt agreed that this was a very logical location for the shed, especially since it is the furthest distance away from the Noroton River. On a motion by Ms. Miller, seconded by Mr. Kenyon, the application to re-locate the shed was approved by a vote of 6 to 0.

New Business

Mr. Hillman then read the next agenda item:

EPC-53-2005, Tom Probert on behalf of Damir and Anna Durkovic, 2 Harriet Lane, proposing additions and alterations within the regulated area. The property is on the northwest corner formed by the intersection of Harriet Lane East and Tokeneke Road and is shown on Tax Assessor's Map #36 as Lot #22.

Attorney Arthur Engle of Rucci Burnham Carta Carello & Reilly was present on behalf of the property owner. He noted that the three sides of the house have a regulated area. He then referred to the prior EPC approval in 2004 which was for a 10'x18' addition. Mr. Engle said that they are now proposing an enclosed room and underneath a sun room. There will be no new impervious surface over the previous approval. He explained that the watercourse is in the rear of the property and that the kitchen is actually on the second floor. Mr. Hillman then asked about the driveway. Mr. Engle said that that was part of the October plan which he was not previously involved with. Ms. Miller then asked about drainage. Ms. Durkovic responded that the drainage will feed into an existing drywell. Ms. Miller made a motion to approve the application as submitted. That motion was seconded by Ms. Kirby, and approved by a vote of 6 to 0.

Mr. Hillman then read the next agenda item:

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EPC-54-2005, DLTC Landscape Contractors on behalf of Tom and Lynn Mercein, 29 Sunswyck Road, proposing to modify the drainage ditch and site regrading in conjunction with removal of the paddle tennis court. The property is located on the southwest corner formed by the intersection of Sunswyck Road and Tory Hole Road and is shown on Tax Assessor's Map #62 as Lot #27.

Mr. Jonathan Sweeney of DLTC was present on behalf of the property owner. He explained that they will be removing paddle tennis court and replacing it with grass. Mr. Sweeney explained that the catch basin will be installed to collect surface water and there will be a temporary pump pit. Mr. Hillman complimented Mr. Sweeney on the removal of the paddle tennis court and asked about the possibility of installing any wetland friendly plantings rather than using just grass. Mr. Sweeney agreed that the planting along the stone wall is sensible and he said that the first step will be to remove the structure (the paddle tennis court) then install the necessary drainage. Mr. Hutchinson explained that staff will be able to review and administratively approve the planting plan once it has been submitted to alleviate the need to return to the EPC. Mr. Sweeney believed that he could get such a plan to staff within two weeks, and he can certainly include wetland friendly, non-invasive plantings. There being no other questions or comments from Commission members, Mr. Hillman made a motion to approve the application with one condition: that the applicant submit a planting plan consistent with the use of wetland friendly, non-invasive plant species. Said plan will be reviewed and administratively acted upon by staff. Mr. Hutchinson seconded that motion, which was approved by a vote of 6 to 0.

Mr. Hillman then read the next agenda item:

EPC 56-2005, Keith and Heidi Mitchell, 6 Hickory Lane, proposing installation of fences and a swing set within regulated areas. The property is located on the north side of Hickory Lane approximately 200 feet to the east of the northerly intersection of Hickory Lane and Deepwood Road and as shown on Tax Assessor's Map #26 as Lot #32.

Ms. Heidi Mitchell explained the proposed "deer net" fence. She said that she is not sure of the exact location of the proposed swing set. She noted that it will be located outside of the wetlands but still within the regulated area. She mentioned that in lieu of the swing set they may hang a swing from a tree. Mr. Hillman said that the EPC would be willing to "pre-approve" the swing set location if she does wish to place one some time in the future. There being no further questions or comments from Commission members, Ms. Kirby made a motion to approve the application with the condition that the swing set, if desired by the owner, be located as shown on the submitted map. That motion was seconded by Mr. Lewis and approved by a vote of 6 to 0. Ms. Mitchell then asked about possible tree removal on this property. Mr. Hillman noted that any trees to be removed in the future would need to come before the EPC for review and action. Ms. Mitchell would need to submit a letter/recommendation from an arborist certifying that the trees are dead.

Mr. Hillman then read the next agenda item:

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EPC 58-2005, Keith and Sarah Edwards, 6 Bishop's Gate, proposing replacement of an existing fence within a regulated portion of the property. The site is located on the north side of Bishop's Gate approximately 300 feet north of the intersection of Bishop's Gate and Boston Post Road and as shown on Tax Assessor's Map #45 as Lot #31-3.

Mr. Edwards noted that a fence now exists, although he acknowledged that one cannot see the fence from his house. He will hire a landscaper to remove the existing fence and construct the new fence. Ms. Miller noted that he may wish to remove the poison ivy at the same time. Mr. Edwards noted that it is a large area in question and that may be a large project. Ms. Kirby said that the applicant should not dump wood chips in the wetland or regulated area. Mr. Edwards acknowledged that he will not. Ms. Miller made a motion to approve the application with the condition that the applicant make best efforts to remove the existing poison ivy near the fence and if he wishes, he may remove other invasive species. That motion was seconded by Mr. Hutchinson and approved by a vote of 6 to 0.

Mr. Hillman then read the next agenda item:

EPC 57-2005, William W. Seymour & Associates on behalf of Daniel and Patricia Bumgardner, 64 Hanson Road, proposing reconstruction of the existing garage and construction of an addition within the regulated area. The property is located on the south side of Hanson Road approximately 145 feet east of the intersection of Hanson Road and Hummingbird Lane and as shown on Tax Assessor's Map #9 as Lot #107.

Mr. Jeff McDougal of William W. Seymour & Associates was present on behalf of the applicant. He showed the location of the septic system in the rear of the property. He said that it will be abandoned and that the applicants will tie into the sanitary sewer system in the road. He then showed photographs of the property and said that they will have a new forced main system. A small amount of impervious surface will be added. He explained that there is an intermittent watercourse on the adjacent property and that they will be adding a third garage bay and making other changes if the addition does not get any closer to the wetlands than the existing building. There will be two dry walls installed as shown on the plans, and the driveway will be paved. They will be adding wetland plants from New England Seed Mix. One tree will be removed as part of this project.

Mr. Hillman then asked if compensatory trees can be planted. Mrs. Bumgardner responded that they would be able to plant compensatory trees. Mr. Hillman said that he is appreciative of that. Mr. Hutchinson said that the septic system removal is a big improvement on this property. Mr. McDougal explained that to abandon a septic system, the tanks need to get crushed and filled with sand. Mr. Lewis also added that the sewer hook-up is good for the property and the wetlands in general. There being no other questions or comments from Commission members, Mr. Hillman made a motion to approve the project with one condition: that in order to compensate for the loss of the large pine tree, two trees will be planted in its stead. The details (size, location, and species) of those two trees will be presented by the homeowner to EPC staff for review and action. That motion was seconded by Mr. Lewis and unanimously approved by a vote of 6 to 0.

Mr. Hillman then read the next agenda item:

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EPC-59-2005, Lance E. Zimmerman for property of Elizabeth and Jim Howe, 22 Richmond Drive, proposing construction of an addition and related site development activity within a regulated portion of the site. The property is located on the south side of Richmond Drive approximately 2,500 feet north/northeast of the intersection of Richmond Drive and the Boston Post Road. The site is shown on Tax Assessor's Map #12 as Lot #32.

Architect Lance Zimmerman noted that an addition to the house is proposed. They are also proposing an expansion of two bedrooms on the second floor. Runoff will go into an existing pipe, and they will hook the new leaders to the existing pipe. The owners will clean the grass clippings out of the wetlands and no longer put them there according to Mr. Zimmerman. He explained that the existing wetlands are grassy/weedy. Mr. Hillman asked if the creek is on this property. Mr. Zimmerman responded that the creek is partially on the property and that the addition is not near the creek or near the neighbor to the east. There are now many trees in the wetland area and the whole house is in the regulated area. Ms. Miller asked about the slate/flagstone in the rear of the house. Mr. Zimmerman mentioned that the stone wall that existed may have tipped over. Ms. Miller believed that the owner should clean up the watercourse and the slate flagstone area. Mr. Kenyon then asked if the same neighbor to the east of the property as it was a few years ago. Mr. Zimmerman responded that he did not know that. There being no further questions or comments from the EPC, Ms. Miller made a motion to approve the application with the condition that the bank along the drainage ditch be cleaned up and the slate/flagstone piles also be cleaned up. That motion was seconded by Mr. Hillman and unanimously approved by a vote of 6 to 0.

Public Hearing to Commence at 8:30 P.M.

At 8:30 P.M., Mr. Hillman noted that there were three public hearings this evening and he was going to take them out of order. The first one was EPC-55-2005. Mr. Hillman then read that agenda item:

EPC-55-2005, Mark Raskopf, 60 Andrews Drive, proposing to amend the Inland Wetlands and Watercourses Map. The property is located on the east side of Andrews Drive approximately 650 feet north of the intersection of Andrews Drive and Red Coat Pass, and is shown on Tax Assessor's Map #64 as Lot #112.

Mark Raskopf was present and submitted proof of mailings of notification of neighbors for the record. He said that he has lived in the residence for two years, and the house was built in 1955. He wishes to landscape this property, and he hired Henry Moeller, soil scientist, to review the presence of wetlands on the property. Mr. Moeller found two small isolated areas near the driveway. Those are shown on the submitted plans. Mr. Kenyon asked if Mr. Moeller did an informal sketch of the wetlands. Mr. Raskopf responded that he did not. In response to a question, Mr. Ginsberg said that he believed the information presented to the EPC seems to be sufficient for an amendment to the wetland map. Mr. Kenyon noted that he is familiar with the property and that there used to be a culvert under the driveway. Mr. Raskopf said that he understands that future work that is within 50 feet of the regulated wetlands will require a permit from EPC.

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Mr. Ginsberg reminded EPC members that if they wish to adopt the map amendment, they will need to include an effective date. There being no further questions from Commission members or the general public, Mr. Hillman made a motion to close the public hearing on this matter. That motion was seconded by Mr. Kenyon and unanimously approved.

GENERAL MEETING

EPC-55-2005, Mark Raskopf, 60 Andrews Drive, proposing to amend the Inland Wetlands and Watercourses Map.

Mr. Hillman then went into a brief general meeting so that Commission members could decide this matter. Commission members unanimously agreed that there were no issues or concerns with the proposed map amendment. Mr. Hillman made a motion to approve the map amendment as submitted, with an effective date of Monday August 1, 2005 at 12:01 A.M. That motion was seconded by Mr. Kenyon and unanimously approved by a vote of 6 to 0.

At approximately 8:45P.M., Mr. Hillman read the next public hearing agenda item:

EPC-47-2005, Steven E. Mickels of Mickels Landscape Inc. on behalf of Carl & Anita Mickels, 36 Lake Drive, proposing demolition and reconstruction of a single-family residence and perform site development activities within regulated areas. The property is located on the north side of Lake Drive approximately 1,100 feet south of the intersection of Lake Drive and Hoyt Street, shown on Assessor's Map #30 as Lot #3.

Mr. Stephen Mickels submitted proof of mailing of notification of neighbors. Mr. Hillman then asked him to describe the proposal. Mr. Gil Wheless was present on behalf of the owner. He submitted a June 21, 2005 letter to Mr. DeLeo who owns property across the Noroton River in Stamford. He then showed the Commission members the flood line on the existing map. Mr. Wheless explained that there are now dead hemlock and sumac in the backyard. They propose to remove the dead hemlock as the leaves on that are now white. The sheds in the backyard of the property will need to be removed. They propose to put in dogwood and hope to landscape on the DeLeo property. They may wish to put in either 10 small hollies or 5 large hollies and remove the garbage on the property across the River. Mr. Hillman asked how close the house is to the River. Mr. Wheless responded that it is within 100 feet of the Noroton River. Mr. Ginsberg explained that this proposal needs to be reviewed and approved by to the Planning & Zoning Commission as well.

Mr. Steven Mickels explained that the current house is 82 feet from the River and the new house will be approximately 82 feet away as well. He showed the Commission members on the plans where the gray shading shows a larger footprint than the existing residence. He explained that the existing residence is 51 years old and is hooked up to the public water and public sanitary sewer on Lake Drive. Mr. Hillman then noted that a drainage report was submitted for the record in this matter.

Mr. Carl Mickels reviewed the Site Development Plan with the Commission. He explained that it shows a wrap-around porch/wood deck and it will be pressure treated with stone dust underneath. There will be a regular roof over it. Mr. Hillman then asked whether the applicant has considered a conservation easement along with the planting plan. Mr. Carl Mickels said that he has no problem

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with the establishment of a conservation easement in the back yard. Mr. Hillman suggested that 25 feet generally from the edge of the river would benefit future generations. Mr. Wheless agreed that it would. Mr. Hutchinson explained that a conservation easement must be filed in the Darien Land Records. Mr. Kenyon noted that the current house is in disrepair and the sheds are not appealing. Mr. Hillman said that unless there is a change in the footprint of the proposed residence, the applicant will not need to return to the EPC to construct the house shown on the plans.

Ms. Carolyn Brook of 27 Lake Drive explained that she lives across the street from this property. She agreed that the house is in disrepair and uninhabitable. She believes that the proposed plans are good. Mr. Ed Rondano of 28 Lake Drive said that the proposed house looks nice and he is in favor of the project.

Ms. Miller said that the proposed conservation easement agreed to by the applicant will alert future owners of wetland issues. Mr. Hillman agreed that education of the general public is very important. There being no other general comments from the general public or the Commission members, Mr. Hillman made a motion to close the public hearing on this matter. That motion was seconded by Ms. Miller and approved by a vote of 6 to 0.

Mr. Hillman then made a motion to briefly go into a general meeting to discuss the Mickels' application. All Commission members agreed.

EPC-47-2005, Steven E. Mickels of Mickels Landscape Inc. on behalf of Carl & Anita Mickels, 36 Lake Drive

Mr. Hillman said that the new residence will enhance the area and that the application received a positive neighborhood response. Mr. Hutchinson then made a motion to approve the application with the conditions that: 1) The applicant establish a conservation easement generally 25 feet +/- from the Noroton River, an official mylar map be prepared showing that easement, and filed in the Darien Land Records along with a written description. 2) Prior to receiving a Certificate of Occupancy for the residence; the owner shall adhere to the submitted planting plan; the sheds be removed as shown on the submitted plans; and that either 5 large or 10 small hollies be planted across the River in Stamford if authorized by that property owner. That motion was seconded by Ms. Miller and approved by a vote of 6 to 0.

Mr. Hillman then read the next agenda item:

EPC 60-2005, Anthony Totilo on behalf of Anne Pankowski, 17 Mystic Lane, proposing additions and alterations and related site development activity within regulated portions of the property. The site is located on the southwest side of Mystic Lane approximately 500 feet south of the intersection of Mystic Lane and Leroy Avenue and as shown on Tax Assessor's Map #18 as Lot #62.

Mr. Hillman mentioned to Ms. Pankowski that due to the late hour, it was quite apparent that they would not be able to get to her application this evening. After a brief discussion, Ms. Pankowski agreed to appear at the next EPC meeting in August.

Mr. Hillman then read the next public hearing agenda item:

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EPC 49-2005, Wilder Gleason Esq. of Gleason, Hill & Ambrette, LLC on behalf of Thomas L. Kelly, Jr., 58 Sunswyck Road, proposing lot subdivision, septic system, patio, stonewall, regrading and landscaping activity, and perform site development activities within a regulated area. The property is located on the east side of Sunswyck Road approximately 400 feet south of the intersection of Sunswyck Road and Tory Hole Road, shown on Assessor's Map #62 as Lot #22.

Mr. Lewis said that he lives in the general neighborhood of this project, but believes that he has no conflict on this application. Attorney Wilder Gleason said that he was present on behalf of the applicant and noted that the subject property is 3+/- acres with an existing residence on it. There are tidal wetlands near Scott's Cove. They come before the Commission this evening to divide the lot. The new lot would be wooded with a pond and intermittent stream bed. Mr. Gleason explained that the buildable area outside the wetland regulated area is approximately 120' x 35' wide for the septic system and they hope to save as many trees as possible. There are two pieces of ledge on that lot. There is a 12 foot drop between the ledge and the pond and Mr. Gleason then showed photographs of the subject property. He then showed the Commission members that the proposed house footprint would be approximately 1,800 square feet and that house has been pulled back 4 to 5 feet from the 50 foot regulated area line. They propose to widen the Smith driveway and install the garage at elevation 64.5. He explained that the proposed residence would be approximately 4,000 square feet. Mr. Hutchinson asked if any part of the proposed building would occur in the buffer/50 foot regulated area. Mr. Gleason responded that there will be some construction activity in the buffer and that the septic system is proposed within 150 feet of the intermittent watercourse. They will be building a retaining wall, and in the construction of that retaining wall the workers will need to work in the regulated area. In addition, parking for construction workers will also be in the regulated area. He then showed the location of the silt fence and construction fence on the property. Mr. Gleason explained that the retaining wall is 50 feet from the wetlands and that there are plantings on top of the wall. He also noted that hay bales will be placed on top of the ledge for sediment and erosion controls rather than silt fence as shown on the submitted plans. Mr. Gleason noted that Mr. Kelly has owned this property since 1984. Mr. Hillman asked whether the property has been given any tax break in the past due to wetlands. Mr. Gleason responded that according to Mr. Kelly, he has not.

Mr. Don Ferlow of Stearns & Wheler mentioned that the proposed lot is 1+/- acre. He said that on that proposed lot there would be a shallow pond which is part of the ecosystem. Ms. Miller asked if that pond is a vernal pool. Mr. Ferlow responded that that is a good question. He said that it is somewhat isolated and he thinks that it may be a low scale vernal pool and it might be manmade. He said that the applicant proposes an engineered septic system approved by the Darien Health Department. This septic system requires EPC review. Mr. Hillman agreed that the septic system has been approved structurally by the Darien Health Department. Mr. Ferlow noted that they are proposing to install silt fence in a regulated area and that the proposed house location meets the zoning setbacks. They will be using and widening the existing driveway and they will come in to the house from the north. He then reviewed with the Commission Alternate 1, Alternate 1A and Alternate 2A. Mr. Ferlow acknowledged that it will not be an easy house to build. He explained that Sunswyck Road is narrow and they cannot have parking in the area proposed for the septic system. Construction needs to be carefully coordinated, but most of the property drains away from the pond. There will be no access for construction vehicles through the regulated area. In response to a question, Mr. Ferlow noted that if the whole house is on ledge, this would be the worst case

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scenario but that is not the case. He also noted what is shown on the plans is just house footprint and not the actual house to be constructed. Mr. Hillman then asked whether the plan before the Commission this evening would require any blasting. Mr. Ferlow responded that he is not sure how much ripping or drilling may be required. He said that any blasting must be done on the house/roadside of the pond. He noted that the retaining wall shown on the plans is 18 inches to 24 inches wide at the top. And there will be a liner above grade to prevent any leakage. They will put cement in this area. The retaining wall will need to be engineered. Mr. Gleason noted that the retaining wall forces the effluent underground.

Mr. Hutchinson asked about runoff and drainage. Mr. Ferlow responded by showing the Commission the detention in two areas on the property. Mr. Hutchinson had asked about the presence of ledge. Mr. Ferlow acknowledged that the septic system in the detention areas cannot be in ledge so they may need to blast or find an alternate location.

Mr. Michael Lemoult of 50 Sunswyck Road then read his comments aloud. He noted that he was speaking on behalf of others in opposition including the Oresmans, the Smiths, the Halls and the Varneys. There objections included the following: major trees to be removed; no landscaping plan; parking that only two parking spaces were shown and visitors will need to park elsewhere; the stockpiling of material and the possible need for trucks to backing up; the narrow roads within the area will make it difficult for three axle trucks; and blasting and rock removal which could harm the Town water lines. He noted that the proposed residence can only be built on 4/10 of an acre even though the actual lot would be much bigger. He mentioned that the house will use the entire buildable area on the property outside of the regulated area and mentioned that the height of the house is also a concern of the neighbors. He also questioned the adequacy of the spare septic field and had concern about tree replanting. He mentioned that there is no plantable area between the Lemoult property and the garage to screen the garage.

Mr. Frank Penn of 46 Sunswyck Road then said he has concern for the Delafield Island Association. He subscribes to and agrees with Mr. Lemoult's remarks and asked whether the EPC is prepared to encroach on the 50 foot regulated area in this or a future application. He said that the Commission should treat this property like an R- $\frac{1}{3}$ lot, as the area outside the regulated area is only about a third of an acre large. He also noted the presence of ledge in the general vicinity. He said that nobody knows whether it is manmade pond on the property. He said that the house will be disproportionate in size with the character of the neighborhood. He explained another weakness would be the lack of parking and that many people in this area of Town have 4 to 6 parking spaces outside of their garage and this property will not be able to have that. Mr. Hillman then asked Mr. Penn whether he spoke for the Delafield Island Association. Mr. Penn responded that he did not, but he is a member of said Association. He said that they do not challenge the right of Mr. Kelly to apply for a subdivision.

Mr. Hillman mentioned that many of the concerns mentioned this evening are more appropriate for the upcoming Planning & Zoning Commission meeting. He said to the neighbors that if the first time that they have heard about this application was recently, it may be best for the EPC to meet again in order for the neighbors to attempt to resolve issues. He suggested continuing the public hearing to August 3, 2005 with the idea that Attorney Gleason and Mr. Kelly have heard the concerns of the neighbors. He believed that it would behoove everyone to have a frank discussion and there is a lot to be gained via a continuation of this public hearing.

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Mr. Kelly, the property owner at 58 Sunswyck, said that he did not bring the plans to the neighbors until he was sure that it could be done. He then started to call neighbors in mid-May and he has already talked to some neighbors regarding this application. Ms. Miller agreed with Mr. Hillman and noted that it is a great idea to continue the public hearing on this matter. Mr. Gleason mentioned that the Rodgers had no objections but they are really not affected by the proposal. Mr. Kenyon said that he too is in favor of continuation of the public hearing.

Mr. Steve Oresman of 49 Sunswyck Road said that a continuation of the public hearing would be highly desirable. There is complex construction involved and he asked how the neighbors are sure that damage and the possible blasting damage and parking questions are resolved. He urged the EPC to put controls in place. Mr. Hutchinson responded that EPC staff is very good at assuring compliance with submitted plans. Ms. Smith then spoke and said that she is not sure if the pond is manmade.

Mr. Hillman mentioned that the EPC honestly wants more time for neighborhood discussion. Mr. Ferlow then said that it is a man modified pond and that black spotted salamanders are usually found in vernal pools. Mr. Hillman made a motion to have this be the first public hearing item at 8:30 p.m. on August 3, 2005. That motion was seconded and unanimously approved.

At 10:40 p.m., the Commission resumed its general meeting.

RESUME GENERAL MEETING AT CONCLUSION OF PUBLIC HEARING

If time allows, the Commission may deal with items on the General Meeting that have not already been addressed plus

EPC 105-2003, Paul & Hazel Durham, 31 Prospect Avenue.

Commission members reviewed the submitted information and photographs submitted by Ms. Durham regarding proposed tree cutting and tree installation. Mr. Hillman says he wishes to consider this further, and due to the late hour, he wanted this item placed on the Commission's August 3rd agenda. All other Commission members agreed, and this matter will be discussed on August 3rd.

EPC 62-2004, Kevin Granath, 5 Old Parish Road

Mr. Hillman noted that the proposal is to demolish the entire house rather than construct additions and alterations as originally proposed. Mr. Hutchinson explained that the EPC had the understanding that a demolition could be possible on this property. Mr. Hutchinson said that such a demolition and reconstruction would likely have less intrusion than the prior approved plans. There was a motion made by Mr. Hutchinson, seconded by Mr. Kenyon to approve the plans including demolition and that was unanimously approved by a vote of 6 to 0.

EPC 61-2005, Tucker & Elaine Scott, 655 Hollow Tree Ridge Road

Due to the late hour, Mr. Hillman again suggested placing this item on the August 3rd agenda.

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Planning and Zoning Commission Transmittals

Mr. Hillman mentioned that there were two transmittals from the Planning & Zoning Commission. The first was for 40 Old Farm Road. Ms. Miller said that she would go to the property and review the plans and issue a report on behalf of the EPC. All EPC members agreed. The other referral was for 20 Juniper Road. Mr. Hutchinson said that he was familiar with the property and would comment to the Planning & Zoning Commission on behalf of the EPC.

Mr. Ginsberg then mentioned that Mr. Lazzaro of DuBois Street was present this evening and he pointed him out in the audience to the EPC. Mr. Hillman and other EPC members welcomed Mr. Lazzaro and briefly discussed general wetlands issues with him.

There being no other business, the meeting was adjourned at 11:00 PM.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director