

ENVIRONMENTAL PROTECTION COMMISSION
GENERAL MEETING & PUBLIC HEARING
MEETING MINUTES
OCTOBER 6, 2004

Commission Members Present: Peter Hillman, Susan Cameron, Reese Hutchison, Robert E. Kenyon, Ellen Kirby, Edwin Lewis and Nina Miller

Commission Staff Present: David Keating and Nancy Sarner

Court Monitor: Bonnie Syat

General Meeting:

Old Business:

Chairman Hillman read the following agenda item:

EPC-84-2004, Anna Durkovic, 2 Harriet Lane, proposing the construction of a rear porch and front addition, relocate and expand garage, and perform related site development activities within a regulated area. The property is located on the southwest corner formed by the intersection of Harriet Lane and Tokeneke Road, shown on Assessor's Map #36 as Lot #22.

Tom Probert, P.E. of TNT Engineering, and Damir and Anna Durkovic, property owners, presented the application and addressed questions from the Commission.

Mr. Hillman reviewed that the addition is proposed 41' from the wetlands and that he felt this was acceptable especially since no trees would be impacted. He then expressed concern regarding the driveway, which is proposed 14' from the wetlands and 19' from the pond. He asked why the driveway could not be located further away from the wetlands. Mr. Probert replied that the driveway was designed to allow an adequate turnaround area so that the owners would not need to backup into the street, thereby alleviating a potential hazard. In response to a question, Mr. Probert explained that the garage door would be on the north side of the house.

Mr. Probert said that the existing driveway would be used as a staging area, then the driveway would be removed and the area would be resodded. In response to a question, Mr. Probert stated that the closest proposed activity was the construction of the rear porch and driveway. Ms. Miller asked if the proposed 41' width of the driveway could be reduced. Mr. Probert replied that 41' width was recommended by an ergonomic catalogue because it provides room for a comfortable turnaround area. Mr. Hillman asked if a planting plan is needed. Ms. Cameron said that she did not have a problem with the driveway turnaround area because the pond area is well vegetated, and that, although she likes that the proposed driveway would be gravel, she is concerned that the gravel could end up down hill. She therefore recommended the installation of shrubs to be located at the end of the driveway. She asked if curbing would be installed. Mr. Durkovic replied that they planned to install Belgium block curb. Ms. Miller asked if all of the driveway, including the turnaround area, would be gravel. Mr. Durkovic replied that it would be. Ms. Miller asked if they connected to town sewer. Mr. Durkovic replied that they have.

Upon further review of the plans and materials presented, the following motion was made: That the Commission approve with conditions Wetland Permit Application #EPC-84-2004. The application is approved with the conditions: (1) that shrubs be installed along the 41' width of the western side of the new driveway. A copy of a planting plan with plant list shall be submitted to Commission staff for review; and (2) that the installation of a Belgium block curb is permitted. The motion was made by Mr. Hillman, seconded by Ms. Cameron, and unanimously approved.

Chairman Hillman read the following agenda item:

EPC-85-2004, Steve & Donna Melz, 10 Point O Woods Road South, proposing the family room addition, screened porch, reconfiguration of the driveway and relocation of yard drains, and perform related site development activities within a regulated area. The property is located on west side of Point O Woods Road South approximately 400 feet south of the intersection of Point O Woods Road and Point O Woods Road South, shown on Assessor's Map #13 as Lot #29.

Dennis Peters of D. Peters Designs, LLC, and Donna Melz, property owner, presented the application and addressed questions from the Commission.

Mr. Hillman reviewed that the application proposed a driveway alteration, rear porch, addition, relocation of existing yard drainages and installation of buffer plantings.

Mr. Peters explained that they would eliminate the two-car garage and expand to a three-car garage, construct a family room addition in the rear, extend the existing terrace, and expand the existing driveway. He said that the driveway expansion would come no closer to the wetlands than the existing driveway, which is 10' to 11' from the wetlands.

Mr. Hillman reviewed that there are two distinct wetland areas on the property, and the more prominent wetland is the southern wetlands, which is located further away from the work area. Ms. Cameron noted that the northeast wetlands is smaller and merges with the wetlands on the northern neighbor's property, 6 Point O Woods Road South. Mrs. Melz explained that the northern wetlands has a drain and is never wet.

Mr. Peters explained that the application proposes the raising of the grade within the driveway to facilitate drainage near the garage. In response to a question, he stated that the existing drain discharges toward the southern wetlands.

Mr. Hillman reviewed that the driveway is proposed 10' from the wetlands, the side addition is proposed 41' from the wetlands, and the rear addition is proposed 54' feet from the wetlands, outside setback areas. Mr. Peters added that the proposed driveway areas would not extend closer to the wetlands than the existing driveway. Ms. Cameron said that the application proposes an increase in paved area on the property. Mr. Peters agreed, explaining that the new paved area is proposed for a turnaround area. Mrs. Melz reported that the northern neighbor's driveway at 6 Point O Woods South is close to the wetlands and is shown on her plan.

Ms. Cameron inquired to the proposed plantings. Mr. Peters replied that he wanted to talk with the Commission and is open to discussion regarding the location of the plantings, because he

thought it might be better to add plantings to the southern wetlands, instead of the northeast wetlands. Mr. Hillman noted that Soil Scientist Thomas Pietras had recommended that six native shrubs be added to the wetlands. Mr. Peters said that Mrs. Melz is open to types of plantings to be installed.

Mr. Peters informed the Commission that the screened porch might be shifted further away from the wetlands than shown in order to preserve a large tree. Mrs. Melz said that a flagstone patio area might be installed where the porch is shown. Ms. Cameron noted that this work would be outside the setback area. Mrs. Melz agreed, and said that they hoped to save the tree though she was concern about impacting its root structure. Mr. Peters said that the new flagstone patio might not be as large, but might be an extension of the rear patio.

Ms. Miller asked about the flow of water from the driveway. Mr. Peters replied that the existing driveway pitches toward the garage.

Ms. Cameron speculated that the property could be filled wetlands. Mr. Peters said that when the house was built, the builder did his best to address drainage with the existing trench drains. In response to a question, he replied that the staging area would be located outside the wetlands and that trucks would park in the driveway.

Ms. Cameron said that she liked that six shrubs have been proposed. Mr. Hillman recommended that the shrubs be included under a conditional approval. Ms. Cameron clarified that, to compensate for the encroachment toward the northern wetlands, the applicant should plant the wetland shrubs within the southern wetlands, which had been described as the more valuable wetlands. Mr. Hillman said that the plantings would be done in accordance with Mr. Pietras' recommendation. Ms. Miller reported that the southern wetlands is well vegetated. Ms. Cameron recommended that any invasive Euonymus be removed and replaced with native plantings. Mr. Peters reviewed site photographs of the wetlands. Ms. Cameron recommended that the plantings include Silky Dogwood and/or Red Twig Dogwood, which tolerate wet conditions.

Ms. Miller asked Mrs. Melz if a dumping issue had been resolved. Mrs. Melz said that she had called her landscaper about the problem and asked her neighbor to do the same since she was not certain of the source of the yard waste. She said her landscaper removed the debris piles.

Upon further discussion of the materials and plans presented, the following motion was made: That the Commission approve with conditions Wetland Permit Application #EPC-85-2004. The application is approved with the stipulations that (1) fifteen shrubs be added to the southern wetlands, and (2) if found, any invasive euonymus located within the southern wetlands shall be removed and replaced with native shrub species. The motion was made by Ms. Cameron, seconded by Ms. Kirby, and unanimously approved.

Chairman Hillman read the following agenda item:

EPC-83-2004, Ronald & Hikoko Rawald, 100 Pembroke Road, proposing the amendment of the Town's Wetlands and Watercourses Map. The property is located on the south side of Pembroke Road approximately 650 feet from the intersection of Brookside Road and Pembroke Road, shown on Assessor's Map #1 as Lot #96.

No one was present on behalf the applicants. The Commission tabled the application and requested that a letter be sent to Mr. and Mrs. Rawald requesting that they or a representative attend the October 20, 2004 meeting, advising them that the EPC members may choose to deny the application if no one is present to discuss the proposal and address any Commission.

Chairman Hillman read the following agenda item:

Discussion of EPC-59-2004, Edward & Lisa McCarthy, 11 Red Mill Lane, proposing a residential addition, stone retaining walls, swimming pool and terrace, fill and regrading activity, plantings, and perform related site development activities within a regulated area. The property is located on the north side of Red Mill Lane approximately 560 feet west of the intersection of Red Mill Lane and Old King's Highway North, shown on Assessor's Map #32 as Lot #54-4.

The Commission discussed the materials and plans presented, deliberated the project's merits, and considered conditions that may be included under a stipulated resolution, and instructed Commission staff to write a draft resolution reflecting their discussions for the general meeting, public hearing, and discussion of the application for further consideration during the October 20, 2004 meeting.

Chairman Hillman read the following agenda item:

Continuation of the Discussion for the Partial Bond Release for EPC-91-2002, Castlegate Corporation, 6 Point O' Woods Road South, for a performance bond required to ensure that tree removal and wetland plantings be conducted in compliance with wetland permit approval.

Ms. Sarnier distributed copies of the planting invoices to the Commission members.

Ms. Cameron recommended that Castlegate Corporation should remove the invasive Burning Bush and follow the approved planting plan.

Mr. Hillman asked if the partial release of the performance bond is acceptable. Ms. Cameron replied that she felt the bond should not be released until the area is remediated. Mr. Hillman asked about the amount of the performance bond. Ms. Sarnier replied that it is \$5,000. Ms. Cameron explained that she is not inclined to approve the partial release of the bond because she is concerned with the planting of the Burning Bush and over mulching of the area. She said that the applicant and owners need to follow through on the approved plan, and that she is not satisfied that they have demonstrated compliance. She recommended that Castlegate Corp submit an as-built or existing conditions plan, along with a remediation plan to bring the area into compliance with the original proposal.

Mr. Hillman said that the new owners should be advised of the Commission's concerns. Ms. Cameron recommended that the new owners be instructed on what they can and cannot do within the regulated areas on their property. Mr. Hutchison said that an advisory letter should be sent to the new owners, inviting them to attend the next meeting on October 20, 2004.

It was the consensus of the Commission to recommend that Castlegate Corp. provide an existing conditions planting plan and remediation planting plan, and to notify the current owners of the Commission's concerns and advise them regarding wetland regulations.

New Business:

Chairman Hillman read the following agenda item:

EPC-94-2004, Paul & Margaret Conrad, 12 Great Hill Road, proposing construction of an addition within the regulated area around the wetlands and/or the amendment of the Town's Wetlands and Watercourses Map. The property is located on the west side of Great Hill Road approximately 680 feet north of the intersection of Great Hill Road and Tokeneke Road, shown on Assessor's Map #1 as Lot #96.

Paul and Margaret Conrad, property owners, presented their application and addressed questions from the Commission.

Mr. Hillman said that it appeared that the application is a wetland change only since the proposed additions would be located outside the setback area. He moved that the Town's annual map revision reflect the new delineation by Soil Science and Environmental Services.

Ms. Sarner noted that the change would not be included until the December 2005 map revision, as the 2004 map revision has already been noticed to the adjoining towns and the State.

Ms. Miller asked Mr. and Mrs. Conrad if the "state issues" have been resolved. Mrs. Conrad explained that the adjacent culvert or tunnel is in need of repair. She reported that the State informed them in 2002 that the project went out to bid, the wetlands in the project area had been flagged by the State, and they have seen people inspecting the area but no work has been done. In response to a question, Mrs. Conrad said that the wetlands were flagged in February of this year.

Ms. Miller noted that the woodchips within the regulated area have been there from years ago, prior to the purchase of the property by the Conrads.

In response to questions, Mr. Conrad said the State can repair the culvert at any time after giving them notice, and that no change in water flow is anticipated from the State's work.

After due consideration of the map amendment request, the following motion was made: That the Commission accept the new wetland delineation as part of their annual map update, tentatively scheduled for December 2005. The map shall be revised to reflect the September 8, 2004 findings of Soil Science and Environmental Services, as shown on the survey entitled "Improvement Location Survey – Proposed, Prepared for Paul C. & Margaret M. Conrad,

Darien, Connecticut” by Roger T. Hamilton Professional Land Surveyors, LLC, dated 07/20/04, last revised 09/11/04. The motion was made by Mr. Hillman, seconded by Ms. Miller, and unanimously approved.

Chairman Hillman read the following agenda item:

EPC-87-2004, David & Barbara Melbourne, 191 Old Kings Highway South, proposing construction of a shed, deck, addition and utility line within the regulated area and perform related site development activities. This property is located on the east side of Old King’s Highway South approximately 300 feet south of its intersection with McCrea Lane, shown on Assessor’s Map #49 as Lot #38.

Attorney John B. Devine and David Melbourne, property owner, presented the application and addressed questions from the Commission members. Ms. Miller introduced herself to Mr. Melbourne as a fellow resident of Old Kings Highway South.

Atty. Devine explained that there are five items proposed by Mr. Melbourne’s application, and reviewed the first two: a second story addition proposed outside wetlands setbacks and the connection to city water. Mr. Hillman confirmed that the current plan has the revision date of September 30, 2004.

Mr. Hillman told Atty. Devine that he agreed that the first two items posed minimal impact and that he wanted to look at the water connection and the shed installation. He asked Atty. Devine to begin the review with the proposed shed. Atty. Devine explained that the shed would be located on the existing gravel driveway turnaround area. He said that since Mr. Melbourne is a former Darien Police Officer with a disability, the shed in that location would provide easy access to his snowplow. He said that because the shed would be set on blocks, no digging is required for its installation. Ms. Cameron asked if the shed could be shifted to the other corner of the turnaround area, further away from the wetlands. Atty. Devine said that this option was not chosen because it would tighten the turning area. Ms. Cameron explained that she wanted to ask the question, but was not against the proposed location of the shed. She then asked if the shed needs to be located on the driveway. Atty. Devine replied that the proposed location provided the easiest access for the snow blower. Mr. Kenyon asked if the shed could be placed adjacent to the house, near the proposed deck. Mr. Melbourne replied that a lot of drainage flows through that area from the roof of the garage and house because there are no gutters. Ms. Cameron and Mr. Kenyon suggested that roof leaders be added to direct water to the back of the garage. Atty. Devine said that his client could consider locating the shed to an area adjacent to the proposed deck, but that it would be an eyesore. Mr. Melbourne explained that the front door is on the west side of the house. Ms. Miller suggested that the shed be moved to the other corner of the turnaround area, labeled as “materials for deck and roof” on the September 30, 2004 revised plan.

Mr. Kenyon inquired about the existing playhouse. Mr. Melbourne said that the playhouse is an older structure that was on the property prior to his purchase. Ms. Miller agreed that the playhouse had been there for a long time. Ms. Cameron recommended that it be removed.

Mr. Melbourne reported that he purchased the property in March and that the previous owners did not disclose the wetlands conditions. He said that since he works for the Aquarion Water Company, he is very attuned to wetlands and did not touch the playhouse because he knew that there were wetlands in the area.

Ms. Cameron said that the shed may be approved in its proposed location because of the hardship issue explained by the applicant. Mr. Hillman said that since the shed would be placed on piers he did not have concerns approving it as proposed, but that he might feel differently if it was another property. Mr. Kenyon expressed that he did not have any concerns with the shed proposal.

Ms. Cameron asked Mr. Hutchison if he had concerns regarding the water line installation. Mr. Hutchison replied that the proposed water line made sense, and that since the deck was located beyond the garage, he did not see any problems with approving its construction.

Upon further discussion of the materials and plans submitted, the following motion was made: That the Commission approve with conditions Wetland Permit Application #EPC-87-2004. The application is approved with the conditions that (1) the existing playhouse be removed, and (2) the leaders for the garage and the residence be directed to the rear of the structures and the wetlands. The motion was made by Ms. Cameron, seconded by Mr. Hillman, and unanimously approved.

After some discussion, Chairman Hillman read the following agenda item to ensure that it was heard prior to the Public Hearing:

EPC-89-2004, Peter L. Anker, 37 Tower Drive, proposing installation of a sanitary sewer line from the street, through a wetland area, under a watercourse and to the house. The property is located on the northeast end of Tower Drive, approximately 1,000 feet east of Mansfield Avenue, and is shown on Assessor's Map #1, Lot #128.

The Commission members complimented Mr. and Mrs. Anker on the cross-sectional sketch of the watercourse crossing provided with the application. Mr. Anker presented the application to the Commission and addressed questions from the Commission. Mr. Keating explained that the Tower Drive sewer extension was installed approximately four years ago and the Tower Lane extension was installed approximately 18 months ago. Mr. Hillman noted that an 18" Beach would be removed. In response to a question, Mr. Anker said that the line would be installed using a pipe-in-pipe method where it crosses the brook. He explained that the work would be conducted during a low flow period and that the flow would be stopped for about a day. Ms. Miller asked if the waterway was usually dry, to which Mr. Anker replied that it was except for after rain events.

Upon further discussion of the materials and plans presented, the following motion was made: That the Commission approve Wetland Permit Application #EPC-89-2004 as submitted. The work is approved as described and shown within the materials provided with the application, including (1) the undated memo to the Environmental Protection Commission; (2) the sketch of the "proposed sewer line" overlaid on the June 25, 1997 Map of Plot #5, (3) the site photographs

marked to show the sewer lateral location, and (4) the hand-drawn cross-sectional sketch received by the Planning and Zoning Office on September 30, 2004. The motion was made by Mr. Kenyon, seconded by Mr. Lewis, and unanimously approved.

Chairman Hillman read the following agenda item:

EPC-88-2004, Able Construction on behalf of Robert & Ingrid Okun, 1 Timber Lane, proposing removal and replacement of a 12" diameter pipe under Timber Lane. The property is located on the east side of Timber Lane at the northeast corner formed by the intersection of Timber Lane and Hollow Tree Ridge Road, shown on Assessor's Map #3 as Lot #40.

Peter Greenberg of Able Construction was present to discuss the application with the Commission. In response to a question, Mr. Greenberg explained that the damaged pipe is a culvert located beneath the private road, Timber Lane, and that it would be replaced with a reinforced 12" concrete pipe at the same location and same depth.

Ms. Sarnier reported that there was a question regarding the unauthorized removal of a significant sized tree. Mr. Greenberg stated that a 28" Oak had fallen during a storm a year ago. He said he would discuss the issue with Robert Woodside of the Planning and Zoning Office.

Mr. Hillman asked Mr. Greenberg why he was concerned that the Commission would approve the culvert at an elevation lower than needed. Ms. Sarnier clarified that her September 22, 2004 memorandum referenced a conversation she had with the site contractor, and that she has asked Mr. Greenberg the same question. Mr. Hillman said that he was satisfied with Mr. Greenberg's response that he did not have concerns with the pipe replacement as proposed and shown on the September 30, 2004 plan.

Mr. Greenberg announced that the road association approved of the work. Ms. Miller asked if there was a concern regarding increased water flow. Mr. Greenberg replied that the culvert repair would restore the water flow to its pre-existing volume, before the damage occurred. Mr. Hillman asked about the current condition road culvert. Mr. Greenberg said that it is bad and that they hoped to conduct the work before December.

Ms. Sarnier reported that she found that the anti-tracking pad has not been maintained and a significant amount of dirt had been tracked onto the adjacent roadways. Mr. Greenberg stated that the anti-tracking pad had been fixed a few days prior to the meeting, and that it would not be a problem as soon as the driveway is paved. Ms. Miller reported that the silt fence should be maintained and re-installed. Ms. Cameron asked if any trees came down on the road. Mr. Okun, who was sitting in the audience, replied that none had come down. Mr. Hutchison recommended that the compliance issues be separated from the current application. Mr. Hillman said that if the Commission members wanted more assurances, the discussion could be continued to the October 20, 2004 meeting. Mr. Hutchison asked when the driveway would be paved. Mr. Greenberg replied that they could hold off on the paving, and said that the tree issue could be linked to the previously approved planting plan. Mr. Kenyon asked if a partial approval should be issued. Ms. Kirby opined that the pipe replacement could be approved.

Upon further discussion of the materials and plans submitted, the following motion was made: That the Commission approve the application as proposed. The work is approved as shown on the plan entitled "Cross Culvert Replacement, Prepared for Robert Okun, 1 Timber Lane, Darien, CT" by Land-Tech Consultants, Inc., dated 9/01/04, last revised 9/30/04. The motion was made by Ms. Kirby, seconded by Mr. Hillman, and unanimously approved.

Mr. Hillman explained to Messrs. Greenberg and Okun that if the site is found to be in violation, such as the alleged unauthorized tree removal, the Commission would revisit the issue. Mr. Greenberg told the Commission that he would contact Mr. Woodside the next day

Public Hearing:

Chairman Hillman read the following agenda item:

Continuation of Public Hearing regarding EPC-79-2004, Wee Burn Country Club, 410 Hollow Tree Ridge Road, proposing the demolition and reconstruction of maintenance structures, relocate an existing watercourse, fill wetlands, create new wetland area as mitigation, and related site development activities within regulated areas. The property is located on the northeast side of Hollow Tree Ridge Road, north of the intersection formed by Hollow Tree Ridge Road and Hanson Road, shown on Assessor's Map #7 as Lots #13, #64 & #66.

Attorney Robert Maslan, Jr. presented the continuation of Application #EPC-79-2004. Atty. Maslan said that at the last meeting on September 15, 2004, the applicant gave a complete presentation and that they were before the Commission to address a few questions. He said that the three issues were the report from Environmental Land Solutions, the October 1, 2004 sample locations, and the Frattaroli report.

Atty. Maslan said that he was concerned with the analysis of the soil chemical report by someone outside of the applicant and the staff. He said he needed to know for the record who did the analysis and if any EPC members had new information. Ms. Cameron explained that she had requested that her neighbor, Dot Kelly, who has a background in chemical analysis, review the report, and that she was not aware that it was not appropriate. Atty. Maslan asked if any information had been gathered since the last meeting. Ms. Cameron replied that she did not have new information other than her October 1, 2004 email to the EPC members and staff. Mr. Maslan said that in the past, consultation with an outside expert had been handled on the Commission level and worked out with staff, but that he did not have a concern with the current situation. Ms. Cameron said that she divulged everything. Atty. Maslan said that it fixed everything.

Kimberly Clarke of Loureiro Engineering Associates gave an update of the investigation activity. She said that she received copies of the questions raised within Ms. Cameron's October 1, 2004 email. Ms. Clarke reviewed the well locations and findings. In response to the first question of the email, Ms. Clarke reported that a monitoring well had not been installed at site SB-4. She explained that the monitoring well locations are decided in the field and are installed when they are doing borings, and are not based on analysis. In response to the second questions raised by Ms. Cameron's email, Ms. Clarke stated that they analyzed the entire sample using state

approved methodology. The third and sixth questions, regarding the sample location map had been previously addressed by Atty. Maslan, confirming that the map had been submitted. In response to the fourth question regarding GSW-E1, Ms. Clarke explained that the sample was from the sidewall of the tank excavation. In response to fifth question, Ms. Clarke explained that the sampling and analysis were conducted in accordance with State methodology for the type of samples taken. In last question raised by the email, Ms. Clarke responded that the tank removed was not a double-lined tank, which is not unusual for a twelve-year-old tank, and that the groundwater was not impaired in the older tank location.

Mr. Hutchison asked about the size of the spill. Ms. Clarke replied that it was a very small release for both the fuel and gas tanks because the clay soils bound the materials preventing them from migrating through the soil and groundwater. Atty. Maslan asked if the surface character influenced the spill conditions. Ms. Clarke replied that the impervious surface would not have allowed for infiltration. Mr. Hutchison reported that, in Darien, every five to six out of ten underground storage tanks removed has a contamination problem, which is higher than other Towns, and that the spill at the Wee Burn site was not as large as some of the residential spills that have occurred. Ms. Clarke confirmed that the map shows that the projected final excavation would be located outside the wetland buffer area. Mr. Hillman said that the Commission were interested in the spill under their role as Conservation Commission.

In response to a question, Ms. Clarke explained that the excavations have been secured with wooden frames, covered with plastic, and surrounded with silt and construction fencing. She said that for logistic reasons, they would like to remove the soil during the other site activities, and therefore would not like the rest of the application proposal to be delayed. She explained that they typically like to direct load the soils into dump trailers. Atty. Maslan stated that they did not want to disturb the site twice. He requested that the Commission issue a report to the Planning and Zoning Commission (P&ZC) before they approve a license to conduct the regulated activities to expedite the P&ZC approval. After some discussion, Chairman Hillman said he would like to discuss the P&ZC report issue with the Commission members after the public hearing.

Atty. Maslan noted that the question of a diversion permit had been raised during the last meeting. Ms. Cameron said that she had asked the question, and read Atty. Maslan's letter, which states that a State diversion permit is not required. Atty. Maslan explained that the diversion permit does not deal with the reconfiguration of the wetlands or watercourse. Ms. Cameron said that the state would be interested if the work is part of the holding pond permit, she understands that the water from the pond is from a well. Doug Drugo of Wee Burn Country Club explained that the pond is fed by runoff and not by well water. In response to a question, Atty. Maslan explained that the withdrawal amounts shown on the State's diversion permit are maximum capacity figure, not actual capacity figures, and would not be changed under the proposed project. Ms. Cameron explained that the State had informed her when she inquired to the country club permits within the town that any changes to the intermittent watercourse would require additional review. Mr. Hillman said that he felt the State diversion permit issue could be dealt with, and that the EPC anticipates that the Country Club would comply with the requirements of the State DEP. Atty. Maslan explained that the State's diversion permit program deals with water supply and not the maintenance of a drainage swale,

and that the reconfiguration of a pond or swale that has a watershed of less than 100 acres does not require a permit. Ms. Clarke reported that she has been in contact with the State DEP and had been requested to submit a formal request, which would include the Club's formal opinion, and that she plans to follow through on the issue.

Ms. Kirby reported that during a recent site visit, she saw a small green house, perhaps a well house, spurting water out of its side. Mr. Drugo replied that it was a well house with a broken pipe, but that it has been fixed.

Ms. Cameron said that when Ms. Miller raised the issue of possible violations regarding activity within the wetlands, such as the large log piles, at the last meetings, she had recommended that it be cleaned immediately and that she noticed that the club washes mowing equipment so that grass clippings are washed into the wetlands. She said that these outstanding issues need to be addressed, and submitted and reviewed site photographs from her recent site visit with Ms. Miller and Ms. Kirby. Mr. Drugo said that all of the problems would be resolved by the proposal project. Ms. Cameron said that she wanted the area cleaned and activities stopped now. Mr. Hillman said that at the last meeting the applicant said the club was under new management and educating its employees. Atty. Maslan said that the site problems would be addressed as soon as they receive approval. Ms. Cameron said that she would like to see the work conducted within three months. Mr. Cromer, Club President, said it would be done.

Ms. Cameron asked about the pipe and drainage swale. Judith Slayback of Environmental Land Solutions said that there are several existing pipes out of the pond. She explained that the drainage ditch would be relocated 30' away from the work area. The little pipes would be taken out, as well as existing fence and extraneous items. She said that they could state the relocated ditch in field to avoid trees for Commission and Staff review.

Atty. Maslan explained that the total impervious area would be increased from 29,869 square feet to 59,540 square feet, but the total impervious area within the regulated 50' upland review area would be reduced from 10,472 square feet to 8,493 square feet, after the wetland and watercourse changes. He stated that the application proposes the filling of 347 square feet of wetlands, but would restore 10,791 square feet of wetlands and upland review area.

Ms. Cameron expressed concern regarding the increase in temperature for runoff that enters the stormwater system and wetlands from the new, greatly increased areas of impervious surfaces. Ms. Slayback said that the runoff would be piped and not exposed. Ms. Cameron explained that the temperature of the runoff would increase as it flows over the large impervious area before it enters the stormwater system. Ms. Slayback said she did not believe it was a problem because the paved areas would be pitched toward the catch basins. Ms. Cameron and Ms. Miller tried to explain that the installation of tree islands would shade the paved areas, keeping them at cooler temperatures; therefore, the temperature of the runoff flowing across the new paved surfaces would not be greatly increased before reaching the stormwater system. Ms. Slayback replied that the trees would not treat the water underground. Mr. Kenyon clarified that the trees would shade the paved areas.

Chairman Hillman asked if any one from the public wished to speak regarding the application. Having no response, he closed the public hearing for Wetland Permit Application #EPC-79-2004

Chairman Hillman read the following agenda item:

EPC-76-2004, Elizabeth Phillips, 7 McLaren Road, proposing the correction of a violation of the Town's Inland Wetland and Watercourses Regulations, and perform related site development activities within a regulated area. The violation involves the unauthorized clearing of trees and understory vegetation, regrading, and associated impacts to the regulated setback and wetland areas. Discussion shall include a review of the unauthorized regulated activities and consideration of proposed remediation. The property is located on the north side of McLaren Road approximately 275 feet east of the intersection of the intersection of McLaren Road and Leroy Avenue, shown on Assessor's Map #6 as Lot #34.

Mark Lebow of William Seymour & Associates and property owner Elizabeth Phillips presented the application to the Commission.

Mr. Hillman announced that the hearing was to review the correction of a violation at 7 McLaren Road and to give public notice.

Mr. Lebow stated that no new supporting materials have been submitted, and that they were looking to guidance from the Commission.

Ms. Cameron said that she would like to see more than three trees included in the planting plan to compensate for all the trees removed from the site, including those under 12" dbh. Ms. Phillips said that larger trees were left in the back of the property, and distributed an updated planting plan and planting list. Ms. Cameron recommended that five Maples be planted. Mr. Lebow asked if that was in addition to the double amount of plantings proposed by the updated plan. Ms. Cameron confirmed that it was, and asked about areas that would not be planted. Mr. Lebow replied that the original groundcover would recolonize the disturbed area.

Mr. Hillman noted that the town wetland boundary map does not show wetlands on 7 McLaren Road.

Ms. Miller asked Ms. Phillips if she spoke with her neighbors regarding their drains and catch basins. Ms. Phillips replied that she had not.

After being recognized by the Chair, Susanna and Miriam Torre addressed the Commission. Susanna Torre reported that their property has received more water since the trees have been cut on the Phillips property, and reviewed pictures of standing water on her property. Ms. Phillips explained that the Torres owned the adjacent lot that has the high fence and drain beneath it. She said that the fence marks the property boundary and noted that the Torre property is manicured lawn and landscaping. She said that there has been no alteration to the grades or drainage flow on her property. Ms. Torre said that the drains on her property, near the fence, have become covered with leaf debris. Ms. Cameron asked if the runoff could be from the work activity at 5 Royle Road. Mr. Lebow explained that the 5 Royle Road property drains to a waterway and is too far to impact the Torre property.

Miriam Torre informed the Commission that work continued over the summer after the Town required that Ms. Phillips stop work. Ms. Phillips explained that the work was done by hand and

involved rolling logs to the back of the property and removing poison ivy. This activity was discussed during the August 11, 2004 meeting.

Susanna Torre repeated her concern regarding increase in drainage onto her property. Ms. Phillips noted that she was not proposing to fill and create a manicured lawn like the wetlands on the Torres' property. Mr. Hillman explained that the drainage was a private dispute between the neighbors.

Miriam Torre requested that all of the trees that were removed be replaced. Mr. Lebow stated that a total of six mature trees of 8" or greater were cut. Mr. Hillman explained that the Commission and the Torres were considering the smaller trees as well. Ms. Kirby said that she counted 10 stumps on the plan.

Ms. Miller recommended that the Torres clean the blocked drain to alleviate some of the standing water problem. Mr. Hutchison stated that there has been a significant amount of rain over the last few months.

Miriam Torre requested that the Phillips restore the site to its previous condition. Mr. Hillman explained that it would be impossible, but that it is the duty and goal of the Commission that the remediation plan put in place a sufficient amount of new plantings that will be as dense or more so than the prior conditions. Mr. Hutchison added that the Commission stays on top of the restorations to ensure that the plans are properly implemented and the plants thrive, and that they work with the property owner to make sure the remediation plans work.

Susanna Torre said that the backyard had been filled and requires sediment and erosion controls. Mr. Lebow said that the area has not been regraded. Ms. Miller and Ms. Sarnier reported that, during their site inspection, the backyard appeared to be level and did not appear to be filled. Ms. Cameron said that Mr. Woodside's letter recommended that hay bales be placed to surround the catch basins.

Mr. Kenyon noted that the town wetland boundary maps shows a significant area of wetlands on the Torre property.

Mr. Hillman announced that the hearing would be continued to the October 20, 2004 meeting, that in the meantime hay bales should be placed around all catch basins.

Chairman Hillman read the following agenda item:

EPC-98-2004, Robert Castells, 215 Brookside Road, regarding disturbance of a Conservation Easement Area, violation of the Town's Inland Wetland and Watercourses Regulations, and related unauthorized site activities within a regulated area. The violation involves the unauthorized clearing of trees and understory vegetation, and associated impacts to a conservation easement area, and regulated setback and wetland areas. Discussion shall include a review of a remediation plan and the unauthorized regulated activities and consideration of proposed remediation. The property is located on the west side of Brookside Road approximately 287 feet south of the intersection of the intersection of Three Wells Lane and Brookside Road, shown on Assessor's Map #5 as Lot #17-1.

Matt Popp of Environmental Land Solutions and property owner Robert Castells presented that application and addressed questions from the Commission.

Mr. Popp reviewed that the revised plan incorporates 18 trees to replace the ± 15 trees removed from the site, and an understory of shrubs. He distributed a copy of Mr. Castells letter to Mr. Keating. He said that the site photographs show the area of the tree removal and the sparse understory. He said that a field grass mix, including a wet soil, a moist soil mix, and an upland seed mix would be dispersed within the restoration area.

Mr. Castells said that he was pleased to be before the Commission to make sure that the proposed plantings would comply, and could be installed within the next couple of weeks.

In response to a question, Mr. Castells said he purchased the property from Charles Douglas. He then discussed his concerns regarding sharing the driveway with the Country Club of Darien.

Mr. Castells said that he did not do his homework when he purchased the property, and when he did the recent tree clearing.

In response to a question, Mr. Castells said that he was represented by Atty. George Wolf of Trumbull and Paulette Douglas during the purchase of the property. He said that he was aware that there was an easement and wetlands, but did not have a copy of the survey or closing documents. He said he did not get a survey until the second day of the unauthorized tree clearing.

In response to a question, Mr. Popp said that the plan should specify that there would be one male Winterberry, and the rest would be female.

Mr. Keating explained that he received a call regarding the work, and was already familiar with the lots. He said that the driveway was approved to disturb as little of area as possible. Mr. Castells said he feels that a residential and commercial property should not share a driveway.

In response to a question, Mr. Castells said that work was done by "Randy from Hartford."

Mr. Keating inquired about the lines of blue and orange flags below the retaining wall and within the protected area. Mr. Castells replied that he was using the flags to visualize the placement of the plants proposed by Mr. Popp. Mr. Keating asked if any irrigation, cables, or other wiring had been installed on the wetland side of the stonewall. Mr. Castells replied that there have not been.

The Commission discussed possible bond amounts with the applicant.

It was the consensus of the Commission that the public hearing for #EPC-98-2004 be closed.

Upon further discussion of the plans and materials presented, the following motion was made: That the Commission approve the application with conditions Wetland Permit Application #EPC-98-2004. The application is approved with the condition that the a performance bond in the amount of \$7,500 shall be posted with the Planning and Zoning Office to ensure the

restoration of the wetlands/conservation easement area, and the continuing compliance with this approval. The bond shall be filed prior to the commencement of work activity. The bond shall be held for two (2) growing seasons. If everything is in order, half of the amount (\$3,750) shall be returned after the first growing season (no earlier than year after the work is completed). The remaining amount shall be returned at the end of the second growing season if all of the new plantings and any necessary replacements are established. Any diseased or dead plantings must be replaced. The wetland/conservation easement area restoration is approved as shown on plan entitled "Planting Plan, 215 Brookside Road, Darien, CT" by Environmental Land Solutions, LLC, dated August 30, 2004, last revised October 6, 2004. The motion was made by Mr. Hillman, seconded by Ms. Kirby and unanimously approved.

Discussion of EPC-79-2004, Wee Burn Country Club, 410 Hollow Tree Ridge Road:

The Commission discussed the materials and plans presented, deliberated the project's merits, and considered conditions that may be included under a stipulated resolution, and instructed Commission staff to write a draft resolution reflecting their discussions for the two sessions of public hearing, and discussion of the application for further consideration during the October 20, 2004 meeting.

Approval of Meeting Minutes:

The meeting minutes for June 23, 2004 were approved with corrections and modifications. The motion was made by Mr. Hillman, seconded by Ms. Cameron, and unanimously approved.

The meeting minutes for July 7, 2004 were approved with corrections. The motion was made by Ms. Cameron and seconded by Mr. Lewis. Voting in favor of the motion were Ms. Cameron, Mr. Lewis, Mr. Kenyon, Ms. Kirby, and Mr. Hutchison. Mr. Hillman and Ms. Miller abstained from the vote. The motion was passed with a vote of 5 to 0, with 2 abstentions.

The meeting minutes of July 21, 2004 were approved with corrections. The motion was made by Mr. Hillman and seconded by Ms. Miller. Voting in favor of the motion were Mr. Hillman, Ms. Cameron, Mr. Lewis, Ms. Miller, and Mr. Hutchison. Mr. Kenyon and Ms. Kirby abstained from the vote. The motion was passed with a vote of 5 to 0, with 2 abstentions.

Chairman Hillman announced that the following items would be postponed to the October 20, 2004 meeting due to the late hour: Partial Bond Release for EPC-68-2003, Michael & Eleanor Devlin, 3 Waterbury Lane, Discussion of EPC Permitting Procedures for Dredging Projects.

Adjournment: Having no further business to attend to, the Commission adjourned the October 6, 2004 meeting at approximately 11:00 p.m.

Respectfully submitted,

Nancy H. Sarner
Environmental/GIS Analyst