

ENVIRONMENTAL PROTECTION COMMISSION  
GENERAL MEETING & PUBLIC HEARING  
MEETING MINUTES  
OCTOBER 20, 2004

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

Commission Staff Present: Nancy Sarner and David Keating

Court Monitor: Bonnie Syat

General Meeting:

Old Business:

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' from the intersection of Brookside Road and Pembroke Road, shown on Assessor's Map #1 as Lot #96.

Mrs. Rawald was present to discuss her application with the Commission. She explained that she does not have any current plans for construction, but wanted to amend the wetland boundary map so that she can appropriately plan for any possible changes she may wish to consider in the future.

Ms. Miller advised Mrs. Rawald that the existing wood chips in the wetlands are not an appropriate use of the area. Mrs. Rawald explained that the previous owner placed the wood chips in that area. Ms. Miller recommended that, in lieu of requiring Mrs. Rawald to remove the wood chips, she be advised that no materials should be placed in the regulated area, including a play structure.

Upon further review of the materials and plans submitted, the following motion was made: That the Commission receive the field located wetland delineation by Soil Scientist Thomas Pietras of Soil Science and Environmental Services to be included under the Commission's annual update of the Town's Regulated Wetlands and Watercourses Map. The wetland boundary map shall be revised to reflect the August 28, 2003 wetlands delineation by Mr. Pietras, and shown on the April 16, 2004 survey entitled "Zoning Location Survey Prepared for Ronald A. Rawald & Hiroko E. Rawald, #100 Pembroke Road, Darien, Connecticut" by William W. Seymour & Associates, P.C. The motion was made by Mr. Hillman, seconded by Ms. Miller, and unanimously approved.

Chairman Hillman read the following agenda item:

Discussion and Possible Decision for 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' west of the intersection of Red Mill Lane and Old King's Highway North, shown on Assessor's Map #32 as Lot #54-4.

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Upon further discussion of the materials and plans presented, the following resolution was adopted:

TOWN OF DARIEN  
ENVIRONMENTAL PROTECTION COMMISSION  
PERMIT TO CONDUCT A REGULATED ACTIVITY

EFFECTIVE DATE: OCTOBER 20, 2004  
EXPIRATION DATE: OCTOBER 20, 2009

Application Number: EPC-59-2004

Applicant's Name and Address: Edward & Lisa McCarthy  
11 Red Mill Lane  
Darien, CT 06820

Property Address of Proposed Activity: 11 Red Mill Lane  
Darien, CT 06820

Name and Address of Applicant's Representative: McChord Engineering Associates  
78 Danbury Road  
Suite 202  
Milford, CT 06897

Proposed Activity: 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

Shown on Tax Assessor's Map #32 as Lot #54-4.

The Environmental Protection Commission has considered the application with due regard to the matters enumerated in Section 21a-41 of the Connecticut General Statutes as amended and in accordance with Section 10 of the Inland Wetlands and Watercourses Regulations of the Town of Darien, and has found that the proposed work is in conformance with the purposes and provisions of said sections.

This authorization refers to the application to conduct regulated activities within and adjacent to the Five Mile River within the Town of Darien. The Commission has conducted its review and findings on the bases that:

- In issuing this permit, the Commission has relied on the applicants' assurances, and makes no warranties and assumes no liability as to the structural integrity of the design or any structures, nor to the engineering feasibility or efficacy of such design.
- In evaluating this application, the Environmental Protection Commission has relied on information provided by the applicants. If such information subsequently proves to be

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false, deceptive, incomplete and/or inaccurate, after interested parties have had an opportunity to be heard at a duly noticed public hearing this permit shall be modified, suspended or revoked by the Commission.

The Environmental Protection Commission met for a general meeting for the application on July 21, 2004, and a public hearing for the application on September 8, 2004. During the EPC's meeting and hearing, the applicants' representatives presented information explaining the project and provided answers to concerns and questions raised by the Commission, Commission staff and the general public.

Following careful review of the submitted application materials and related analysis, the Commission, all of whose members are fully familiar with the site and its surroundings, finds:

A. APPLICATION PROJECT DESCRIPTION:

The application proposes the construction of an addition on the east side of the existing residence. A new swimming pool with surrounding terrace, pool fence and equipment would be located east of the addition. The south side of the pool would act as a retaining wall and would border the north side of the detention basin. The detention basin would be reduced in size during the construction of the retaining wall and associated fill activity, and its outlet structure would be a modification of the existing outlet structure. The reduction would create additional site development area on their property. The existing maintenance access to the basin would be relocated to the east of its current position. Landscape and mitigation plantings would be installed.

B. SITE DESCRIPTION:

The 1.011-acre residentially developed property is located on the north side of the Red Mill Lane cul-de-sac. The lot is bordered by residential properties to the southeast and the southwest, and by open space to the north and northeast. The Five Mile River flows along the east side of the property. A large rock outcropping is located in the front yard area.

The residence is located within the western portion of the property. A large detention basin is located southeast of the residence and was installed as part of the Red Mill Lane subdivision approval. The detention basin is surrounded by stonewalls and contains a narrow drainage ditch, which has been identified as an intermittent watercourse. The open space area to the north is separated from the residential development by mature White Pines, Black Birch and Maples.

C. HEARING PRESENTATIONS AND RECORD:

The hearing presentation and application record include, but is not limited to, the following:

1. Report - "Environmental Protection Commission Application - Application for permission to conduct and activity within a wetland and watercourse setback for Mr. and

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Mrs. Edward T. McCarthy, 11 Red Mill Lane, Darien, Connecticut 06820" by Environmental Design Associates, P.C., dated June 9, 2004.

2. Soils Report - "Soil Investigation Report, 11 Red Mill Lane, Darien, Connecticut" by Soil & Wetland Science, LLC, dated February 23, 2004.
3. Letter of authorization, addressed to Town of Darien Environmental Protection Commission from Lisa McCarthy, dated June 8, 2004.
4. "Site Development Plan, 11 Red Mill Lane, Darien, Connecticut, Plan Prepared for Edward and Lisa McCarthy, Darien, Connecticut," Drawing No. SE1, by McChord Engineering Associates, dated June 9, 2004, last revised 8-31-04.
5. "Site Development Plan, 11 Red Mill Lane, Darien, Connecticut, Plan Prepared for Edward and Lisa McCarthy, Darien, Connecticut," Drawing No. SE1, by McChord Engineering Associates, dated June 9, 2004.
6. "Planting Plan, McCarthy Residence, 11 Red Mill Lane, Darien, Connecticut," Dwg. Number P-1, by Environmental Design Associates, PC, dated June 9, 2004, revised August 31, 2004.
7. "Planting Plan, McCarthy Residence, 11 Red Mill Lane, Darien, Connecticut," Dwg. Number P-1, by Environmental Design Associates, PC, dated June 9, 2004.
8. "Stormwater Management Report, Prepared for Proposed Detention Basin Reconfiguration, McCarthy Property, 11 Red Mill Lane, Darien, CT" by McChord Engineering Associates, dated August 18, 2004.
9. "Stormwater Management Report, Prepared for Proposed Detention Basin Reconfiguration, McCarthy Property, 11 Red Mill Lane, Darien, CT" by McChord Engineering Associates, dated March 30, 2004.
10. Property Location Map - Section of Tax Assessor's Map #32.
11. List of Abutting Property Owners, 11 Red Mill Lane.
12. Application for Permission to Conduct a Regulated Activity within an Inland Wetland or Watercourse Area in the Town of Darien, signed by Edward McCarthy, dated 6-9-04.
13. Letter to Holt McChord, McChord Engineering Associates, from Nancy H. Sarner, Environmental/GIS Analyst, dated August 9, 2004, with attachments.
14. Proof of Certified Mailings to Abutting Property Owners, dated 08/23/04.
15. Letter to Whom It May Concern from Allison M. Dolcetti and Phillip P. Dolcetti of 9 Red Mill Lane, dated September 8th, 2004.
16. Letter to Whom It May Concern from Pam & Doug Miller of 5 Red Mill Lane, dated 8/30/04.

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17. Letter to Whom It May Concern from Kari & Tom Ryan of 2 Red Mill Lane, dated September 7, 2004.
18. Letter to Whom It May Concern from Jennifer & Craig Knebel of 7 Red Mill Lane, dated August 30, 2004.
19. Letter to Whom It May Concern from Ann & George Brown of 8 Red Mill Lane, dated September 1, 2004.
20. Letter to Whom It May Concern from Joe Madalon of 6 Red Mill Lane, dated September 6, 2004.
21. Letter to Whom It May Concern from Michael & Patricia Gallo of 4 Red Mill Lane, dated September 4, 2004.
22. Environmental Protection Commission Minutes of March 1, 2000, pages 6 to 7.
23. Section of "Zoning Location Survey Number 4, Prepared for Edward C. Piorkowski, Jr., Darien, Connecticut" by Ryan and Faulds, LLC Land Surveyors, dated December 15, 1999, from file #EPC-15-2000.
24. Environmental Protection Commission Minutes of July 18, 2001, pages 13.
25. Section of "Zoning Location Survey Number 4, Prepared for Edward C. Piorkowski, Jr., Darien, Connecticut" by Ryan and Faulds, LLC Land Surveyors, dated November 1, 2000, from file #EPC-61-2001 (labeled "Maintenance Access for Detention Basin, EPC-61-2001, Approved 7/18/2001").
26. Site History Format for 11 Red Mill Lane, dated 6/17/2004.
27. Environmental Protection Commission Resolution for Application EPC-18-88, Adopted September 13, 1988, with attachments.
28. Site photographs (5 pages).

D. ITEMS/ISSUES OF CONCERN TO THE COMMISSION:

1. Drainage Impact from the Reconfiguration of the Detention Basin:

During the general meeting and public hearing, the Commission received testimony from Holt McChord, P.E., and reviewed his August 18, 2004 stormwater management report. The detention basin was installed as part of the 1988 Red Mill Lane subdivision. Based upon Mr. McChord's findings, the basin can be resized without adversely affecting its stormwater management capabilities, neighboring properties and the Five Mile River. The Commission accepts Mr. McChord's findings that the alteration of the detention basin would not pose any adverse drainage impacts and should enhance water quality of the stormwater discharge to the Five Mile River.

2. Consideration of Safety Concerns:

During the public hearing, the Commission discussed with the applicant's representatives and neighbors existing safety concerns posed by the current design of the detention basin. Mr. McChord explained that, since it had been over designed, it is a large and deep basin. Its location in the front yard of 11 Red Mill Lane and proximity to the roadway pose a hazard to neighborhood children. The Commission found that these concerns, in conjunction with its other findings of no adverse impact, support the approval of the application.

3. Review of Prudent and Feasible Alternatives:

During the July 21, 2004 general meeting, the Commission members requested that the applicant consider modifications to the proposed site design, including the installation of a smaller pool/pool terrace area. The applicant returned with a modified plan to the September 8, 2004 public hearing. The revised plan reduced the size of the pool and surrounding terrace, which allowed the structure to be placed further away from the intermittent watercourse and slightly reduced the amount of fill and regrading within the detention basin. During the September 8, 2004 public hearing and its deliberation on October 6, 2004, the Commission considered that the pool fencing could be located further away from the Five Mile River.

4. Impact to Wetlands and the Five Mile River:

During the general meeting and public hearing, the Commission heard testimony from Gilbert B. Wheless, ASLA, and reviewed the June 9, 2004 report from Environmental Design Associates. The Commission accepts the findings that the proposed activity poses minimal impact to the wetlands, Five Mile River and surrounding areas. In addition, the Commission found the proposed planting mitigation plan by Environmental Design Associates to be beneficial.

E. DECISION:

The Commission hereby approves the applicant's amended request, subject to the following stipulations:

1. This is a conditional approval. Each and all of the conditions herein are an integral part of the Commission's decision.
2. The Commission approves the application, as shown on the revised plans, entitled "Site Development Plan, 11 Red Mill Lane, Darien, Connecticut, Plan Prepared for Edward and Lisa McCarthy, Darien, Connecticut," Drawing No. SE1, by McChord Engineering Associates, dated June 9, 2004, last revised 8-31-04, as modified by this decision.
3. The eastern section of the pool fence shall be located along the line of the silt fence to be installed to the east of the pool equipment, near the 12" Black Birch, 15" Maple and 12" Maple, and west of the Five Mile River. The location of the silt fence is shown on the above-referenced approved plan, labeled "Silt Fence Typical."

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4. The planting shall be conducted as shown on the revised plans, entitled "Planting Plan, McCarthy Residence, 11 Red Mill Lane, Darien, Connecticut," Dwg. Number P-1, by Environmental Design Associates, PC, dated June 9, 2004, revised August 31, 2004. The plantings are an integral part of this approval, and the plan shall be fully implemented prior to the issuance of a Zoning Certificate of Compliance.
5. The work and regulated activities are limited to that which is approved, and shall be consistent with the terms and conditions of this permit. Prior to implementation, any possible revisions to the plans must be submitted to and reviewed by the Planning and Zoning Office in accordance with Section 7.8 of the Inland Wetlands and Watercourses Regulations to determine conformance to this approval, and may require an amendment approval by the Environmental Protection Commission. Any clearing, excavation, fill, obstructions, encroachment or regulated activities not specifically identified and authorized herein shall constitute a violation of this permit and may result in its modification, suspension or revocation. Upon the initiation of the activities authorized herein, the permittee would thereby accept and agree to comply with the terms and conditions of this permit.
6. All sediment and erosion controls and construction barriers shall be installed prior to the commencement of any work activity as shown on above-referenced approved plan by McChord Engineering Associates, as modified. The bottom of the silt fence shall be buried a minimum of 6" into the soil and shall be backfilled with suitable material. Controls shall be installed around any temporary soil stockpiling areas. Anti-tracking pad shall be installed to the east of the existing driveway entrance. All controls must be inspected daily by the permittee or their representative. Any sagging, undermining, or damage to the silt fence or construction barrier must be repaired immediately.
7. The permittee shall notify the Environmental Protection Commission immediately upon commencement of work and upon its completion.
8. The permittee shall notify the Environmental Protection Commission staff after the sediment and erosion controls are in place. The staff will inspect the erosion controls and protective fencing to make sure that they are sufficient and as per plan.
9. Sediment and erosion controls shown on the plans shall be maintained throughout the construction process and shall only be removed when the disturbed areas have been adequately re-stabilized with suitable vegetation.
10. No equipment or material, including without limitation, fill, construction materials, debris, or other items shall be deposited, placed or stored in any wetland or setback area on or off site unless specifically authorized by this permit.
11. This permit does not relieve the applicant of their responsibility to comply with all other applicable rules, regulations, and codes of other Town agencies or other regulating agencies.
12. The duration of this permit shall be five (5) years and shall expire on the date specified above. All proposed activities must be completed and all conditions of this permit must be met within one (1) year from the commencement of the proposed activity.

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The motion was made by Mr. Hillman, seconded by Mr. Kenyon, and unanimously approved.

Chairman Hillman read the following agenda item:

Discussion and Possible Decision for 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.

Upon further discussion of the materials and plans presented, the following resolution was adopted:

TOWN OF DARIEN  
ENVIRONMENTAL PROTECTION COMMISSION  
PERMIT TO CONDUCT A REGULATED ACTIVITY

EFFECTIVE DATE: OCTOBER 20, 2004  
EXPIRATION DATE: OCTOBER 20, 2009

Application Number: EPC-79-2004

Applicant Name and Address: Wee Burn Country Club  
410 Hollow Tree Ridge Road  
Darien, CT 06820

Property Address of Proposed Activity: 410 Hollow Tree Ridge Road  
Darien, CT 06820

Name and Address of Applicant's Representatives: Maslan Brown & Associates, LLP  
9 Old Kings Highway South  
Darien, CT 06820

Proposed Activity: 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.

Shown on Tax Assessor's Map #7 as Lots #66.

The Environmental Protection Commission has considered the application with due regard to the matters enumerated in Section 21a-41 of the Connecticut General Statutes as amended and in accordance with Section 10 of the Inland Wetlands and Watercourse Regulations of the Town of Darien, and has found that the proposed work is in conformance with the purposes and provisions of said sections.

This authorization refers to the application to conduct regulated activities within and adjacent to inland wetlands and a waterway within the Town of Darien. The Commission has conducted its review and findings on the bases that:

- In issuing this permit, the Commission has relied on the applicant's assurances, and makes no warranties and assumes no liability as to the structural integrity of the design or any structures, nor to the engineering feasibility or efficacy of such design.
- In evaluating this application, the Environmental Protection Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, after interested parties have had an opportunity to be heard at a duly noticed public hearing this permit shall be modified, suspended or revoked by the Commission.

The Environmental Protection Commission scheduled the application for an immediate public hearing, with two hearing sessions held on September 15, 2004 and October 6, 2004. During the EPC's hearing, the applicant's representatives presented information explaining the project and provided answers to concerns and questions raised by the Commission, Commission staff and the general public. No one from the general public participated in the public hearing, although invited to do so by the Commission.

Following careful review of the submitted application materials and related analysis, the Commission, all of whose members are fully familiar with the site and its surroundings, finds:

A. PROJECT DESCRIPTION:

The application proposes several regulated activities, which were designed after a thorough review and in-depth study of the existing facilities and Club's needs with various consultants. Several existing maintenance and storage buildings would be demolished, along with related equipment washing and fueling areas. New replacement structures and related facilities would be constructed upgrade of the maintenance facility. The new structures include an enclosed soil bin, fertilizer building, and double-walled fuel area. An existing drainage trench flows through the wetlands from the man-made pond near the facility to the north-northeast area of the maintenance facility. The new watercourse would be excavated further away from the maintenance area and stabilized with stone and vegetation. A small area of wetlands, which is fed by direct rainfall and stormwater runoff and located directly adjacent to an existing barn, would be filled to accommodate grading required for the redevelopment. As mitigation to the filling of the wetlands and the relocation of the drainage trench, the applicant has proposed to create a larger sized area of inland wetlands adjacent to the man-made pond, as well as clean and enhance a surrounding area of existing wetlands and upland review area. In addition, a formal stormwater drainage system shall be installed beneath the new parking area, and a split-rail fence would be installed near the perimeter to the 50' setback for the southerly edge of the pond and would be lined with 90 plantings of a variety of native shrubs and trees.

B. SITE DESCRIPTION:

The project work area is the maintenance facility for the Wee Burn Country Club. The Club is located on the north side of Hanson Road and east of Hollow Tree Ridge Road. The main club entrance is located north of the intersection of Hanson Road and Hollow Tree Ridge Road. The project area is accessible from maintenance entrance located off of Hollow Tree Ridge Road, north of Camp Avenue. According to the applicant, the Club has maintained the facility for many years and several of the existing buildings have become obsolete and should be replaced.

The maintenance area is used for staff housing, storage and maintenance areas, garages, various sheds, fueling and wash stations, and storage of a variety of materials, including stumps, sand, tanks and trailers. Paved areas include drives and parking. There are no formal drainage structures.

The resources identified within and adjacent to the project area are three wetland areas, a man-made pond and an intermittent watercourse, or drainage ditch. The smallest wetland "swale" is located directly behind the existing barn and receives water from direct rainfall and runoff. The largest area of wetlands is located adjacent to the manmade pond and has a finger of wetland soils through which an intermittent stream was dug years ago. This wetlands area has been disturbed over the years with activities associated with the maintenance facility, including the storage of large piles of logs and other materials, irrigation piping, sheds, and fencing. The dug drainage ditch flows in a southeasterly direction and is overgrown with a mix of herbaceous and woody vegetation. An isolated area of wetlands was flagged near the access drive.

C. HEARING PRESENTATION AND RECORD:

The hearing presentation and application record include, but is not limited to, the following:

1. Plans - "Wee Burn Country Club, Darien, Connecticut; 410 Hollow Tree Ridge Road, Darien, Connecticut," by Edward J. Frattaroli, Inc., dated July 13, 2004.
  - a. "Site Plan", Dwg. No. 1, scale: 1" = 20'
  - b. "Grading & Utility Plan - Alternative 1", Dwg. No. 2
  - c. "Soil Erosion & Sediment Control Plan", Dwg. No. 3
  - d. "Road Improvement Plan", Dwg. No. 4
  - e. "Site Plan", Dwg. No. 5, scale: 1" = 50'
  - f. "Site Plan", Dwg. No. 6
  - g. "Grading & Utility Plan - Alternative 2", Dwg. No. 7
2. Plan - "Grading & Utility Plan - Alternative 3; Wee Burn Country Club, Darien, Connecticut; 410 Hollow Tree Ridge Road, Darien, Connecticut," by Edward J. Frattaroli, Inc., dated August 20, 2004.
3. "Mitigation Planting Plan, Wee Burn Country Club, Darien, Connecticut" by Environmental Land Solutions, dated July 9, 2004.

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4. Three-Year Habitat Management Plan and Stream Management Plan, by Environmental Land Solutions, dated July 13, 2004.
5. "Alternative #1, Mitigation Planting Plan, Wee Burn Country Club, Darien, Connecticut" by Environmental Land Solutions, dated July 16, 2004.
6. "Alternative #2 - Preferred, Mitigation Planting Plan, Wee Burn Country Club, Darien, Connecticut" by Environmental Land Solutions, dated July 16, 2004.
7. Letter to the Environmental Protection Commission from Environmental Land Solutions, dated July 9, 2004, Re: EPC Application-Wee Burn Country Club, Hollow Tree Ridge Road, Darien, CT, with attachments.
8. "Stormwater Summary Report, Prepared for Wee Burn Country Club, 410 Hollow Tree Ridge Road, Darien, Connecticut" by T. Werner and John E. Pugliesi, P.E., dated July 13, 2004.
9. Application for Permission to Conduct a Regulated Activity within an Inland Wetland or Watercourse Area within the Town of Darien, signed by Attorney Robert F. Maslan, Jr., on behalf of Wee Burn Country Club, Inc., dated 7/14/04, with 20 attachments.
10. "Report on Laboratory Examinations" from Averill Environmental Laboratory, Inc., to Loureiro Engineering Associates, dated 9/3/04.
11. Plan - "Sample Locations; Fuel Soil Release Investigation, Wee Burn Country Club, Darien, Conn." by Loureiro Engineering Associates, Inc., dated 10/01/04.
12. Letter to Robert F. Maslan, Jr., Esq. from John E. Pugliesi, P.E., dated September 15, 2004, revised October 5, 2004.
13. Letter to Mr. Robert Maslan, Esq. from Environmental Land Solutions, LLC, dated September 23, 2004, Re: Bond Estimate for Plantings, Wee Burn Country Club, Darien.
14. Site photographs from EPC site visit, received October 6, 2004 (4 pages).
15. Email to [Nancy Sarner] from [Susan Cameron], sent Friday, October 01, 2004 9:00 AM, Subject: Wee Burn - chemical spill analysis.
16. Letter to Atty. Robert Maslan, Jr. from Nancy H. Sarner, Environmental/GIS Analyst, dated August 9, 2004.
17. Certificates of Mailing, dated August 25, 2004.
18. Letter to Peter Hillman, Chairman, Environmental Protection Commission, from Robert F. Maslan, Jr., dated September 14, 2004, with attachments.
19. Memorandum to EPC Members from Nancy Sarner, Environmental/GIS Analyst, dated September 15, 2004.

20. Wee Burn Country Club, Inc., Maintenance Facility, Existing Conditions Photographs, dated September 8, 2004.
21. Cross Section - "Relocated Watercourse (Typical Cross Section), Wee Burn Country Club, Darien, Connecticut" by Environmental Land Solutions, LLC, dated July 9, 2004.

D. ITEMS/ISSUES OF CONCERN TO THE COMMISSION:

1. Impact to Wetlands and Watercourses:

During the two sessions of the public hearing, the Commission heard testimony from, among others, Judith Slayback of Environmental Land Solutions and John Pugliesi, P.E. of Edward J. Frattaroli, Inc. And, the Commission reviewed and is familiar with the reports and analysis submitted with the application.

The proposal includes the removal of all stockpiled and dumped materials, sheds, old fencing and irrigation piping, and invasive species from the regulated areas and the replanting of the area with native, more desirable species. Future maintenance activity will be kept outside the protected area. The Commission finds that the cleanup and replanting of the wetlands and setback area is sufficient compensation for the short-term impacts involved with the demolition of existing structures and long-term maintenance of paved areas and sheds within the setback area.

The applicant provided an alternative of relocating an existing watercourse, or drainage ditch, to an unused area of the golf course further away from the maintenance facilities activities. This relocation would reduce potential impact to the watercourse and associated wetlands by minimizing risk of pollution and disturbance of the channel from the maintenance activities.

The applicant proposes the filling of a (10' by 50' wetland area, or "wetland swale." This wetlands area is isolated, lacks very little wetland function or characteristic, lacks dominant and diverse hydrophytic plant species, and is fed by direct rainfall and runoff. To mitigate the loss of this wetlands area, the applicant proposes the creation of a larger size wetland area near the man-made pond. The Commission finds that the created wetlands mitigation area compensates for the loss of the smallest wetlands pocket and enhances the wetlands and more natural area. Under the proposal, 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. And, although the application proposes the filling of 347 square feet of wetlands, the applicants proposes the restoration/creation of 10,791 square feet of wetlands and upland review area. Environmental Land Solutions provided a three-year habitat management plan for the restoration area, which includes continued attention to the removal of invasive species, replacement of dead plants, and site inspections during the three-year maintenance program. Also, Environmental Land Solutions provided a construction sequence for the relocation of the intermittent watercourse, which includes, but is not limited to, the staking of the channel location to avoid large healthy trees and shrubs where feasible, sediment and erosion controls including the use of stone check dams, the

construction of the stone weir berm, and hand removal of any accumulated silts, sediments and fallen branches from the watercourse.

2. Impact to Drainage:

The Commission reviewed the July 13, 2004 Stormwater Summary Report and heard testimony regarding the proposed stormwater system and post-construction drainage patterns from Mr. Pugliesi and Ms. Slayback. The Commission accepts the testimony from Ms. Slayback that stormwater runoff would be attenuated prior to entering the wetlands, and accepts the findings from Mr. Pugliesi that there would be no increase in peak runoff rates, and therefore to adjacent properties.

3. Review of Feasible and Prudent Alternatives:

Within its review of the proposal, the Commission reviewed alternative plans submitted by the applicant. The alternate plans including maintaining the intermittent watercourse in its existing location, relocating the watercourse to the east of its current location, and relocating and pipe the watercourse east of its current location.

The Commission finds that the Alternative #3 plan by Edward J. Frattaroli, Inc., which proposes the relocation of the watercourse to the east of its current location, and piping the watercourse along the steep slope to reduce erosion, to be the most feasible and prudent. This option shifts the watercourse further away from the maintenance facility area in contrast to Alternative #1, and poses less erosion and channel scour, and creates a larger riprap area along the stream channel than Alternative #2.

The applicant has demonstrated that, due to the location wetlands, watercourses, and associated 50' setback areas, it is not feasible to avoid intrusions upon these regulated areas.

4. Potential Impact from Chemical and Pollutants:

The Commission heard testimony regarding soil and groundwater investigation from Kimberly Clarke of Loureiro Engineering Associates, as well as reviewed maps and reports regarding the chemical sampling and analysis conducted by Loureiro Engineering Associates. Ms. Clarke demonstrated that the applicant and its consultants are working with the State and are actively investigating and addressing issues involved with the removal of underground fuel and oil tanks within the maintenance facility area.

E. DECISION:

The Commission hereby approves the proposal with the following stipulations:

1. This is a conditional approval. Each and all of the conditions herein are an integral part of the Commission's decision.
2. The work is approved as shown on the plans entitled "Grading & Utility Plan - Alternative 3; Wee Burn Country Club, Darien, Connecticut; 410 Hollow Tree Ridge

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Road, Darien, Connecticut," by Edward J. Frattaroli, Inc., dated August 20, 2004, and "Alternative #2 - Preferred, Mitigation Planting Plan, Wee Burn Country Club, Darien, Connecticut" by Environmental Land Solutions, dated July 16, 2004.

3. Work shall immediately begin on the cleanup of the wetlands and 50' setback area, including but not necessarily limited to, the removal of the large log stockpile, irrigation piping, sheds and old fencing. The work shall be completed within three (3) months of the permit approval date. The Commission requires that the permittee make best efforts to keep the wetlands and 50' setback area in best conditions, moving forward.
4. The wetland creation/restoration, upland review area enhancement/restoration, and watercourse relocation shall commence as soon as feasible. The work must be completed before the issuance of a Zoning Certificate of Compliance or within one (1) year of the commencement of any of the permitted work activity (not necessarily the resources restoration/creation activity), whichever is earlier.
5. This permit does not relieve the applicant of their responsibility to comply with all other applicable rules, regulations, and codes of other Town agencies or other regulating agencies. It is specifically noted that the applicant must confirm with the Inland Water Resources Division of the CT DEP if a Diversion Permit is required, and must continue to work with the State regarding the necessary cleanup associated with the removal of the underground fuel and oil storage tanks. A copy of these other permits and approvals shall be submitted to the EPC to complete the file.
6. The wetland restoration/replanting within the maintenance project area is an integral part of this approval. The work activity shall not be deemed complete and approval of a Zoning Certificate of Compliance cannot be issued until this required planting is conducted. The required planting is shown on the above-referenced approved plan entitled "Alternative #2 - Preferred, Mitigation Planting Plan," by ELS, dated July 16, 2004.
7. The Three-Year Habitat Management Plan and Relocated Stream Management Plan, by Environmental Land Solutions, dated July 13, 2004, shall be fully implemented.
8. That a performance bond shall be posted with the Planning and Zoning Office to ensure that the wetland enhancement and planting plan is completed according to the above mentioned approved plans and the compliance with this approval. The bond shall be in the amount of \$13,200. The bond shall be held for two (2) growing seasons. Half of the amount shall be returned after the first growing season (no earlier than one year after the work is completed). The remaining amount shall be returned at the end of the second growing season to ensure that the new plantings are established. Any diseased or dead plantings must be replaced.
9. Sediment and erosion controls shall be installed prior to the commencement of work activity, as shown on the plans entitled: "Soil Erosion & Sediment Control Plan", Dwg. No. 3, Wee Burn Country Club, Darien, Connecticut; 410 Hollow Tree Ridge Road, Darien, Connecticut," by Edward J. Frattaroli, Inc., dated July 13, 2004.

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10. The bottom of the silt fence shall be buried a minimum of 6-inches into the soil and shall be backfilled with suitable material. All controls must be inspected daily by the permittee or their representative. Any sagging, undermining, or damage to the silt fence or construction barrier must be repaired immediately.
11. The permittee shall notify the Environmental Protection Commission immediately upon commencement of work and upon its completion.
12. The permittee shall notify the Planning and Zoning Office after the sediment and erosion controls are in place and prior to commencement of excavation or regrading work for each phase of construction. The Commission staff will inspect the erosion controls to make sure that they are sufficient and as per plan. All sediment and erosion control measures must be maintained until all disturbed areas are stabilized and revegetated.
13. Sediment and erosion controls shown on the plans shall be maintained throughout the construction process and shall only be removed when the disturbed areas have been adequately re-stabilized with suitable vegetation.
14. The work activity is limited to that which is approved. Prior to implementation, any possible revisions to the plans must be submitted to and reviewed by the Planning and Zoning Office to determine conformance to this approval, and may require an amendment approval by the Environmental Protection Commission. Any increase in the extent of regrading, development, disturbance or impacts within the wetlands or watercourse, or regulated area around the wetlands, or other significant amendments to the approved plan will require prior submission to and review by the entire Commission in accordance with Section 7.8 of the Inland Wetlands and Watercourses Regulations of the Town of Darien.
15. This permit does not relieve the applicant of their responsibility to comply with all other applicable rules, regulations, and codes of other Town agencies or other regulating agencies. A copy of these other permits and approvals shall be submitted to the EPC to complete the file.
16. No equipment or material, including without limitation, fill, construction materials, debris, or other items shall be deposited, placed or stored in any wetland, watercourse or setback area, on or off site unless specifically authorized by this permit.
17. The duration of this permit shall be five (5) years and shall expire on the date specified above. All proposed activities must be completed and all conditions of this permit must be met within one (1) year from the commencement of the proposed activity.

The motion was made by Mr. Hillman, seconded by Mr. Kenyon, and unanimously approved.

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.

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Since the permittee was not present and the Commission had not received the requested existing conditions and remediation plans, the item was tabled and continued to the November 3, 2004 meeting.

Partial Bond Release for EPC-68-2003, Michael & Eleanor Devlin, 3 Waterbury Lane, for a performance bond required to ensure that the restoration of the wetlands be conducted in compliance with wetland permit approval.

Mr. Hillman reported that Ms. Cameron informed him that she had the opportunity to visit the property and was satisfied with the remediation work. Landscaper Chris Harvey-Smith was present on behalf of Mr. and Mrs. Devlin. In response to a question, he confirmed that the seed mix had been dispersed within the restoration area, and added that the plants are thriving. He said that the new owners have retained his services to maintain the property. Ms. Sarner explained that she visited the property immediately after the plantings were installed and received an "as-built" plan from Environmental Design Associates in August 2003.

Upon further discussion, the following motion was made: That the Commission authorize the partial release of the bond held for the wetland restoration work activity at 3 Waterbury Lane, equal to half the amount of the bond posted (\$5,000). The motion was made by Mr. Hillman, seconded by Ms. Miller, and unanimously approved.

New Business:

Chairman Hillman read the following agenda item:

EPC-90-2004, Peter & Stephanie Ahl, 20 Arrowhead Way, requesting review and approval of an emergency repair of septic system. The property is located at the southwest corner formed by the intersection of Arrowhead Way and Dogwood Lane South, shown on Assessor's Map #64 as Lot #23.

Mr. Hillman explained that the application was requesting an after-the-fact approval of an emergency repair and replacement of the septic system at 20 Arrowhead Way. He said that Ms. Sarner and Ms. Commission inspected the work and met with the septic contractor at the site.

Upon further discussion, the following motion was made: That the Commission receive the 2001 wetlands delineation from permit file #EPC-25-2001. The Town's Regulated Wetlands and Watercourses Map shall be modified to reflect 2001 findings during the Commission's next annual map update, if the delineation has not already been included under a previous map update. The motion was made by Ms. Miller, seconded by Mr. Lewis, and unanimously approved.

Mr. Hillman asked Ms. Sarner about her concerns regarding the irrigation system. Ms. Sarner explained that irrigation lines were installed over the pre-existing septic system, which was outdated, and that her concern is that the irrigation would saturate the septic fields. She said that the septic contractor, Mr. Ralph Palladino, had disconnected the irrigation system during his site work, and seemed to share the same concerns. Mr. and Mrs. Ahl said that they believe the irrigation in the septic area has been reconnected. Ms. Sarner said she would inform Mr. Proto

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of the Health Department of the irrigation system to determine if it is acceptable per the health code.

Upon further review of the materials and plan submitted, the following motion was made: That the Commission approve Wetland Permit Application #EPC-90-2004 for the emergency repair/replacement of a failing septic system, as submitted. The motion was made by Ms. Miller, seconded by Mr. Hutchison, and unanimously approved.

Chairman Hillman announced that Wetland Permit Application #EPC-91-2004 for 39 Blueberry Lane had been withdrawn by the property owner, Robert Martin, and read the following agenda item:

EPC-92-2004, Lynn & Mike Wellman, 29 Arrowhead Way, proposing fence installation around backyard. The property is located on the eastern side of Arrowhead Way approximately 350' north of the intersection of Arrowhead Way and Hope Drive, shown on Assessor's Map #65 as Lot #65.

Lynn Wellman was present to discuss her application with the Commission.

In response to a question, Mrs. Wellman explained that her dog could not be trained for an invisible fence and that she had been told that approximately 5-percent of dogs cannot be trained. Mrs. Wellman explained that the fence would not impact trees and should not impede wildlife, noting that it would be installed on the house side of the stream.

In response to a question, Mrs. Wellman replied that the previous owner deposited the wood chips near the stream. Ms. Miller recommended that the wood chips be removed and the area be replanted with Pachysandra, Ivy or Myrtle.

Mr. Hillman recommended that the fence be installed no closer than 3' to 5' from the stream.

Upon further discussion of the plans and materials submitted, the following motion was made: That the Commission approve with conditions Wetland Permit Application #EPC-92-2004. The application is approved with the following conditions:

1. The wood chips shall be removed and the disturbed area shall be replanted with Pachysandra, Myrtle or Ivy.
2. The fence shall be installed no closer than 3' to 5' from the stream edge.

The motion was made by Mr. Kenyon, seconded by Mr. Hutchison, and unanimously approved.

Chairman Hillman explained that it is the Commission's prerogative to address items out of order, and read the following agenda item:

EPC-95-2004, Holly Hurd, 106 Stephen Mather Road, proposing tree removal from the backyard. The property is located on the south side of Stephen Mather Road at the southeast corner formed by the intersection of Stephen Mather Road and Maplewood Drive, shown on Assessor's Map #1 as Lot #29.

Mrs. Hurd presented her application and addressed questions from the Commission.

Mr. Hillman noted that a letter had been filed with the application from Tom O'Neill, Certified Arborist, of O'Neill's Tree Care. Mrs. Hurd explained that one of the trees has already fallen. Ms. Miller confirmed that the trees are dead. Mr. Hillman reported that Ms. Cameron had informed him that she visited the site and confirms that the trees are dead or dying, and that she recommends that the trees be replaced with Red Maples. Mrs. Hurd said she proposed the option of replacing the trees with either Dogwood or Red Maple, and noted that *Ilex spp.* have been proposed for shrub plantings. Ms. Miller said that the landscape architect obtained by Mrs. Hurd, Sara McCool, is well respected. Mr. Hillman stated that consultant Donald Ferlow has advised the EPC during past meetings that for every two trees installed, one would die, and had recommended replacement plantings at a ratio of 2:1 ½.

Upon further discussion of the plans and materials presented, the following motion was made: That the Commission approve with conditions Wetland Permit Application #EPC-95-2004 for the removal of six dead or dying trees located along the rear property. The application is approved with the condition that the six (6) trees be replaced with nine (9) trees to be selected by Sara McCool, Landscape Architect. The motion was made by Mr. Hutchison, seconded by Mr. Hillman, and unanimously approved.

Chairman Hillman read the following agenda item:

EPC-96-2004, Francisca J. & David M. Oller, 15 Blueberry Lane, proposing to correct violation, install plantings, and perform wetlands restoration work. The site is on the southeast side of Blueberry Lane approximately 750 south of the easterly intersection of Blueberry Lane and Ox Ridge Lane, and is shown on Tax Assessors Map# 7 as Lot# 25.

Attorney D. Bruce Hill represented Mr. and Mrs. Oller. He was joined by the Ollers and Michael Fishman, P.W.S., of Stearns & Wheler. Atty. Hill reported that the restoration plan was created by Donald Ferlow, L.A., W.S., of Stearns & Wheler.

Mr. Hillman expressed concern that the violation had occurred. In response to a question from Mr. Hillman, Ms. Sarner confirmed that wetlands are shown for 15 Blueberry Lane on the Town's wetland boundary map. Mr. Hillman said that he believes a realtor, such as Mrs. Oller, should be aware of the wetland regulations, as well as from her conversations with office staff.

Mr. Oller said that David Keating, Wetlands Enforcement Office, visited the property and had been shown an 18" to 24" fill area and PVC pipes on the adjoining property. Ms. Miller noted that the pipes are shown in site photographs. Mrs. Oller reported that there are four pipes that open onto her property. Mr. Oller reviewed the photographs, indicating the area of fill. In response to a question, Mrs. Oller replied that the neighbor did not install a retaining wall to hold the fill. Mr. Oller said that some of the trees that were removed had been impacted by the neighbor's drainage, and that others were taken down to encourage growth of other trees. Mr. Hillman explained that the drainage issue was a civil matter. Atty. Hill responded that there was no doubt to that.

The Ollers questioned the removal of the large Weeping Willow tree. In response to a question, Ms. Sarner reported that she spoke with Mr. Ferlow on the phone regarding the willow tree, as well as with Mrs. Oller at the site.

Mr. Fishman explained that the tree cutting encouraged the lush understory growth, which is good for soil conservation and wetland value, allows for a better percolation rate, and alleviates standing water. He said that Mr. Ferlow created a very simple planting plan, based upon these existing conditions and specifying the removal of the willow tree. Mr. Hillman opined that there was not a concern regarding the removal of the willow tree. Mr. Fishman explained that four of the River Birch would be transplanted from other locations on the property, which increases their survival rate, as compared with planting trees that were grown offsite. He reviewed the plantings proposed under the restoration plan, noting that the selected species would create an understory and provide wildlife value.

In response to a question from Mr. Oller, Mr. Hillman confirmed that the Ollers have the option of maintaining the willow tree if they do not wish to remove it immediately. Ms. Sarner recommended that, if the Ollers wish to maintain the willow for a longer period of time, the Commission can authorize the staff to approve its removal in the future.

Mr. Kenyon asked when the fill and PVC pipes had been installed on the neighboring property. Mr. Keating replied that the work was most likely conducted 20 to 30 years ago. Mr. Oller said that the PVC pipe ends at the fence. Mr. Lewis asked if the work was a violation, and when the pipes were put in. Mr. Oller said that only two pipes existed when they purchased the property five years ago, and that two of the pipes had been installed since then. Mr. Keating explained that it is his recollection that the pipes were there for quite a while. Mr. Hillman asked Mr. Keating to review the issue. Mr. Keating replied that he could, and reminded the Commission that it was not relevant to violations created by the Ollers or the current application. Ms. Miller opined that it was relevant if the drainage impacted the trees that were removed by the Ollers. Mrs. Oller said that, on occasion, she hears running water discharging from the pipes.

Ms. Miller inquired about the Ollers representation during the purchase of the property. Mrs. Oller said that she represented herself as a realtor, and Atty. Bill Waldo was their lawyer. She said that Tom Little was the landscaper from New Canaan that conducted tree removal work.

Mr. Hillman reiterated that he was concerned that the violation occurred, given how familiar Mrs. Oller is with wetland rules through her business and contact with the Town. Mr. Oller said that they cleared the trees because they were frustrated with the existing site conditions.

Ms. Miller expressed concern that the lawn within the wetlands is treated with chemical fertilizers and herbicides. Mrs. Oller stated that it is not. He said that they want to stop lawn creep into the wooded area but did not know that wood chips are not allowed. Mr. Fishman said that the plan would create a natural growth interface of grasses to prevent further lawn creep. Atty. Hill said that the lawn has been there for a while. Mrs. Oller said she planted the existing grasses and that they grew quickly. Atty. Hill suggested that there is an agreement as proposed with additional transplants. He noted that the Ollers are trying to voluntarily demarcate the edge of lawn. Ms. Miller recommended that the Commission stipulate that there is no pesticide or herbicide use within the regulated area.

Mr. Hillman asked how many trees would be planted/transplanted. Mr. Fishman replied that four River Birch would be transplanted and fourteen shrubs would be planted. Mr. Hillman recommended that additional trees be added to the plan. Atty. Hill said that Mr. Ferlow spoke with Ms. Sarner regarding limiting the number of new trees to the restoration area. Ms. Sarner

clarified that they did speak but that she did not approve the plan, and that the Commission usually requests that the number of replacement trees is equal to or close to the number of trees removed.

Mr. Hillman asked if the trench is addressing the drainage issue. Mr. Oller explained that the trench is approximately 1' wide and 2' to 3' deep. Mr. Fishman said that the alternative to the trench drain is installation of an underground infiltrator, which is not feasible at 15 Blueberry Lane because of the high water table. He said that the trench drain is reasonable, in his opinion. Mr. Oller said that the drain runs approximately 2' off of the property line toward the Wee Burn Country Club property.

Upon further discussion of the plans and materials presented, the following motion was made: That the Commission approve with conditions Wetland Permit Application #EPC-96-2004. The wetland restoration work activity is approved as shown on the plan entitled "Restoration Plan, Environmental/Wetland Restoration, Oller Residence Site, 15 Blueberry Lane, Darien, Connecticut," Sheet 2, by Stearns & Wheler, LLC, dated 13 September 2004. The application is approved with the following conditions:

1. Commission staff may grant permission to the property owner in the future to remove 60" Weeping Willow.
2. Fertilizers, herbicides and pesticides shall not be used on the lawn located within the regulated area.
3. A performance bond in the amount of \$3,000 shall be posted with the Planning and Zoning Office to ensure that the wetland restoration plan is completed according to the above mentioned approved plan and in compliance with this approval. The bond shall be held for two (2) growing seasons. Half of the amount shall be returned after the first growing season (no earlier than one year after the work is completed). The remaining amount shall be returned at the end of the second growing season to ensure that the new plantings are established. Any diseased or dead plantings must be replaced.

The motion was made by Mr. Hillman, seconded by Mr. Lewis, and unanimously approved.

#### Public Hearing:

Continuation of 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' east of the intersection of the intersection of McLaren Road and Leroy Avenue, shown on Assessor's Map #6 as Lot #34.

Mark Lebow and Elizabeth Phillips were present for the continued discussion of Application #EPC-76-2004. Mr. Lebow informed the Commission that John Martucci, P.E., was in attendance to address any questions regarding drainage.

Mr. Hillman noted that neighbors were interested in the application, and invited them to the front of the Auditorium to view the applicant's display boards. He asked Mr. Lebow if he had an opportunity to review the October 18, 2004 report by S.E. Minor & Co., received by the

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Planning and Zoning Office on October 19, 2004. Mr. Lebow replied that Commission staff faxed the report to him, and that he had anticipated that an engineer might submit a report on behalf of the Torres, and had submitted his October 15, 2004 letter to address some of the property issues. He said that they doubled the number of plantings, and then added five more trees to that amount per Ms. Cameron's comments. He said at the last meeting, the Torres discussed their flooding concerns. He said that he did not want the Commission to lose sight of the issue at hand, which was the damage done to the wetlands on the Phillip's property by the unauthorized clearing, and that his client has not denied her responsibility to repair and restore the area.

Mr. Hillman asked Mr. Lebow about the comment from his letter, "people in glass houses." Mr. Lebow replied that the Torre property has a significant amount of mapped wetlands but is maintained as a manicured lawn with drainage system. Mr. Frangione, P.E., of S.E. Minor & Co. was given a copy of the town wetland boundary map for the area. Mr. Hutchison recommended that the discussion be limited to the issues that pertain to the Commission. Mr. Lebow agreed and said that he worked with the Staff and Commission in revising the plan, and wanted to make sure they are not influenced with extraneous matters.

Mr. Lebow said that he objected to the statement within the October 18, 2004 letter from S.E. Minor & Co. that 32 trees had been removed and that they should be replaced at a 2:1 ratio, or by trees. He said that he had counted 27 trees on the survey, of varying sizes, and reviewed the survey. He added that he is not sure that the property could accommodate 48 trees. Mr. Hutchison asked Mr. Lebow if they wanted to make the area the best wetlands they could, how many trees would they plant. Mr. Lebow replied that he does not believe there is just one solution. He reviewed that the original restoration plan proposed 5 trees, which was doubled to 10 trees, and that 5 more trees were added per Commission comments, making the total number of trees to be planted 15. He said that they expect to post a performance bond. Mr. Hillman said that S.E. Minor & Co. did not have the benefit of the plan, but that it is the Commission's desire that the area will, once grown, mimic the pre-existing site conditions. He said that he is not convinced that the number of trees discussed in the report is correct and that he is not certain if the runoff calculations are based on the original or revised restoration plan. Mr. Hutchison commented that the question is if the revised plan is substantial enough to restore the area. Ms. Miller stated that 27 trees were removed, and that consultant Mr. Ferlow, in past meetings, recommended trees be replaced at a ratio of 2:1 ½. Mr. Lebow said that at the last meeting, Ms. Cameron recommended the addition of 2"-4" dbh Red Maples.

After being recognized by the Chair, Robert Frangione, P.E., of S.E. Minor & Co. addressed the Commission. He asked that the Commission not forget that they were reviewing a wetlands violation. Mr. Hillman said that he wanted to make it clear that the wetlands on the Phillips property are not shown on the town wetland boundary map, and therefore was not a knowing violation. Mr. Frangione quoted his October 18, 2004 letter, saying that the "bull is now out of the barn." He reported that the Torres are experiencing an increase in wet conditions, and that wood chips and logs have been left in the Phillips' wetlands. Ms. Phillips explained that she had been instructed to leave the materials until she received EPC review and approval. Mr. Frangione said that no inlet protection had been installed to protect the catch basin on the Torre property, which has become covered with wood chips and debris. He asked if Ms. Phillips would clean the catch basin. Mr. Hillman said that, during the last meeting, Ms. Phillips told the Commission she would like to begin the restoration work immediately.

Mr. Frangione said that, in other towns, cut trees are replaced at a ratio of 2:1. Mr. Hutchison asked what other towns use that ratio. Mr. Frangione replied that Greenwich does, and New Canaan, depending on the site. He said that based on the Commission's ratio that for every two trees installed, one would die, he would recommend that the trees be replaced at a ratio of 5:1. Mr. Hillman said that the Commission would require that a performance bond be posted to ensure the replacement of any trees that do not survive. Mr. Frangione said that his clients want the wetlands returned to its pre-existing conditions. Mr. Hillman explained that it is impossible to exactly recreate the prior conditions, and that it is beyond their abilities, or function, to say what caused the problems on the Torres property. Mr. Hutchison summarized that the violation had occurred and that the Torres, like the Commission, want the best restoration plan to be implemented. Mr. Frangione recommended that more trees be planted and that a \$5,000 to \$6,000 bond be posted. Mr. Lebow wanted it noted that the bond figure was from Mr. Frangione. Mr. Hutchison recommended that 2 more trees be added to the restoration plan, and that hay bales be installed around any inlets and remain in place a few years until the area is stabilized.

Mr. Hillman announced that the Public Hearing for Application #EPC-76-2004 is closed.

General Meeting - Resumed at the Conclusion of Public Hearing:

Chairman Hillman read the following agenda item:

EPC-97-2004, Anthony & Brandi Maniscalco, 11 Laurel Lane, proposing to correct violation, remove stump, install fence, landscaping and stepping stones within regulated area. The property is located on the west side of Laurel Lane approximately 175' north of the intersection of Middlesex Road and Laurel Lane, and is shown on Assessor's Map #27 as Lot #19.

Mrs. Maniscalco presented her application, and addressed questions from the Commission regarding the violation and proposed work activity. She explained that she discovered she needed permits for the work too late.

Mrs. Maniscalco reviewed site photographs. Mr. Hutchison asked if the silt fence was installed after the work began. Mrs. Maniscalco replied that it was, and was another thing they found out about too late. She said that when they purchased the house, the large Oak adjacent to the driveway was still living, but that it died despite efforts to save it. Ms. Sarnier explained that Staff approved the removal of the dead Oak.

Ms. Kirby stated that two trees shown on the plan are missing. Mrs. Maniscalco explained that the map is incorrect, and reviewed the locations of trees on the site.

Mr. Hillman asked if the Commission found the removal of the stump, paving and Belgium block curb to be acceptable. Ms. Miller, Mr. Hutchison and Mr. Lewis said that they did.

Mr. Hillman asked Mrs. Maniscalco to review the activity involving the stonewall. Mrs. Maniscalco explained that the wall was proposed to address safety concerns. Mr. Hillman said that he did not have any concerns regarding the wall or the stepping stones.

The Commission discussed the proposed fence with Mrs. Maniscalco. Mr. Hillman recommended that the fence be painted prior to installation. Ms. Miller said that care should also be taken that no paint is washed into the wetlands. She said that the plan proposes the use of Euonymus, and requested that Burning Bush Euonymus be avoided. Mr. Fishman of Stearns & Wheler assisted the Commission and recommended that any type of Euonymus be avoided. Mrs. Maniscalco asked what could be planted. Mr. Hillman explained that native, non-invasive species could be used.

In response to a question, Mrs. Maniscalco explained that she had not determined the source of the grass clippings and branches in the wetlands, but asked her landscapers not to dump yard waste materials in the area.

Upon further discussion of the materials and plans presented, the following motion was made: That the Commission approve with conditions Wetland Permit Application #EPC-97-2004. The application is approved with the following conditions:

1. No Euonymus shall be planted on the property. The proposed Euonymus shall be substituted with native, non-invasive species.
2. The fence shall be painted or stained prior to installation.
3. No further dumping of debris and/or yard waste materials shall occur within the wetlands.

The work is approved as shown on the plan entitled, "Map Prepared for Anthony W. Maniscalco & Brandi L. Maniscalco, Darien, Connecticut" by Moody & O'Brien, LLC, dated August 27, 2004, as modified by this approval. The motion was made by Mr. Hillman, seconded by Ms. Kirby, and unanimously approved.

Chairman Hillman read the following agenda item:

EPC-93-2004, Aldo Chiamulera, 25 Circle Road, proposing addition, remove fill, drainage improvement, improve fill retention and related site work within the regulated area. The property is located on the southeast side of the Circle Road cul-de-sac, approximately 2,200' south of the intersection of Circle Road and Old Kings Highway North, shown on Assessor's Map #33 as Lot #50.

Michael Fishman, P.W.S. of Stearns & Wheler, and property owner Aldo Chiamulera were present to discuss the application and address questions from the Commission.

Mr. Hillman asked the Commission members if a public hearing should be held for the application. It was the consensus that a hearing would not be required.

Mr. Hillman commented that he found the September 13, 2004 report by Stearns & Wheler to be helpful. He reviewed Tables 1 and 2 of the report, noting that the restoration area was just 250 square feet short of equaling the area of anticipated impact. Mr. Fishman explained that the area of anticipated impacted included 306 square feet for the installation of the infiltrators, which would be restored back to lawn. Mr. Hillman said that he liked the proposed mitigation. Mr. Fishman explained that he took the photographs after the Commission's April 21, 2004 meeting. Mr. Hillman said he reread the April 21, 2004 meeting minutes, and is convinced there is no alternative for the proposed mudroom construction. He added that pages 13 to 15 of the September 13, 2004 report give a good analysis of alternatives.

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Ms. Miller asked about the area of the proposed addition. Mr. Fishman and Mr. Chiamulera replied that the area is now maintained as lawn and a concrete stairway.

Ms. Miller commented that the existing hay bales are in poor condition. Mr. Fishman said that the hay bales were installed in April.

Mr. Fishman explained that the removal of the gravel is part of the application, but that he asked Mr. Chiamulera remove the leaves from the wetlands. He added that perennial plantings would replace the gravel, and that the existing swing set on the gravel has been on the site for quite a while.

In response to a question, Mr. Fishman replied that the mudroom addition would be approximately 28' from the wetlands.

Mr. Hillman said that the Commission would want the regulated area to be cleaned up. Mr. Fishman stated that his client understands, noting that some of the material spilled over from the current construction work.

Ms. Miller noted that no trees would be removed.

Upon further discussion of the materials and plans presented, the following motion was made: That the Commission approve Wetland Permit Application #EPC-93-2004 as submitted, and shown on the plan entitled "Proposed Site – Environmental/Wetland Evaluation, Chiamulera Residence, 25 Circle Road, Darien, Connecticut," Sheet 3, by Stearns & Wheler, LLC, dated Aug. 2004. The motion was made by Mr. Hillman, seconded by Mr. Lewis, and unanimously approved.

Chairman Hillman read the following agenda item:

EPC-99-2004, Karl & Laura Kolderup, 45 Holly Lane, proposing pool, pool house, garage, driveway and relocation of shed and/or amendment of wetlands map. The property is located on the north side of Holly Lane approximately 150' east of the intersection of Noroton Avenue and Holly Lane, and is shown on Assessor's Map 9# as Lot #136.

Mr. Hillman expressed concern that the September 13, 2004 soils report by Soil Scientist Henry Moeller states that the soils are technically wetlands, but that the applicant is asking for the Commission to make a finding of no wetlands.

Atty. Gleason said that the application is not difficult because of the information the Commission does not have before it. He reviewed the Assessor's map and town wetland boundary map, noting that wetlands are shown on the neighboring property at 49 Holly Lane. He said that the pool and pool house area outside of the 50' setback, and are now under construction. He explained that the September 13, 2004 soils report confirms that there are no wetland soils on the subject property.

Atty. Gleason explained that the application discusses the pool and pool house which are currently under construction because it was written before he had a copy of the September 13, 2004 soils report that confirms the structures would be outside regulated areas.

Atty. Gleason stated that some of the work would be located within 50' of the wetlands on the neighboring property, including the garage construction and driveway extension. Atty. Gleason reviewed the 1955 Darien Land Record Map #2585, noting that the wetlands extended onto the Kolderup property. He said that the wetlands were filled before the wetland regulations as part of the subdivision, prior to wetland regulations.

Mr. Hutchison inquired about the wetlands at 49 Holly Lane. Atty. Gleason replied that they received the Rowan's permission to investigate the wetlands soils at their property at 49 Holly Lane. He said that the soils on the subject property are Udorthents. He reviewed the September 13, 2004 report that referenced the Rowan property, and states that the wetlands adjacent to the Kolderup property are remnant wetlands that have been cut off from their water source. He said that Mr. Moeller used a spade to investigate the soils, and found wetland soils 25" below the fill material. He said that they are not seeking a map amendment because they have no authority for the Rowan property.

Mr. Hillman said that the Commission would review the application with the assumption that there are wetlands on the neighboring property, but feels that it does not pose a significant impact.

Atty. Gleason said that a planting plan includes screening plants along the Rowan property, and that the silt fence has already been installed on the site.

Ms. Miller recommended that the amount of proposed impervious area be reduced.

Mr. Kolderup explained that the driveway would also be used for the children's bikes.

Atty. Gleason suggested that grass pavers be used within the driveway area. Mr. Hutchison and Ms. Miller agreed the pavers would be a good compromise.

Upon further discussion of the materials and plans presented, the following motion was made: That the Commission approve with conditions Wetland Permit Application #EPC-99-2004. The application is approved with the condition that the area of the driveway expansion be created with grass pavers. The work is approved as shown on the plan entitled "Site Plan for the Kolderup Residence, 45 Holly Lane, Darien, CT" by Group Works, LLC, dated September 10, 2004, revised 9/19/04. The motion was made by Mr. Hutchison, seconded by Mr. Hillman, and unanimously approved.

Chairman Hillman read the following agenda item:

Requested Permit Modification for EPC-37-2003, Mary Ferrara & Anne Chiapetta,  
504 Mansfield Avenue:

Ms. Mary Ferrara was present to address questions from the Commission. Mr. Keating said that the elimination of the trench drain near the garage would not pose an adverse impact, and the members agreed.

Mr. Keating recommended that a cut be installed within the Belgium block curb lining the upper portion of the driveway to relieve ponding conditions. He said that the cut could be installed, but the downslope area should be stabilized.

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Mr. Keating reported the some of they types of plantings used for the wetland restoration/enhancement area had been changed, but are similar and consistent with the approved plan.

Upon further discussion, the following motion was made: That the Commission approve the modification of the approve plan to omit the trench drain near the garage. The motion was made by Mr. Hillman, seconded by Mr. Hutchison, and unanimously approved.

Chairman Hillman read the following agenda item:

Amendment of Wetlands Permit Application #EPC-75-2004, Frank A. Miller, 1297 Boston Post Road, amendment request to modify landscaped, paved areas and regrading associated with previously approved plans for a new parking area.

John Martucci, P.E., explained that the plan modifications were proposed to address flooding in front of the building. He said that proposed modifications would move the driveway entrance  $\pm 6'$  to the east. He said that they would loose some parking spaces and gain pervious area, and that the regrading in front of the building is located outside the 50' setback area. He explained that the flooding is caused by the stormwater system located beneath Route 1.

Ms. Miller asked if additional trees could be added to the plan. Mr. Keating informed the Commission that the Zoning Board of Appeals required the planting of five additional trees within parking islands.

Upon further review of the plans and materials presented, the following motion was made: That the Commission approve, as submitted, the permit request to modify Permit #EPC-75-2004. The application is modified as shown on the plan entitled "Site Plan, Prepared for Jaguar of Darien, #1297 Boston Post Road, Darien, Connecticut" by John R. Martucci, P.E., July 14, 2004, last revised 10/20/2004. The motion was made by Ms. Miller, seconded by Mr. Hutchison, and unanimously approved.

Chairman Hillman read the following agenda item:

Discussion of Request for Confirmation of Wetland Restoration Planting, EPC-70-2004, Paul R. & Elina Bastone, 129 Raymond Street.

Atty. Joshua Voorhees was present on behalf of Mr. and Mrs. Bastone. Ms. Sarner reported that she received confirmation via phone from Mr. Ferlow of Stearns & Wheler, that the wetland/conservation easement restoration work activity had been completed to his satisfaction. She explained that they had difficulties finding enough Red Maple, but were able to find a new source and complete the work.

Upon further discussion, the following motion was made: That the Commission confirm in writing that the restoration work activity at 129 Raymond Street had been completed per the approved plan. The motion was made by Mr. Hutchison, seconded by Ms. Miller, and unanimously approved.

Chairman Hillman read the following agenda item:

Review of Wetland Restoration Area for EPC-73-2002, Ian & Lisa Webb, 33 Knollwood Road, inspection to confirm that the plantings installed last year are thriving and area still complies with restoration planting plan.

Ms. Miller and Ms. Kirby reported that the wetlands on the right side of the residence are very wet. Ms. Kirby said that she observed oil in the grass area near the residence. Mr. Hillman recommended that the discussion be continued, and that Commission staff visit the property to determine the source of the oil.

The discussion of EPC Permitting Procedures for Dredging Projects was postponed.

Approval of Minutes:

- August 4, 2004: The meeting minutes for the August 4, 2004 meeting were approved, with corrections. The motion was made by Mr. Kenyon, seconded by Mr. Hutchison, and unanimously approved.
- August 11, 2004: The meeting minutes for the August 11, 2004 meeting were approved, with corrections. The motion was made by Mr. Kenyon, seconded by Mr. Hutchison, and unanimously approved
- September 8, 2004: The meeting minutes for the September 8, 2004 meeting were approved, with corrections. The motion was made by Mr. Hutchison, seconded by Mr. Hillman, and unanimously approved
- September 15, 2004: The meeting minutes for the September 15, 2004 meeting were approved, with corrections. The motion was made by Mr. Lewis and seconded by Mr. Hillman. Voting in favor of the motion were Mr. Lewis, Mr. Hillman, Mr. Hutchison, Ms. Kirby and Ms. Miller. There were no votes in opposition. Mr. Kenyon abstained from the vote. The motion was passed by a vote of 4 to 0, with 1 abstention.
- October 6, 2004: The meeting minutes for the October 6, 2004 meeting were approved, with corrections. The motion was made by Mr. Hillman, seconded by Mr. Hutchison, and unanimously approved

Approval of 2005 Schedule of Meetings:

Mr. Kenyon motioned that the 2005 Schedule of Meetings be adopted. The motion was seconded by Mr. Hutchison, and unanimously approved.

Adjournment: Having no further business to attend to, the Commission adjourned the October 20, 2004 meeting at approximately 11:15 p.m.

Respectfully submitted,

Nancy H. Sarnier  
Environmental/GIS Analyst