

CONSERVATION COMMISSION
REGULAR MEETING OCTOBER 16, 2012
CONFERENCE ROOM L 101

These minutes are not verbatim, but represent a summary of major statements and comments. For minutes verbatim, refer to audiotapes on file in the Office of the Town Clerk. Audiotapes are retained for the minimum period required under the retention schedule as provided under Connecticut Law.

Chairman Block called the roll call at 7:01 p.m. and noted Commissioners Clark, Igielski, Shapiro, Sidal and Zelek were present. Also present were Alternate Paskewich and Town Engineer Chris Greenlaw.

NOTE: Chairman Block designated that Alternate Paskewich would vote for the vacant position.

ITEM III
ACCEPTANCE OF MINUTES

Regular Meeting of September 18, 2012

Commissioner Igielski noted the following corrections:

- A. Middle of Page 1---Meeting date should read “Regular Meeting of August 18, (21) 2012”
- B. Middle of Page 5---Remark by Commissioner Igielski should read “Commissioner Igielski noted that per Article 7, (Section 6) page 3 of the Internal Rules...for the public hearing”.
- C. Middle of Page 7---Motion by Commissioner Igielski should read “Motion made by Commissioner Igielski that the Commission...Vote was 5 (6) yes, 0 no, 1abstention (Igielski) and the motion was carried”.
- D. Middle of Page 8---Remark C should read “There is a lack (alack) of information...Agenda items”.

Chairman Block noted on the top of Page 8, Remark by him should read “NOTE: Chairman Block noted that a foot note...that information is available (is available) in the Office...do not think we are there yet”.

Motion made by Commissioner Igielski to accept the minutes as amended and was seconded by Commissioner Sidal. There was no discussion. Vote was 7 yes, 0 no and the motion was carried.

Special Meeting of October 2, 2012

Chairman Block noted the following corrections:

- A. Middle of Page 2---Remark by Chairman Block should read “Chairman Block noted that a Commission...if there may be a need of expert advice (advise), The Commission...State Statutes dictate the time limits”.
- B. Bottom of Page 2---Remark by Commissioner Igielski should read “Commissioner Igielski noted that time...responded yes, but (buy) move quickly”.

Motion made by Commissioner Sidal to accept the minutes as amended and was seconded by Commissioner Shapiro. There was no discussion. Vote was 7 yes, 0 no and the motion was carried.

ITEM IV

PUBLIC PARTICIPATION ON NON-AGENDA ITEMS: NONE

Chairman Block noted that since the next item (public hearing for the Toll Brothers Application) would consume a major block of time, he would accept a motion to move “NEW BUSINESS” to the top of the agenda.

Motion made by Commissioner Clark to move “NEW BUSINESS” to the top of the agenda and was seconded by Commissioner Shapiro. There was no discussion. Vote was 7 yes, 0 no and the motion was carried.

ITEM VI A

Application 2012-23A, 52 Holmes Road, Map Amendment

Mr. Adam D. Kessler, PE, Benesch & Company and representing the applicant noted the goal of the study was to verify the actual field condition and compare the findings to the Town Map.

Mr. John P. Ianni, soil scientist, Highland Soils LLC, entered the following remarks into the record:

- A. He went out into the field on March 28, 2012 and using the spade and auger, determined the actual wetland boundary limits. A flag was set at each location.
- B. The findings in the field were found to mimic the Town Map.

Mr. Chris Greenlaw, Town Engineer, noted the Town Map mimics the shape only. Does the Town Map show a larger area? Mr. Ianni responded yes.

Commissioner Sidal asked what is the difference in size? Mr. Kessler responded approximately 50 feet in the area of the point.

Mr. Ianni noted that the flagged locations in the field were transferred onto the plan before you tonight.

Motion made by Commissioner Igielski that per Section 15.7 of the Town of Newington Inland Wetlands and Watercourses Regulations a public hearing be held on Application 2012-23A (Request for a Map Amendment) on November 20, 2012 at 7:00 p.m. in Conference Room L 101, Town Hall, Newington CT. Motion seconded by Commissioner Zelek. There was no discussion. Vote was 7 yes, 0 no and the motion was carried.

ITEM VI B

Application 2012-24, 52 Holmes Road

Mr. Adam D. Kessler, PE, Benesch & Company and representing the applicant entered the following remarks into the record:

- A. Standard Builders, the owner of the property, has operated its business from the site for at least 20 years.
- B. The existing building is too small for the current business operation. The plan is to construct a 2,000 square foot addition off the back of the existing building. The new addition would be located in the upland review area.
- C. Twelve (12) new parking spaces would be constructed off of the proposed new addition (as shown on the "Proposed Conditions" plan).
- D. A new paved parking area would be constructed in the northeast corner of the property.
- E. A new gravel area would be constructed on the eastern portion of the site (as shown on the "Proposed Conditions" plan).
- F. A new outside container and covered outside storage areas would be placed on the new gravel area along the easterly property line (as shown on the "Proposed Conditions" plan).
- G. A proposed detention swale planted with a wetland seed mix would be constructed (as shown on the "Proposed Conditions" plan).
- H. He noted that the Town Engineer (Mr. Chris Greenlaw) had asked if the applicant had looked at the feasibility of bringing the drainage out to Holmes Road? Mr. Kessler responded that it would not be feasible because there was inadequate depth to bring a

line out to Holmes Road. A large amount of fill material would have to be brought in to make a system work.

- I. A six (6) inch pipe would be installed in a small earth berm, with an over flow depression. (at the outlet end of the swale) that would decrease peak flows for the two (2) year through the 100 year storm (events).

Commissioner Zelek asked if there was an open body of water or a watercourse within the wetland or is it all by soil type? Mr. Ianni responded there are no open bodies of water. He noted that about two hundred to the east off of the property there is the beginning of some form of channelized flow.

Commissioner Zelek asked that if any of the hydration that is being proposed to be retained, serve as a possible source of hydration for the open bodies of water or wetlands? Mr. Ianni responded yes because the increase in run off from the new development would be stored in the detention swale and would be flowing out from the detention swale over a longer period of time into an off site wetland.

Commissioner Igielski asked what would be stored in the metal containers and covered outside covered storage areas? Mr. Kessler responded that he assumed it was related to the business operation. He would look into the matter and provide a response back to the Commission.

Commissioner Igielski expressed a concern about the bulk storage of liquid material in the storage area. The concern would be the possible seepage or over land flow of the liquid into the off site wetland. If such a liquid would be used; it should be stored else where on site (in a safe manner). Mr. Kessler said that he would look into the matter and report back to the Commission.

Chairman Block asked what is the function of the proposed new pavement area located at the northeast corner of the property? Mr. Kessler responded the area would serve as a vehicle turn around and a base for two (2) dumpsters.

Chairman Block noted that the existing container storage area faces (northerly) into the gravel area: whereas, the "Proposed Conditions" plan rotates the storage area 90 degrees up against the easterly property line and closer to the off site wetland. If the orientation is left as is, there would be a better separation from the wetland.

Mr. Kessler stated that they did look at maintaining the existing orientation. However, the proposed orientation would allow for the addition of one or two (2) containers down the road.

Chairman Block asked why are two (2) dumpsters shown on the plan? Mr. Kessler responded that the larger one would probably be used for building material debris and the smaller one for disposable office related materials.

Mr. Greenlaw noted that the site plan is before the Town Plan and Zoning Commission for approval. The regulations call for ten (10) percent green space, an area designated for snow storage and a buffer between the parking and the activity. Is the applicant aware of the requirements? Mr. Kessler responded yes.

Commissioner Zelek asked if a drainage system with catch basins and a separator had been considered for the proposed paved area in the up land review area? Mr. Kessler responded that the existing field conditions (not enough cover material is available for such a system) do not support the installation of a tradition drainage system.

Mr. Kessler noted that the gravel area would slow down the flow of surface run off into the proposed grass detention swale which would remove sediment. The swale would be monitored during the year to determine a maintenance schedule for removal of sediment build up.

Chairman Block said that markers or an impediment should be put in to prevent parking onto the gravel area.

Motion made by Commissioner Clark to carry the item over to the November meeting and was seconded by Commissioner Sidal. There was no discussion. Vote was 7 yes, 0 no and the motion was carried.

ITEM VI C

Application 2012-2012, 52 Commerce Court

Mr. Joe Millett, the applicant, entered the following remarks into the record:

- A. The “big sky fitness center” was opened in 2001.
- B. He appeared before the Commission in 2005 to construct a 3,000 square expansion of the second floor on the west side of the building. The addition was built on five (5) piers (stilts) and the existing ground underneath the addition was left in its natural state.

Mr. Millett, referring to two (2) large blown up photographs, entered the following remarks into the record relative to the application before the Commission tonight:

- A. The proposal would be to enclose the existing open space area under the second floor addition that was approved in 2005.
- B. New concrete foundation walls would be built between each pier opening on the south, west and north sides of the building.
- C. New permanent walls would then be built from the top of the foundation wall up to the second floor: thus enclosing the entire opening.

Mr. Stephen Giudice, L.S. with Henry E. Cole & Son, entered the following remarks into the record:

- A. A concrete floor slab would be poured within the newly enclosed first floor area.
- B. Surface run off from the south originally was supposed to flow around the outside of and around the foot print of the second the second floor addition. However, the water ended up ponding along the south side of the new addition. The solution to correct the ponding condition was to construct a swale under the addition.
- C. The proposal is the installation an enclosed conduit (pipe) system that would carry the surface flow around the outside of the building (south wall and north wall) to a point where the flow currently exits from under the building. A flared concrete end section with rip rap protection would direct the flow out to the west into the existing wetland.

Alternate Paskewich asked what would be the use of the newly enclosed area? Mr. Millett responded for equipment and storage.

Chairman Block asked is any mitigation is being proposed for the loss of open area that currently exists under the second floor addition? Mr. Millett responded plantings would be installed around the perimeter of the new addition. He would also be receptive for any idea(s) from the Commission.

Mr. Greenlaw noted that the property is subject to two (2) regulated areas: namely, the wetland and upland review area and a conservation easement.

Mr. Greenlaw asked the engineer to explain the limits of both regulated areas? Mr. Giudice referring to a site plan outlined the boundary limits of each area.

Mr. Greenlaw asked the consultant for an explanation of soils and conditions in the area under discussion? Mr. Giudice responded as follows:

- A. The exposed soils under the building would not support any vegetative growth.
- B. The area around the building addition is lightly wooded.
- C. The proposed pipe to be installed around the building would to help alleviate the existing flow situation under the building.

Motion made by Commissioner Igielski to carry the item over to the November meeting and was seconded by Commissioner Sidal. There was no discussion. Vote was 7 yes, 0 no and the motion was carried.

Commission went into recess at 7:55 p.m.

Commission came out of recess at 8:05 p.m.

ITEM VA (Public Hearing)

Application 2012-22, Russell Road North of Old Highway

Commissioner Igielski requested that the notice of public hearing be read into the record.

Mr. Chris Greenlaw, Town Engineer, noted that the notice of public hearing appeared in the Hartford Courant on October 4th and October 11, 2012. He proceeded to read the notice into the record.

Attorney Tom Regan, representing the applicant, Toll Brothers, noted that a predevelopment meeting on the plan of development to be presented tonight was held on June 12, 2012.

Chairman Block noted that this is a new application and we are starting from scratch. Nothing from the previous application (which was denied by the Commission) is pertinent to this application unless it is entered into the record.

Attorney Regan entered the following remarks into the record:

- A. The previous application started out as a 71 lot subdivision and was subsequently reduced down to 62 lots (which was denied by the Commission).
- B. The proposal that will be presented tonight calls for a 48 lot open space subdivision.
- C. The revised plan being presented tonight will manifest no physical activity occurring within a wetland or the (100 foot) buffer/upland review area.
- D. The open space area has been increased from 41 to 44 acres which would be dedicated to the Town.

Mr. Ray Gradwell, P.E., BL Companies and project manager for the project entered the following remarks into the record:

- A. The wetland boundary limits were field located in 2010 by Ms. Cynthia Rabinowitz, soil scientist, and verified in 2011 by Ms. Rabinowitz and Mr. George Logan, soil scientist retained by the Commission. A Map Amendment application was approved by the Commission.
- B. Referring to a plan sheet, he noted that the 29 acres of land is being proposed for development are located in the northeast corner of the property fronting on Russell Road along with a proposed MDC water pump station.
- C. Referring to the plan sheet, he reviewed the location of five (5) storm water management sites being proposed for the development. The function of these sites would be to control and attenuate peak flows off site to predevelopment or lower. Each one of these systems would include best management practices to include catch

basins with four (4) foot sumps and a hood over the outlet pipe, a hydrodynamic separator at outlet end of a storm water drainage system. An added feature to each system is the installation of a fore bay structure to trap additional sediments before water flows into the detention basin.

- D. Working with Mr. Ron Abrams (ecologist consultant), we have developed a bio-swale in the rear yard areas on the westerly side abutting the major wetland as shown on the plan sheet.
- E. Working with Mr. Abrams, we have developed an amphibian crossing connecting the major wetland (Basin B) with the smaller wetland (Basin C) as shown on the plan sheet. The crossing would be a 60 inch pipe with the bottom of the pipe filled with natural soils.

Chairman Block asked if the property owner would be responsible for the maintenance of the crossing? Mr. Gradwell responded yes.

Commissioner Clark asked if the material in the bottom of the pipe crossing would wash out. Mr. Gradwell responded no. The material would remain dry.

Commissioner Clark asked if the pipe openings would be made child safe? Mr. Gradwell responded yes.

Commissioner Zelek asked if the (amphibian) crossing was a buried pipe or an open canal? Mr. Gradwell responded a buried pipe.

Mr. Gradwell entered the following remarks relative to the sediment and erosion plan into the record:

- A. Sediment traps and berms would be installed as per the plan. The berms would direct over land flow to a sediment trap.
- B. Silt fence would be installed around the perimeter of the proposed construction area. Additional silt fence would be installed in a possible problem area. Steep slopes would be protected by using erosion control matting.
- C. A construction entrance pad would be constructed (from Russell Road) into the site.
- D. The property would be served by public utilities.

Mr. Russell G. Slayback, Hydro-geologist, Leggette, Brashears & Graham, Inc. with 50 years of experience in the field (Note: Refer to his report for background and experience information) entered the following remarks into the record:

- A. Toll Brothers asked him to do a study on the impact of blasting on Wetland "B".

- B. The previous application had an excellent report from CERT on the topography and geology of the site.
- C. We have shallow trap rock (basalt) that was laid down some 200 million years ago. The trap rock is covered with a shallow cover of glacial till that was laid down some 10 to 12 thousand years ago.
- D. Trap rock removal would be required locally for implementation of the proposed plan of development. The two (2) primary means of removal involve large mechanical equipment or blasting. In this situation blasting would be the primary means of removal.
- E. He visited the site on August 1, 2012 and observed Wetland "B" to be dry. This means that Wetland "B" is not a perennial wetland because it is not supported by annual ground water inflow; but a wetland supported by storm water run off from the surrounding uplands. This conclusion is further supported by the condition of Wetland "A", a ravine to the west of the development in which a flow of water moves from south to north at an elevation of 40 to 59 feet below the water table of Wetland "B".
- F. My report contains good blasting techniques that would result in less seismic shock waves and minimal rock breakage. Such practice should result in no rock breakage greater than ten (10) feet from any blasting hole.
- G. No blasting would occur within 125 feet of a wetland or 25 feet of the 100 foot (buffer) zone.
- H. It is his conclusion that no impact or drainage of the wetland would be caused by the blasting operation.
- I. I have been advised that a blasting expert has been added to the team.
- J. If some basements should penetrate the seasonal high water table, the water would pass around the houses and merge down hill before reaching Wetland "B".
- K. House foundation drains would pick up flow and direct it to the detention infiltration basin bay to the north of Wetland "B".
- L. It is his conclusion that the proposed development would not adversely affect Wetland "B", which will continue to exhibit wetland characteristics in the spring and dry up during the summer season.

Commissioner Zelek asked the following questions:

- A. Are you saying that the larger wetland to the west would not be adversely by the blasting? Mr. Slayback responded that is correct.

- B. What about the smaller wetland to the east? Mr. Slayback responded that he was not charged with looking at that wetland. Maybe, Dr. Abrams could answer the question. Dr. Abrams acknowledged that he is a wetland expert, not a certified geologist. However, he noted that Dr. Stiener in his report (CERT) notes that the geology is fairly uniform over the site. He also noted that the wetland (under discussion) is also dependent on surface runoff. Therefore, blasting should not have a negative impact with the set backs in place.
- C. He asked if Dr. Abrams was making a general assumption that is not part of this study? Mr. Slayback responded that is not correct. What Dr. Abrams said echoes what I said that there would be no lasting impacts of rock breakage more than ten (10) feet away from the blast hole.

Commissioner Clark asked the Chair if the CERT Report was being referenced to in this discussion? Chairman Block responded that the Report has not been introduced at this time. Reference is only being made to Dr. Steiner's statement at this time.

There was a question on whether Dr. Stiener's report was being entered into the record to include a fault map.

Attorney Regan noted that we can submit the map by reference. He also noted all of the (applicant's) consultant reports stand on their own. He noted that in reference to Mr. Slayback's comment here tonight on the new application; we would be willing to make the fault map available to the Commission. We have to be careful because there is a lot of information that is not related to this application.

Commissioner Zelek noted that if Dr. Stiener is being referenced to in the report, he would like to see the complete content of what he is talking about. He wants to see in what context it is being laid out.

Chairman Block asked Attorney Regan when he could make the material available to the Commission? Attorney Regan responded that he would have talk with Attorney Boorman to discuss the grounds for submission.

Commissioner Igielski asked the following questions:

- A. In your report reference is made to bottom hole stemming that is used to minimize downward breakage. Would you please explain the process? Mr. Slayback responded the hole is dug deeper and filled with soft material (to the elevation of the charge). When the charge goes off there is little downward pressure resulting in more side way affect.
- B. Would this process be used at every location where blasting would occur? Mr. Slayback responded that he would defer the question to the blasting expert.

Commissioner Clark noted on page 3 of the geologist report indicates that more test blasting should be done to determine optimum blasting procedures. What happens if a problem should arise down the road, should the application have been approved? It was agreed to defer the response to the blasting expert, who would be coming up next to make a presentation.

Chairman Block asked the following questions:

- A. What does CPG mean? Mr. Slayback responded “Certified Professional Geologist”.
- B. In the report the rock is characterize as basalt. Am I correct that there are various physical formations of basalt rock? There was an exchange of questions and responses ending with no defined response to the original question.

Chairman Block expressed a concern about the seismic effect from blasting on the wetland soils on site. He requested the expert report back with more exactitude that the blasting techniques being proposed are going to significantly assured of not disturbing that sediment layer in the wetland.

Chairman Block noted that prior to receiving the final plans, all blasting procedures, specifications and details called for by you (Mr. Slayback) and other experts be incorporated onto said plans.

Mr. Douglas R. Simms noted that he is a blasting expert, who is registered in the State of Connecticut with 30 years of experience in the field. He has had a blasting license for 24 years and has prepared a number of papers on blasting and seismology and entered the following remarks into the record:

- A. He is familiar with the area and has monitored blasting at the Balf Quarry.
- B. He has worked with blasters throughout the state and deals with these issues every day.
- C. Referring to a plan sheet, he noted that areas in red depict where blasting would occur and areas in blue depict where over burden exists. The deeper the red color, the deeper the depth of blasting and the deeper the blue color the deeper the depth of the over burden.
- D. Bottom-hole stemming is normally done for house foundations. The contractor would normally drill a little deeper to make sure the depth of the foundation is reached the first time because the explosive energy goes upward, not downwards. This process is not typically used today.
- E. On test blasting, the contractor would set up a test procedure on site and measure a distance to determine if the rock is breaking uniformly. The work would be done in a conservative area. The test would be done in a shallow area to observe the

characteristics of the rock and its reaction to explosives. The contractor would start a safe distance from the wetland.

Chairman Block asked for an explanation of the difference between the Balf Quarry operation and the site under discussion? Mr. Simms responded the primary difference between the sites is the magnitude of the explosive charge and resulting vibrations. At the quarry, a blast could involve between 5,000 and 10,000 pounds of explosives using the "Initiation Method" which distributes the energy by not setting off all of the charges at the same time. However, at the site under construction, it appears that the maximum depth of blasting would be ten (10) feet. The quarry shot results in vibrations extending a large distance from the point of detonation; whereas, within the proposed development the shot would take less than one half (1/2) second and involve a charge up to a couple of pounds of explosives and 50 to 100 pounds of explosive within a utility trench. He noted that site conditions would dictate the blasting material that would be used.

Commissioner Igielski asked Mr. Simms to comment on how far a distance from a blast would the vibrations would extend? Mr. Simms responded that on a site like the one under discussion, the vibrations would attenuate 20 to 30 feet from the blast hole. He also noted that the breaking of the rock would not extend more than ten (10) feet from the blast hole.

Chairman Block noted that it was stated that seismic waves extend out through the soils from the blast holes. What is the distance that the blast waves would have an impact on the perched sediments? Mr. Simms responded that they would not exceed ten (10) feet outside of the blast hole. It will not impact the perched sediment under the wetland.

Chairman Block said that he previously noted that blasting procedures were out lined by Mr. Slayback. They are not incorporated at this time on to the plans before the Commission. Will you be developing procedures which the applicant would use and would be incorporated on the plans? Mr. Gradwell responded that the blasting procedures prepared by him and Mr. Slayback are presently incorporated on to Plan SheetGN-1. Our notes also include requirements from the Town Planning and Zoning Commission.

Chairman Block noted that he had read GN-1. He did not see anything in the procedures on addressing the preservation of the sediments in the wetland. If they are there, please show me where they are? Mr. Simms responded that he did not see them either. He requested that the notes and recommendations to protect the wetlands be provided to the Commission prior to the next meeting.

Commissioner Clark asked if the firm doing the blasting would be available at the next meeting to give testimony? Attorney Regan responded that a contractor has not been hired at this time. He noted the contractor would be over seen by the blasting expert to be hired by the applicant.

Mr. Ron Abrams noted that he is a "Certified Environmental Professional with the Academy of Board Certified Environmental Professionals and a consulting ecologist with DRU Associates. He stated that he was going to review tonight the things that were learned from the

previous application. Our roll has been to assist in integrating and responding to comments from the Commission and questions from the public. I have been studying these wetlands and my responsibility is to see that the wetlands are protected and the western part (of the site) which is sensitive to habitat is also protected.

Chairman Block asked if the DRU Report dated July 2011 was going to be part of the record? Dr. Abrams responded yes by reference.

Dr. Abrams entered the following remarks into the record:

- A. We have done additional studies of these wetlands following our previous appearance before the Commission and have developed a better understanding as to their characteristics (Wetland "B" and Wetland "C").
- B. These wetlands are supported by precipitation, snow melt and run off. They are not in communication with deep ground water.
- C. The waters that flow into these wetlands are held up by a layer of silty organic material which is decayed plant material. The wetland is perched on top of this material.
- D. These wetlands dry out. Photographs were shown of the area and were taken during the late summer and the fall. We had a dry year and these wetlands dried out early. As noted earlier, these wetlands are dependent on rain, snow and storm water run off.
- E. The plan before the Commission has taken all activity out of the regulated areas (wetlands and 100 foot buffer/upland review area). A passage way for wildlife and amphibians is proposed to connect the main wetland (Basin "B") with the minor wetland (Basin "C").
- F. The proposed drainage design and edge treatment will insure that water (surface run off) will return in a natural pattern to the wetland during a rain event or snow melt.
- G. Special features have been incorporated to protect the previously noted items. For example, the storm water basins previously noted by Mr. Gradwell are going to be planted with a mixture of native vegetation to include riparian and wetland varieties specifically grown for this project and selected because they are beneficial for water quality, soil and erosion stabilization and wildlife attractiveness.
- H. We are making sure that all of the water falling around the wetland (lawns and roofs) would actually flow toward the wetlands (he referred to arrows on a plan sheet). If the people do not follow the rules for lawn maintenance, we will intercept the water (if there is a build up) in a naturally planted swale with a shallow berm (approximately 1.0 to 1.5 feet in height) with a highly porous core. The design has been used on two (2) national level golf courses where water quality was a major issue. These features have been proven to work. On one of the golf courses, the New York DEP has used it

to train their staff on how to design wetland protection. They are self sustaining and do not require maintenance. They grow thick and separate the lawn from the wetland.

- I. The plan calls for the construction of an extra wetland basin to enhance the habitat for the frogs and salamanders on the property. Questions were raised in the previous application on a similar proposal. Several potential sites were investigated on the property. The selected location was based on specific criteria (listen to audio tape for details). The selected site for the new basin would lie between basins 2 and 4. The selected basin location would have a larger water shed than Basin "C" (small wetland in northeast corner of property) and would probably stay wetter for a longer period of time over the course of the year. He reviewed the design details and features of the proposed basin (listen to audio tape for details). We are confident that we have designed the basin to protect the wetland and have included extra features for wetland water quality and the resources that depend on the wetlands. In our opinion, the project is very strong.

Commissioner Igielski noted that in handout from BL Companies, there is a letter from Ms. Cynthia Rabinowitz that notes a wetland that appears to be fed by a well. Would you please comment on it? Dr. Abrams responded that he had observed some broken concrete pipe in the area, but did not see a well.

Commissioner Sidal asked what is your experience with the run off from pesticides and fertilizers? Dr. Abrams responded on a major project, where he was required to catch the soil and water in the wetland down stream from the protective features; we have had a completely clean record. His studies have been done primarily on golf courses and have involved a large amount of these materials. If a home owner follows the instructions on the label, we would be way below the levels of a commercial operation. If one uses a commercial party, the operator should follow the rules. There should be no problem.

Commissioner Zelek asked if the proposed location of the new (wetland) basin has a tree canopy? Dr. Abrams responded the area is wooded and only 2 to 3 trees would have to be cut down. If the Commission desires, we could look into possibly saving the trees.

Commissioner Clark noted a comment in the CERT Report relates to requiring a monitor report as a condition of a permit. Can you cite a similar development with similar pressures from home owners who are not able to follow rules? Dr. Abrams responded in an extreme case, we have tested the waters down stream of any protective feature. We have never had a violation. We have had a clean record.

Commissioner Clark noted that the opening for the amphibian pass-way seems to be a small hole for the creatures to find in the field. What impels them to find the hole and follow the path way? Mr. Abrams responded there are studies that show these tunnels work and would make a sample available if so desired by the Commission. He also noted that it is part of their natural behavior. He proceeded to describe a study using minnow traps (Listen to audio tape for details of the study). There was a general discussion. (Listen to audio tape for details of the discussion).

Chairman Block asked what is the type of barrier that would be used to direct the animals to the pipe? There was a general discussion. He said that he would come back to the Commission with a recommendation.

Chairman Block suggested that the applicant consider the use of leaching field pipe for the crossing. Mr. Gradwell said that he would look into the suggestion.

Commissioner Zelek asked what is the functional length of the tunnel? Dr. Abrams gave an example of a highway that was approximately 180 feet in length. It was noted that this length is about the same length as the proposed tunnel for the development.

Commissioner Zelek requested that Dr. Abrams cite a reference that shows what would be the maximum length of a tunnel that an amphibian would travel.

Commissioner Zelek requested Dr. Abrams cite a reference that would give the Commission comfort that the tunnel would be used. Mr. Abrams responded these animals remain buried for most of the year. When they come to the surface, they will find the tunnel.

Commissioner Igielski asked what is the level of amphibian activity in that wetland (Basin "C")? Dr. Abrams responded we saw no adults and two (2) egg masses. The year we saw them, the area was dried out for any reproduction to take place. This past year the basin was never wet enough for reproduction. My feeling is that it is not very often used, if at all.

Commissioner Clark noted that there would be a significant loss of trees associated with the project. Have you taken into account the resulting impact on future population of amphibians? Dr. Abrams responded that it is his opinion that the dispersion of the animals that use this wetland, is that they do not go very far uphill. They are burrowing animals. Referring to a plan sheet, he reviewed the migration patten of the animals. NOTE: Dr. Abrams made a comment on mitigation patterns related to the CERT Report (Listen to the beginning of side 2 of audio tape 2 for his remarks)

Chairman Block noted that on page 7 of your report, the third paragraph states that at the highest population estimates, the 40 plus acres of conserved habitat is more than adequate to support the population. What is the 40 acres that you are referring to? Dr. Abrams responded that the behavior of these animals in the off season from June to January would be to spread out into the upland area and return back from February to May to reproduce. These animals have all this space (he referred to a plan sheet). There are many ecologists who will say the animals who will go a very long distance. My experience, using radio tracking, is that only ten (10) percent will go a distance. The remaining 90 percent stay within 200 to 300 feet of the basin. Therefore, there is more than enough space to support the population.

Chairman Block asked for the delineation of the 40 acres? Dr. Abrams responded the open space area on the site.

Chairman Block noted that in his opinion salamanders do not like rocky exposed surfaces. They want sediment and vegetation; cool and damp. Dr. Abrams noted that you (Chairman Block) are referring to the red back salamander which lives near the surface. He is referring to the mole salamander which lives under the ground in the off season in burrows and in a three (3) dimension environment. Generally they would follow rodent burrows that already exist.

Chairman Block asked if the site could support an expanded population? Dr. Abrams responded yes, but unlikely. However, the addition of the new basin could provide an environment for expansion of the population.

Chairman Block asked if there was anything else that could be incorporated into the plan to favor the growth of the population? Dr. Abrams responded no. The water quality issue is the main issue. They need clean water and a full vernal cycle. The primary criteria is to get the main volume of water back to the basin that should have been there and that the water is clean.

NOTE: There was an exchange between Chairman Block and Dr. Abrams on the flow being developed from within the development after the development on the wetland system. (Listen to audio tape for details of the discussion-The discussion focused on a question followed by a response for several scenarios.

Alternate Paskewich asked when would the detention basins be put in place? Mr. Gradwell responded with the initiation of work on site. They would be used as sediment traps during the construction phase of the development.

Commissioner Clark asked if you are going to be able to save any trees within the area of development? Mr. Gradwell responded that the area would be basically clear cut for construction. If there is an area where some trees could be saved; we would do it.

Commissioner Clark asked who would be responsible for the planting of trees following development? Mr. Gradwell, referring to a plan sheet, described the areas where the developer would plant trees. Native species have been chosen.

Chairman Block asked if there would be any specimen trees planted on the lots. Mr. Gradwell responded no.

Attorney Regan said this completes our presentation and we will respond to question for next month's meeting.

Mr. Greenlaw asked attorney Regan if copies of reports agreed to between him and Attorney Boorman could be made available so that they can be mailed out to Commission members prior to next month's meeting? Attorney Regan responded yes.

Chairman Block asked Commission members that based on what was presented tonight, is there any interest among them to seek expert(s) to assist the Commission.

Chairman Block indicated that in advance of the meeting, he asked Mr. Greenlaw to develop a list of possible experts for tonight's meeting.

Mr. Greenlaw passed out the list to Commission members.

Chairman Block asked if this was a list of some of the available experts who would be suitable to provide expert testimony? Mr. Greenlaw responded no. The list includes professionals who have come before us or have been used in the past as experts for us.

Motion made by Commissioner Clark to retain the services of a wetland professional and blasting expert to give us an independent and balanced opinion as to the issues involved in this application (which) is before the Commission.

Motion was seconded by alternate Paskewich.

Commissioner Igielski noted the intent of the resolution would be so that Chairman Block and Mr. Greenlaw can identify based on availability of a person in the inland wetland profession and blasting to meet the requirements and time restraints faced by the Commission.

Vote was 7 yes, 0 no and the motion was carried.

Commissioner Igielski noted that Section 19.5 of the Regulations allows the Commission to secure expert testimony and the expense would be borne by the applicant.

PUBLIC IN FAVOR: NONE

PUBLIC AGAINST

NOTE: Remarks in this section represent a summary of comments related to the Inland Wetland and Watercourses Regulations of the Town under which the application will be evaluated by the Commission (listen to audio tape for complete details of each individual response).

Mr. Gary Bolles, 28 Burdon Lane noted that there would be a vast amount of blasting associated with the 48 house foundations within the development. Eighteen (18) lots contain wetlands that won't be built up. However, the adjacent blasting may still impact these 18 lots by causing fissures in the bed rock of the wetland and eventually draining the natural retention of the water. The end result would be the destruction of the wetland. The need for an Army Corps of Engineers permit should be checked out. He read a letter into the record that dealt with a situation where the Town Wetland Commission had issued a permit for a development across the street from his residence. Work was stopped on the development because (it had been determined by the Corps) there was a need for a Corps permit. NOTE: Chairman Block noted there is no basis at this time for the Commission to pursue this matter. Mr. Bolles entered the letter into the record that was read earlier in the meeting, dated June 6, 1991 from the Corps.

Mr. Roy Zartarian, 25 Stuart Street stated that in his opinion the reduced tree root filtration precipitation from the removal of trees and the resulting impact on the quality of the water entering into wetland has not been addressed in the mitigation report. He noted the report stated that Basin 3 did support obligate species but made no reference to any other organisms that would benefit the forest ego system. He noted that in the report that projected amphibian population projections are based on data from two (2) seasons. He questioned if this was an adequate time frame to perform a balanced study? It was noted that the planting plan refers to native species. There is a need to state specific species, if you move forward with the development. He supports the Commission's decision to retain experts to get a second opinion. Finally he noted that Toll Brothers has been cited by the Justice Department and U.S. Department of Environmental Protection for pollution violations which included one violation in the Town of Newington.

Mr. John Bachand, 56 Maple Hill Avenue noted that he has never seen the large basin (Basin "B") dry in all the years of him visiting the mountain. He noted that there could be existing fissures in the bed rock under the main wetland. He also noted that he has been a contractor for 35 years and has dealt with drainage issues in trenches and waterproofing of basements.

Mr. Richard Spring 47 Deepwood Lane asked if he could enter a copy of the CERT Report into the record? Chairman Block responded yes. He (Block) noted that the Report must be submitted prior to the next meeting of the Commission. It was noted that the Report states that some of the lots extend into the 100 foot buffer area around Basin 2. There should be some type of delineation such as concrete markers or fencing to delineate the limits of encroachment. When he went to the town hall and looked at the updated plan, it was noted that lots 28 through 32 did not have any apparent encroachment protection. In addition, the same protection should be provided to vernal pools. Consideration should be given to having Toll Brothers post a ten (10) year bond to retain an outside consultant to monitor the wetlands and order repairs if necessary.

Ms. Gale Raducha, 38 Schoolhouse Crossing, Wethersfield asked why is the Commission in such a rush to get these reports and experts on board? It also appears that there is an effort by the Commission to push the development through. Chairman Block responded that the Commission is working under statutory time limits. We have to make a decision before the time table runs out. She noted that it was indicated that a test blast hole would be one foot deep; whereas the actual depth of the blast hole could be up to 12 feet deep. In her opinion, a blast hole one foot in depth would not represent a true test blast. On wetland preservation, she noted that his (Dr. Abrams) studies were conducted on golf courses. Did any of the golf courses have similar terrain to Cedar Mountain or flat land that most golf courses are built on? It appears that all amphibians would have to use the same tunnel versus the free traveling (as they do today). Has any study been done to determine how many amphibians could use the tunnel at the same time? She made reference to legal issues in which Toll Brothers were involved (listen to audio tape for her remarks).

Ms. Holly Harlow, 11 Edmund Street said that she supports the Commission's decision to retain its own experts for a second opinion. She noted that at this time of the year there is no

vernal activity taking place. It was noted that tree clearing would be the first (construction) activity and would be followed by construction activity (earth moving operation). What would happen if a violation of the permit should take place?

Ms. Allison Clarke, 25 Wilbur Drive noted that the applicant did not answer all of the questions under the previous application and the Commission denied the permit. If they do not answer all of the questions relative to this application, then a similar action should be taken. The applicant, during the process has given the Commission three (3) different layouts. The third option before you tonight is a 48 lot subdivision. At the end of the hearing, please make them prove that the plan would not negatively impact the critical habitat and the ecological community. There is some confusion among the public as to what can and can not be said during the hearing. Why can't we talk about the CERT Report; whereas, Dr. Abrams can write a letter criticizing what is said in the Report. She asked who would own and maintain the streets and common areas; the Town or home owners association? Chairman Block provided a response (listen to audio tape for his remarks). She questioned the applicant's expert drawing a conclusion based on one year's observation of wetland's condition.

David Tatum, 29 Camp Avenue thanked Chairman Block for answering questions and clarifying issues when they arose during the public comment segment. He asked why the plans could not be made available electronically to the public? He asked who would monitor the requirements of the approved plans to include bonding upon completion of the development? He made reference to the legal citation previously noted by Mr. Zartarian in his remarks. Someone should be held responsible to fund and perform maintenance of these wetland basins for a reasonable period of time. The small wetland in the northeast corner seems to be entirely surrounded by an area that would be clear cut and surrounded by homes and roads. Even with the amphibian tunnel, he believes there would still be a serious impact to that wetland. He expressed a further concern for the area where the bio-filters would be installed to protect the main wetland area when the home owners start throwing brush and grass clippings into them. Keep the public hearing open until all materials can be entered into the record. If the development should move forward, make sure that they (Toll Brothers) are held accountable each step along the way.

Ms Bernadette Conway, 177 Hartford Avenue indicated that the Commission should take advantage of the experts that it would retain. She also indicated that Dr. Abrams was very confident in the statements that he made tonight. Don't make assumptions and assume that they are going to full fill all of their obligations.

Ms. Gail Budrejko 21 Isabelle Terrace read a prepared statement into the record manifesting an over view of her opinion as to the impact that the proposed construction activities associated with the development would have onsite and the wetlands (Listen to audio tape for the details of her remarks). She noted that the Commission is responsible to determine the short and long term impacts on the wetlands (on site) and also the wetlands and watercourses in the immediate area of the development. You are also charged in determining the suitability of the project for the overall area. There is good reason to believe that the wetlands on Cedar Mountain would be compromised if the development is approved.

Mr. Jeff Bridges, Town Manager, Town of Wethersfield, 505 Silas Deane Highway noted that his presence here tonight on behalf of the Town of Wethersfield is to express its concerns on the possible impact the Toll Brothers project could have on properties and infrastructure in the Town of Wethersfield. Three letters have been handed out and are entered into the record. Letter (1) relates to issues before the Commission tonight. Letter (2) request Intervener Status on behalf of the Town of Wethersfield in the process. Letter (3) relates to comments of a general nature that are relative to the project, but still have some impact for the wetlands for the Commission to consider. He proceeded to read Letter (1) into the record (Listen to audio tape or read the letter for full content).

Mr. Bridges noted that the primary concern relative to the Commission's review is the long term viability of the storm water detention basins that would direct flows into the Town of Wethersfield and eventually reach wetlands and watercourses in Wethersfield. The subdivision plan proposes to connect the detention basins outlet pipes into an existing drainage system in Tinsmith Road Crossing, private property at 61 Arrow Road and into Russell Road.

Mr. Bridges noted "We are aware that the Planning and Zoning Commission has, in past applications, required that the detention be owned and maintained by a homeowners association. However, as of October 1, 2012, no Connecticut town can impose such a requirement. Public Act 12-182.

At the conclusion of the letter, Chairman Block requested that the Town Engineer of Wethersfield make a presentation to the Commission on the concerns of the Town of Wethersfield.

Mr. Bridges noted that Letter (2) represents the formal request for "Intervener Status" on the application.

Mr. Bridges noted that Letter (3) represents a letter where the Town Engineer (of Wethersfield) talks about the project's storm water plan and its impacts on the Town of Wethersfield storm water system in the Crossing's development. Concerns are also expressed about blasting and a request for a new CERT Report.

Chairman Block noted that this is the first time the Commission has had a request for intervener status. He noted that there is a five (5) day prior notice requirement. It was noted that Chairman Block waived the five (5) day notice requirement subject to review by our Town Attorney.

Attorney Regan said that he had the right to challenge the request for "Intervener Status". If Mr. Turner is their expert, he requests that Mr. Turner be present at next month's meeting so that he can be cross-examined.

Commissioner Clark asked about the status of expert testimony being sworn in? Chairman Block responded that it would be brought up under correspondence.

Ms. Myra Cohen, 47 Jeffery Lane noted that the blasting would go down ten (10) feet for a house foundation. How deep would the blasting go down for utilities? Does the Town monitor blasting operations as it is taking place to guarantee that they are following the approved plans? She noted that the end openings of the amphibian tunnel would be child safe per the developer. We should see a detail to show what would be done. If the project is approved, would there be a dead line for the completion of work? What would happen if work was underway on the project and the economy goes bad: can they just walk away from the project and leave a damaged site?

Commissioner Clark asked why Toll Brothers is not before the TP & Z Commission to? Chairman Block responded to the question (listen to audio tape for his response).

Chairman Block asked if the Commission wanted a new CERT Report?

Motion made by Commissioner Clark to request a new CERT Report for the project and was seconded by Commissioner Zelek. There was no discussion. Vote was 7 yes, 0 no and the motion was carried.

Chairman Block noted that he had a conflict with the November 20th meeting date and requested that consideration be given to moving the meeting back to November 13, 2012.

Motion made by Commissioner Igielski that the Public Hearing be carried forward to a Special Meeting to be held on November 13, 2012 and was seconded by Commissioner Clark. There was no discussion. Vote was 7 yes, 0 no and the motion was carried.

NOTE: Alternate Paskewich left the meeting.

ITEM VII A

Application 2012-22, Russell Road North of Old Highway

Public Hearing remains open.

ITEM VII B

Application 2006-24, Deming Street-Active Adult Community

Mr. Greenlaw advised the Commission that the applicant has withdrawn the application.

ITEM VIII

PUBLIC PARTICIPATION ON NON-AGENDA ITEMS: NONE

ITEM IX

COMMUNICATIONS AND REPORTS: NONE

Motion made by Commissioner Sadil to adjourn meeting at 11:55 p.m. and was seconded by Commissioner Clark. There was no discussion. Vote was 6 yes, no and motion was carried.

Peter M. Arburr, Recording Secretary

Commission Members

Tayna Lane, Town Clerk

Town Manager, John Salamone

Town Planner

Councilor Myra Cohen

Councilor David Nagel

Chairperson, Town Plan and Zoning Commission.

Peter Borman, Esquire, Town Attorney

Chris Greenlaw, Town Engineer

Lucy Robbins Wells Library (2)