

ENVIRONMENTAL PROTECTION COMMISSION
SPECIAL MEETING/PUBLIC HEARING
DRAFT MINUTES
September 27, 2006

Wednesday, September 13, 2006 7:30 p.m. Auditorium
Town Hall

Chairman Hillman called the meeting to order at 7:30 P.M. Commission Members Present: Peter Hillman, Craig Flaherty, Ellen Kirby, Pete Kenyon, Ned Lewis and Reese Hutchison (Susan Cameron was recused).

Staff Present: Richard Jacobson

Court Reporter: Bonnie Syat

Public hearing:

Mr. Hillman opened the public hearing and read the hearing item at 7:35 p.m.

EPC-42-2006 Christopher and Margaret Stefanoni, 77 Nearwater Lane, proposing to construct an age restricted housing development and requesting a reconsideration of the extreme high water elevation and designation of the regulated inland wetlands.

Mr. Hillman thanked all parties for again submitting materials in a timely manner. He asked for comments from the public.

Peter VanWinkle of 41 Baywater Drive provided a written statement. He said the wetland is currently stressed and there is no margin for error. Mr. Hillman asked him if his concerns were primarily with water quality or quantity. Mr. VanWinkle said both quantity and quality. He said the pH of the water will change. Mr. Lewis asked him if he had any professional experience with Cultec units. Mr. Van Winkle said no.

Richard Breeden of 90 Nearwater Lane spoke. He said he was not speaking as an engineer or scientist. He said he observes Holly Pond everyday and it is a valuable habitat. The project will cause unavoidable destruction of the environment. He said his basement has flooded twice in the past 12 months. The addition of impermeable surface will worsen the problem. He said other similar projects may be built if the Stefanoni's application is approved. Holly Pond is a unique resource and is vital to wildlife and fish. He asked the Commission to focus on the engineering aspects. He said engineers believe in their ability to conquer the environment. He said 77 Nearwater Lane is not appropriate for intense development. Mr. Hillman asked if his flooding problem is caused by the existing street sewer being inadequate. Mr. Breeden said he was told by a contractor that the water cannot exit to the sewer. Mrs. Stefanoni asked if he is aware that there is an underground river on that side of Nearwater Lane. Mr. Breeden said he was not speaking as an expert. Mrs. Stefanoni asked if he is aware that having 2 acres of perfect lawn is a

ENVIRONMENTAL PROTECTION COMMISSION
DRAFT SEPTEMBER 27, 2006 MEETING
MEETING MINUTES
Page 2 of 5

cause of pollution by using chemicals and fertilizer. Mr. Hillman said the question more of a statement and argument.

Mr. Nara of 1 Juniper Lane spoke. He said he agreed with Mr. Breeden. The Commission should consider that they are protecting Holly Pond for future generations.

No other members of the public wished to speak.

Mr. Hillman asked Mr. Risoli regarding the material submitted by the applicants regarding a 2005 matter on Pear Tree Point Road and the use of a one way valve. Mr. Risoli said it is the same valve that is proposed and is the best valve for the purpose. Mr. Hillman asked if the valve can last 25 years or more and be easily replaced. Mr. Risoli said that is what he believes. Mr. Hillman if there is a significant difference between the proposed use and the Pear Tree point use. Mr. Risoli that for the Pear Tree point project he was not concerned with one side of the valve. He said that if the valve closed it would not have an effect on Long Island Sound. He said it was designed to solve ground water problems. Mr. Kenyon asked him if he has observed the workings of the valve at the Pear Tree Point property. Mr. Risoli said it was installed about one year ago and the owners have not complained. Mr. Hillman asked if he wished to comment on Mr. Hammon's responses and new calculations of the watershed area. Mr. Risoli said he used Mr. Hammon's numbers and did not do an independent analysis. He said he never saw a map and does not know how much of reduction it creates. Mr. Hillman asked about his reaction to doubling the length of the broad-crested weir. Mr. Risoli said he did not know how the 16 foot length was determined and has not seen calculations to verify it. Mr. Hillman asked him about the methods Mr. Hammons suggested to increase volume such as raising the site or raising the weir. Mr. Risoli said that, again, there was no backup data.

Mr. Hillman asked Mr. Canas to address the design criteria. Mr. Canas said the standard is a 25 year storm event which is the same standard applied to the Darien Library. Mr. Hillman asked if the Commission should apply a higher standard. Mr. Canas said the applicant would also have to gauge the impacts of the 100 year storm. Mr. Hillman asked him if he was more concerned with water quantity of quality. Mr. Canas said that at this point he was more concerned with quantity. With respect to the broad crested weir he is concerned with quantity. Will the water over the broad-crested weir be more than existing? Mr. Hillman asked him about the impact of the newly calculated contributing area of 8,000 square feet. Mr. Canas said a reduction of the contributing area would reduce peak flow. Mr. Hillman asked if doubling the width of the broad-crested weir would allay his concerns. Mr. Canas said his concerns about water quality have been addressed but not the quantity. Mr. Hillman asked if, in his opinion, the current application would have an impact on the wetland. Mr. Canas said his last concern is about the flow over the broad-crested weir. Mr. Hutchison asked if there were no alternatives as stated by the Stefanoni's. Mr. Canas said that they look for appropriate treatment on a site by site basis. He said the applicant's design components are appropriate. Mr. Flaherty asked him if the application as proposed would create a likely

ENVIRONMENTAL PROTECTION COMMISSION
DRAFT SEPTEMBER 27, 2006 MEETING
MEETING MINUTES
Page 3 of 5

impact. Mr. Canas said that, provided the controls are maintained, it will go a long way to prevent impact. Mr. Flaherty asked if the flow generated over the spillway is higher during the peak of storms would there be an impact. Mr. Canas said that if the flow increased over the driveway it could cause erosion.

Mr. Stefanoni asked Mr. Canas to clarify if he has concerns about the water quality with water leaving the site. Mr. Canas said no, provided the system is maintained. Mr. Hutchison asked him if the use of the property would create impacts. Mr. Canas said the design of stacking the units and placing the parking under the roof would reduce impacts. Ms. Kirby asked him if he would be more concerned with water quantity or quality if the system is not maintained. Mr. Canas said both.

Mr. Hillman asked Mr. Hammons to address Mr. Risoli's concerns. He said he has a problem with moving to a smaller watershed area without any evidence. Mr. Hammons said he has not revised his calculations to reflect the smaller watershed. Mr. Hillman asked him to address Mr. Canas's comments. Mr. Hammons said he would like to address the concern of erosion if there is an increase in flow. He said his original report shows that there is 6,300 cu. ft. of flow which, divided by the time, would produce 2.9 c.f.s. He said he increased the width of the weir to spread out the flow. He said he disagreed with Mr. Risoli's characterization of his responses. Mr. Risoli does not appear to include the volume of the Cultech units in his calculations. He said he demonstrated that he could create more storage, if necessary, but he does not believe it is necessary. He said the math used in Mr. Winkle's letter is faulty and his calculations of volume and pipe slope are incorrect.

Mr. Hammons said the application was prepared to stand up to stiff examination. He said water quality will be improved. He said maintenance is critical to the functioning of the system. Mr. Hillman asked if he feels the spillway question has been answered. Mr. Hammons said the flow over the weir will be less than existing conditions. Mr. Hillman asked him if he was concerned with erosion. Mr. Hammons said no because there will be no increase in flow. Mr. Hutchison asked him if he considered the different soil types in his analysis and if he considered infiltration. Mr. Hammons said he considered infiltration in the previous application but did not consider it in the current design. He said they placed the Cultechs in the better drained Charlton soils on purpose. Mr. Flaherty asked him if, even using Mr. Risoli's calculations, whether the system is appropriate to handle the increase. Mr. Hammons said yes.

Mr. Van Winkle asked Mr. Hammons if there would be more water going to the wetland over time. Mr. Hammons said yes. Mr. Van Winkle said there would be a deleterious effect by more fresh water over time. Dr. Orsen asked to address this issue and the impacts of the development on the health of the wetland. He said that tidal wetlands are subject to pulse events of fresh water constantly and these do not have a deleterious effect. He said a point flow discharge could have an effect but none is proposed with this application. The volume of fresh water flowing off site will not have an impact. The quality of the water which is mostly roof water will not have an impact. He said the

ENVIRONMENTAL PROTECTION COMMISSION
DRAFT SEPTEMBER 27, 2006 MEETING
MEETING MINUTES
Page 4 of 5

sediment basin will work even if the valve fails because the additional energy will be dissipated over the lawn and through a stone wall. He said these barriers do not allow a mechanism for sediment to move over that distance to the wetland. Mr. Canavino asked if the inland wetland is supported by a pipe source and if he can say whether interrupting that pipe will not impact the wetland. Dr. Orsen said he cannot say without knowing the length of the pipe.

Mr. Hillman asked Mr. Ryder to comment on his report. He asked Mr. Ryder if the response from Stuart Sachs answered his concerns. Mr. Ryder said yes. He said that water quality was a major concern but he no longer has concerns if there is proper installation and maintenance.

Mr. Canavino asked Mr. Hammons if there were any calculations showing the impacts of the tide flex valve. Mr. Hammons said no. Mr. Canavino asked if it could affect the calculations. Mr. Hammons said yes.

Dr. Orsen said, after reviewing the plan that the pipe feeding the wetland will not be impacted. Mr. Canavino asked Dr. Orsen if he had made an independent investigation of the pipe. Dr. Orsen said no. He said he reviewed the Soil Scientists report which stated there was no flow from the pipe. Mr. Stefanoni said there is an underground river on the east side of Nearwater Lane which he viewed when the utility trench was installed. Mrs. Stefanoni said that, according the March 1, 2002 report by Soil Science Services, a camera was put in the pipe and did not travel far to a manhole in the center of the driveway. She said the pipe was crushed and filled by the construction of the Baker driveway.

Mrs. Stefanoni said that alternatives were provided in the original application submittal. The current alternative involves a reduction to a 13 unit building with a water quality system. She said their goal is to protect the wetlands and Holly Pond. There are no activities in a wetland or upland buffer area. She said Dr. Orsen was reluctant at first to review the plans but agreed to accept the project after reviewing them. She asked the Commission to find that there are no significant impacts and, therefore, there are no feasible and prudent alternatives to lessen the impact.

Mr. Gleason addressed the Commission's decision factors under section 10.2 of the regulations. He said there will be a diminution of flow to the wetland. He said testimony shows that there is likely to be problems during construction. The location of the activity is not suitable and the mitigation measures are not adequate. He said there will be impact and that there are feasible and prudent alternatives. Based on section 22a 41b.2 of the CT General Statutes, a denial by the Commission based on the existence of feasible and prudent alternatives would be stainable. He cited Gill v. Greenwich Inland Wetland Commission which found that an applicant be required to go to a Commission many times. He said the project involves a tight site with inadequate biofilters. He urged the Commission to take the recommended conditions seriously if the project is approved. He said he would not trust a condominium association to maintain the system and there

ENVIRONMENTAL PROTECTION COMMISSION
DRAFT SEPTEMBER 27, 2006 MEETING
MEETING MINUTES
Page 5 of 5

would be no protection for the Land Trust property. He asked the Commission to consider its experience with the Darien High School.

Mrs. Stefanoni said the application was discussed for hours over many hearings. She said the level of scrutiny for the application is high. She said her experts have said it is possible to work on tight sites. She said that with good planning it is possible to bring affordable housing to the Town.

Mr. Hillman asked Mr. Louizos about a date to provide legal advice on making the decision. Mr. Louizos said approximately two weeks.

Mrs. Stefanoni said she is willing to provide a time extension to allow the Commission to deliberate and make a decision on the application.

Mr. Hillman thanked all of the parties involved. He made a motion to close the public hearing. Mr. Hutchison seconded the motion. The public hearing was closed at 11:15 p.m.

Respectfully submitted,

Richard B. Jacobson
Environmental Protection Officer