July 10, 2013

MINUTES: THE INLAND WETLANDS COMMISSION, Town of Hamden, held a Public Hearing & a Regular Meeting on Wednesday, July 3, 2013 at 7:00 p.m. with the following results:

Commissioners in attendance:

Nancy Rosenbaum, Chairperson
Mike Montgomery
Bob Gnida, arrived at 7:06 p.m
Eric Annes,
Bob Anastasio
Joan Lakin
Mike Milazzo
Andy Brand
Kirk Shadle, arrived at 7:03 p.m.

Staff in attendance:

Dan Kops, Assistant Town Planner
Tim Lee, Assistant Town Attorney
Tom Vocelli, IW Enforcement Officer
Stacy Shellard, Commission Clerk
Gayle Gregoriades, Stenographer

Ms. Rosenbaum called the meeting to order at 7:00 p.m. Mr. Montgomery called the roll and there was a quorum. Ms. Rosenbaum introduced the Commission and Staff and explained the Public Hearing procedure.

I. Public Hearing

a. 13-1192 135 & 145 Sanford Street-construction of a 33-unit multi-family building
New Haven Home Recovery, Inc, Applicant

Mr. Greg Burton, Attorney, addressed the Commission and reviewed the previous application that was approved in 2001. He also described the similarities between the previous application and the current application. A community meeting was held for the neighborhood and the residents were allowed to express their concerns about this application. Mr. Burton said that the GNHWPCA has raised concerns over the existing sewer easement that exists on the property and the location of the proposed building. He explained that if the existing sewer line were in need of repairs or maintenance it could be difficult. An additional concern when working with the GNHWPCA and Planning Staff is the location of the flood line. The flood line is located 10 feet to the east of the proposed location. If the building is shifted 10 feet it would allow necessary access to the sewer pipe. Other options considered were moving the street sewer line or placing sheet piling along the building wall to support the ground around the building. Mr. Burton noted that the most cost feasible alternative is moving the building 10 feet to the east and it would not change the parking area.

Mr. Bob Doane, Professional Engineer & Licensed Surveyor, addressed the Commission and stated the proposed site is 2.76 acres. He reviewed the locations and size of the water courses and wetlands. Mr. Doane reviewed the site plan (Sp1.2

revised 6/20/13-Exhibit 1) and the existing site conditions survey(Sp 1.0-Exhibit 2). Mr. Doane noted that the proposed amount of impervious surface will be less than what exists. He reviewed the proposed stormwater management plan. Mr. Doane explained that the Town Engineer's comments have been addressed. Mr. Doane stated that near Turner's pond the grading will be modified and he noted that the Town Engineer has agreed to this revision. Corrected drainage calculations (Exhibit 3) were completed in response to the Town Engineer's review.

Mr. Doane said that during the site walks there were concerns with regards to the proximity of the parking area relative to Turner's Pond. An option is to soften the grading required. There is grading outside the pavement for the proposed curbing. The corner of the curbing can be dropped down and eliminate grading outside the pavement. There is grading proposed adjacent to Shepard Brook and a sidewalk next to Shepard Brook.

Mr. Richard Snarski, Soil Scientist, addressed the Commission and stated that he has developed an exotic invasive removal plan. He reviewed the Planting Plan with the Commission (Exhibit 4).

Mr. Montgomery reviewed the vegetation in the area and plantings that can be done. He discussed with Mr. Snarski the use of herbicides. Mr. Snarski named the exotic invasive vegetation in the area and he asked that there be some flexibility to determine what plant species would be best to plant. He will contact the Wetlands Officer if the planting plan is revised. Mr. Montgomery asked that the plan include the pesticide to be used and how it would be applied. Mr. Annes stated that he would like the planting monitoring to be longer than one year. Mr. Snarski replied that the plantings could be monitored for three years. Mr. Montgomery said the removal of invasive species should be done prior to construction. Mr. Snarski stated he would revise the planting plan to state when planting would occur and when the invasive species would be removed.

Ms. Lakin asked if the concrete walkway and parking spaces close to the pond could use permeable materials. She also asked if parking spaces number 33-36 could be relocated. Mr. Doane explained that there are 50 parking spaces required and he reviewed the parking requirements in the zoning regulations. He also noted that to soften the effects of the parking area he could use porous processed stone or ¾ inch stone. Ms. Lakin asked if the green area adjacent to the handicap parking could be used for parking. Mr. Doane replied the area would be too short for the parking size requirement, but he can review the parking plan to see if another area can be used. Mr. Doane said the walkway will be handicap accessible and he would like to keep that area as poured concrete. Mr. Doane reviewed the proposed materials to be used in the parking area.

Mr. Anastasio asked Mr. Doane where the new project would have less impervious surface than the prior approved project. Mr. Doane reviewed the existing site conditions with the Commissions and he explained that when computing the edge of the existing parking area and the proposed building it is less impervious surface than the prior approval. Mr. Anastasio asked if the closest area of the parking area to the pond is 13 feet and Mr. Doane replied yes. Mr. Anastasio asked why such a large parking area is needed. Mr. Doane explained that the size of the building determines the parking area.

Mr. Burton explained that the ZBA addressed the size and number of units and granted a variance. The building will be three stories and have 33 units. The number of units is a cost feasibility issue. The proposed site development is less intense then what was previously approved and has less impact to the wetlands. Mr. Burton needs an IWC approval so that the P&Z Commission can hear the application on July 23, 2013. If the pending application is pushed off until September it could have a significant impact on the funding source. He said that conditions of approval could include use of herbicides and be subject to verifications of details.

Mr. Annes said that the cost feasibility for a project of this size may not be feasible for this property. He feels that the proposed project is large and near a watercourse, so more clarification is necessary.

Mr. Burton stated that the application is for multi-family affordable housing. The proposal for the development of the site includes controls that minimize the impact of the work being done on the site.

Mr. Annes discussed with Mr. Doane the rates the water would be going when it overflows the system. Mr. Doane said that the Town Engineer's review asked that the water should go towards Turner's Pond or Shepard's Brook. The Town Engineer does not want the overflow of water to go over Sanford Street. He noted the water would be sheet flow.

Mr. Gnida said that a dumpster will be close to the 100 year flood plain and if the sheet flow of water goes over the curb the dumpster could become submerged. He is concerned that it would contaminate Turner's Pond. Mr. Doane will review the

location and he said that he may be able to elevate onto a 6 inch concrete curb. Mr. Doane discussed with the Commission the placement of culverts and the rise of the curbs to address 100 year storms. Mr. Annes noted that he is concerned where the water that may have oil in it will go from the parking area. Mr. Doane advised the Commission he will review.

Mr. Shadle discussed the locations of the catch basins and the stormwater management system with Mr. Doane. Mr. Shadle would like a water/oil separator added to the plans and he stated the he understands that calculation times play a role with water runoff.

Mr. Montgomery noted that a previous approval for this site stipulated that the existing sump would be cleaned out and this has not occurred and a detail of the sump maintenance is needed. Mr. Doane discussed the Sediment and Erosion Control Plan with the Commission. Mr. Montgomery asked if a repair to the crib would be made. Mr. Doane will not know if this can be done until the sump is cleaned out. Mr. Montgomery asked if instead of a gallery in front of the building a rain garden could be used. He suggested that the northern gallery can be replaced with a swale.

Ms. Rosenbaum asked for comments in favor of the application. There was none.

Ms. Rosenbaum asked for comments against the application:

Mr. Jay Shah, 134 Sanford St, Unit 3, addressed the Commission and asked if questions regarding the 50 space parking lot will be addressed by the IWC or the P&Z Commission. Mr. Lee explained that the P&Z Commission will address the parking requirements. The IWC addresses if the parking area impacts the wetlands.

Mr. Paul Jobmann, 28 Stowe Court, addressed the Commission and reviewed his resume. He asked if after working in the 100 year flood plain where the flood storage will be made up. He questioned the infiltration galleries design because it is not clear what the infiltrate rate would be and if perc tests and test pits were done. He noted that it was not clear what the infiltrate rate would be. The galleys must be 3 feet above sea level for the galleries to be effective. There appears to be errors in the calculations for pre and post watershed. Mr. Jobmann is concerned with the existing conditions on the site and he said that rain gardens and additional galleries need to be included to control water runoff. He would like to see improvements done to the stormwater management system. Mr. Jobmann is opposed to the project.

Mr. Arnold Hyman, 30 Bromley Court, addressed the Commission and asked if the recent hurricane would be considered a 100 year storm. Mr. Doane said it depends on the intensity of the rain and the amount of time which then fits into the statistics with the total rainfall and the amount of time it takes to hit the ground. Mr. Doane can find out from the National Weather Service to see how Super Storm Sandy was categorized. Mr. Doane said that in 1982 he was the Town Engineer for Clinton and there was a rain event that produced 14.9 inches of rain in 36 hours and this was considered a 700 year storm.

Mr. Doane stated that there is very little change in the topography on site. He did not do a consistory storage analysis on the site because of the proposed grading on the site. The design of the infiltration rate was taken out from the Soil Conservation Service books based on the soil types on the site. He did not do any ground water monitoring on the site. Mr. Doane said that he would look at eliminating several gallery systems and replace with rain gardens.

Mr. Burton stated that the RWA Comments did state that the proposed plan is an improvement to the existing site conditions. The site is problematic and had a number of problems. He feels that this development addresses many of the concerns. Mr. Burton asked that the IWC approve this application with conditions.

Ms. Rosebaum stated that there are too many outstanding questions and the public hearing should be continued until the September 11, 2013 meeting. She asked Mr. Burton if he would consent to continuing the public hearing.

Ms. Lakin made the motion to continue the public hearing until the September 11, 2013 meeting. Mr. Montgomery seconded the motion.

Mr. Lee advised the Commission that they must have consent from Mr. Burton to continue the public hearing. Mr. Burton stated that he gives his consent to continue the public hearing until the September 11, 2013 meeting.

The motion passed unanimously.

III. Regular Meeting

1. New Applications

a. 13-1195 1942 & 1952 Whitney Avenue-parking lot renovations
Fusco(Whitney Avenue) Associates, Applicant

Mr. John Schmitz, Civil Engineer, addressed the Commission and reviewed the application. He note the wetlands and the special flood zone areas which are located off site. Ms. Rosenbaum asked if the wetlands would be impacted by the proposed work being done at the site. Mr. Schmitz reviewed the proposed stormwater management plan and said that there would be less water runoff coming from the site.

Ms. Rosenbaum does not feel a site inspection is necessary because the improvements are being made within the existing site. Mr. Annes noted that he agreed with Ms. Rosenbaum.

Mr. Gnida said that the property is within the 100 foot non-disturbance buffer and asked if the existing pavement will be replaced and Mr. Schmitz replied yes. Mr. Gnida asked if the equipment used to replace the pavement would remain on the property and not encroach further into the non-disturbance area. Mr. Schmitz said that they would stay within the applicant's property. Mr. Gnida asked if the same drywell configurations would be used. Mr. Schmitz explained that the existing inlets would be replaced with manhole covers, but would remain at the same grade. The islands would be changed for better vehicle circulation. Additional catch basins will be installed.

Ms. Lakin said that the RWA is an abutting property owner and they have a chance to comment on the application.

Mr. Ron Walters, RWA, addressed the Commission and stated that the proposed work would be an improvement over the existing site conditions. He said that there should be a condition that during construction, all fuel, oil, paint or other hazardous materials should be stored in a secondary container and placed in a locked indoor area with an impervious floor during non-work hours. Any on site fueling should be conducted over a portable spill containment system. RWA inspectors should be granted access to this property two times a year for an inspection. Maintenance of the stormwater management system should be inspected two times a year and maintenance of the system once a year.

Mr. Annes questioned if we could approve the RWA's request. Mr. Tim Lee, Assistant Town Attorney, stated that an approval and condition could be based on the RWA comments made at this meeting. Mr. Schmitz agreed with the conditions set forth by RWA.

Mr. Montgomery stated that the proposed application is an improvement over the existing conditions on the site and he does not feel the work would be a threat to the wetlands.

Mr. Shadle would like the dumpster pad moved so that it is not in the special flood area and Mr. Schmitz agreed. Mr. Shadle questioned if the shifting of the island in the parking area would affect the sheet flow of the water. Mr. Schmitz reviewed the changes to the island and he feels that it would remain the same. Mr. Shadle asked where the dumpster would be relocated. Mr. Schmitz said it would be relocated one bay to the east. This would create the loss of two parking spaces but he can make that up in the rear.

Mr. Montgomery made a motion to approve application 13-1195 with the following conditions:
1) The dumpster pad be moved out of the flood plain 2) RWA comments as stated that all fuel, oil, paint or other hazardous materials should be stored in a secondary container and placed in a locked indoor area with an impervious floor during non-work hours. Any on site fueling be conducted over a portable spill containment system. Equipment maintenance on site is prohibited. 3) Maintenance inspections of the stormwater management system should occur two times a year and cleaning of the system catch basins once a year.

Mr. Shadle seconded the motion. The motion passed unanimously.

2. Pending Applications

a. 13-1187 170 Birchwood Drive- construction of a single-family house
Alberto DiChello, Applicant

Mrs. Rosenbaum asked for comments from the Commission:

Mr. Montgomery submitted and stated the following:

In order to build a single family home with a driveway from Birchwood Drive to the rear of a 2.4 acre lot, this project proposes to fill 4,275 SF of wetlands and to modify approximately 1,210 SF of wetland that was filled previously without authorization by this Commission. The driveway would be over 600 feet total length with some 265 feet crossing on fill placed on wetlands.
Two environmental consultants, Dr. Danzer and Dr. Orson, in memos dated May 7 and June 4, respectively, and in testimony before the Commission indicated that the propose driveway will have significant and permanent negative impact on the wetlands. The applicant's hired professional, Mr. David Lord, stated in a May 28 memo that "All wetland functions and values under the driveway will cease to exist.", and that there also would be "impacts localized on hydrology and vegetative cover". In reference to the house and septic system, Mr. Lord's memo states that "The primary "potential impact" to wetland areas is from devegetation of the development envelope surrounding the house and septic areas." Thus, the hearing record supports a finding that this proposal would have substantial significant impact on wetland resources. As the June 4 letter of Attorney Strub pointed out, Connecticut statutes require the agency to consider alternatives that would have less impact, and if there is a finding of significant impact, this Commission's regulations require that the application not be approved if feasible and prudent alternatives exist. Our regulations also state that "A conclusion that a feasible and prudent alternative does not exist does not create a presumption that a permit should be issued".

Mr. Annes stated the following:

It is my opinion that application 13-1187 should be denied for the reasons in the record, for the reasons stated by Mr. Montgomery and because the application is incomplete. As to the application being incomplete, the applicant did not provide and consider all feasible and prudent alternatives. Specifically, the applicant did not consider a reduction in the foot print of the house by among other things removing the garage from the plans. The Commission received testimony from two experts, Drs. Orson and Danzer whom stated that a reduction of the foot print of the house would reduce the impact to the wetland and watercourse. This testimony was unopposed by the applicant's expert. I note that an attorney's statement that the rain garden is sized appropriately is not expert testimony. Regardless, I find Drs. Orson and Danzer credible. It is my opinion that a reduced house footprint is both feasible and prudent. Again regardless of my opinion, the applicant did not put forward this option and provide reasons that it is not feasible and prudent. It is profoundly in the province of the Commission, not the applicant, to determine what is the most feasible and prudent alternative. Our decision, of course, is guided by the testimony put before the Commission. No plan for a reduced footprint was put before the Commission and no opportunity was provided for Drs. Orson and Danzer to comment upon any plan of smaller footprint.

Additionally, I do not believe the applicant fully and effectively considered an elevated roadway or portion of a roadway. Again, the applicant did not put forward any plans where this was contemplated as an option and the public was not provided an opportunity to put forwards its own comments on a potential elevated roadway or portion of the roadway. The applicant's engineer's

dismissive statement at the close of the public hearing expressed that no thought or consideration was given by the applicant for this concept. It is my understanding that there are possible options for such beyond what the applicants expert discussed. I find the applicant's dismissive treatment of this option inappropriate for this application.

This application has significant impacts to a sensitive and important wetland resource. This application is upsetting to every neighbor of the subject property. The applicant purchased the property aware of this issue for development with that knowledge. The applicant's previous behavior showed some bad faith in building in wetlands without an application. As well as coming before the Commission for a garden/farm with a large driveway that he never intended to go forward with. While these prior actions do not impact the factual determinations the Commission makes for this application, they deserve to be noted and do impact credibility determinations. The law is clear that it is incumbent upon the applicant to put forward reasonable alternatives so that the most feasible and prudent alternative can be determined. It is my conclusion, that the applicant has not met this requirement. Therefore I will vote against approval of application 13-1187.

Mr. Gnida stated the following:

He is against the application. The water shed is draining into the 1.1 acres of wetlands and is 23 ½ acres of delineated watershed. Mr. Gnida referred to the storm drainage report submitted back in November 2012. There is an extensive upland review area to the east, and 190 feet of it is off of 170 Birchwood Dr. Mr. Gnida believes that TR-55 was used which only forecasts surface and water flow and not subsurface waterflow. What drains for the 23.5 acre watershed comes into the basin and Mr. Gnida believes that most of the water through the culverts. According to Mr. Lord there is more significant seep flow to the west side of the proposed driveway and more surface flow to the east. However, there is seep flow in the central portion of the wetlands and to the east which was not analyzed for sub surface flow. Mr. Gnida reviewed his qualifications and noted there is a way to analyze the subsurface flow. His concern is that when the ground is compacted and disturbed below the driveway it will impede the subsurface flow when it is leaving the site, and possibly act as a dam. There is not a prediction how the driveway will impact the direction and discharge rate for the subsurface seep flow. He is concerned that it will be impeded by the compaction of the driveway. The watershed 23.5 acre that is depicted in the drainage report there is a lot of upland undeveloped that is a potential for future development. If the site is disturbed because it acts as a basin and a stormwater detention and if there is further development in the open area, the site may not function as well for future development and could impact its importance and drainage. Mr. Gnida stated he will vote no because even the wetlands downstream which is still in the upland review area was not discussed. Basically what was looked at what was on site and did not evaluate or analyze what is happening off site as far as surface and subsurface flows into the area using the assumptions of soil types given on the map. He does not know how it can be assumed the soil types and plug it into TR55 and get an accurate surface flow using assumptions. Mr. Gnida is concerned that all the information is not available that should be looked at.

Mr. Brand stated the following:

The site has a vast diversity of plants and animals that you do not see in many wetlands within Hamden. He feels it is critical that everything be done to preserve this wetland. Dr. Danzer stated in his report on page 11 that there is a need for an expert to lay out the plants to make sure that no native vegetation be displaced. Mr. Brand said that this has not been provided by the applicant. A key point is because of the vast array of vegetation and the species that can be found, with out an expert botanist there could be damage to the vegetation on the property. Dr. Danzer had noted that the removal of at least 16 trees being removed for the roadway would lose the canopy coverage and the wetlands functions related to the canopy coverage will be significantly damaged. Mr. Brand feels that this will increase the amount of invasive species that need to be controlled. He stated that Dr. Danzer and Dr.

Orson suggested a longer monitoring period and Mr. Gnida feels it should be longer then five years. Mr. Brand said that nothing was mentioned about the deer browsing, and he says it is foolish to put the plants in with the amount of deer on the property. Mr. Brand stated that the project will have a considerable impact on the wetland and he will vote no.

Ms. Lakin stated the following:

Section 10.2 k of the Inland Wetlands & Watercourses Regulations for Hamden states: The Agency shall require, at a minimum, a non-disturbance buffer zone encompassing the land area one hundred feet from any wetland or watercourse as a condition of granting wetlands permits unless the applicant demonstrates through substantial evidence in the record that such activity within the 100 foot non-disturbance area does not pose an impact to the regulated area.

According to the expert testimony of Dr. Danzer and Dr. Orson this project will cause a significant environmental impact to the area.

Mr. Shadle stated the following:

There were many points in the minutes of the hearing over the course of this proposal. Three experts, Dr. Danzer, Dr. Orson and Mr. Lord have all labeled this as having a direct, negative & significant impact to the wetlands of the proposed site.

Mr. Montgomery stated the following:

Although I concur with the applicant's spokesperson that the most feasible and prudent alternative for the footprint of the driveway and house is what is shown on the plan under consideration (version last revised 20 May), I disagree that the application is complete, that the applicant has assessed all reasonable alternatives, and that the Commission cannot ask that it be modified to reduce both direct and indirect wetlands impacts. In comparison to the enormous impact of the footprint of the driveway on the wetlands, other impacts associated with the project may be smaller, but they are nonetheless significant. Testimony and other information indicate that there are feasible and prudent alternatives that can be used to minimize the net overall impact of this project.

Some examples are: Dr. Danzer pointed out that the taking down of trees (site clearing) and building the road will be tricky because heavy equipment will need to cross the wetlands. This important issue was not addressed by the applicant and the applicant's site sequence calls for the crossing of the wetlands as a first step before any measures are taken to protect the wetlands. The applicant's engineer indicated that construction fabric could be placed over soft wetland soils to reduce their compaction, but this is not shown on the plan. Dr. Orson testified that the seepage envelopes could clog and thus lose their function. I agree with this conclusion because the detail on the plan shows the envelopes wrapped in filter fabric, filled with uneven sized rock, and without construction fabric below and above the envelope. The conservation boundary has gaps and is not closed and the applicant indicated this can be remedied. The need to control invasive species is recognized by both the applicant and the Commission, but both the Commission and Dr. Danzer pointed out that the proposed plan is generic and vague, relies too much on chemical treatment, that use of pesticides would need further permitting and licensed applicators, and that eradication needs to be done by someone expert in plant identification (both the first and last plans submitted by the applicant confused native and invasive species). Another important consideration is that the removal of invasive species, especially in and near proposed work areas should be made as the first step in the construction sequence rather than at the conclusion of construction, as proposed, in order to prevent the further spread of invasive species detrimental to the wetlands. Similar problems are present in the proposed enhancement/restoration plan. Dr. Danzer pointed out the need for an expert who can recognize both herbaceous and woody species and that the plantings need to be expanded to include herbaceous material and ferns. Additionally, I noted that the proposal to add woody shrub species in the undisturbed areas would change the natural character of the wetlands, which has a healthy, exceptionally diverse understory of herbaceous perennials and ferns including several species that are uncommon in the Town of Hamden. Not only is it undesirable

to change the natural character of the wetland, but the planting of shrubs is likely to fail because of the heavy browsing of deer in the area. The planting for the rain gardens indicates that plants listed in the UCONN Extension bulletin will be used; however, the non-native seed mixture listed on page 5 of the plan is not in the bulletin, which lists only native, deep-rooted grasses. The applicant maintains that the past history of the property is irrelevant, but Dr. Danzer stated that characterizing the amount of disturbance should include what has occurred and what will occur on the site.

At the end of the public hearing, the applicant indicated that he is willing to offer a permanent restriction regarding "as of right" uses of the wetland. It is my opinion that a revised proposal that includes permanent restrictions on use and provides permanent protection of the wetlands, sound plans for the removal of invasive species in the wetlands and restoration of previously disturbed areas of the wetland, as well as other mitigation measures would balance, to the extent feasible and prudent within the confines of this site, the direct losses associated with the filling of wetlands necessary to build a single family residence.

Mr. Annes made the motion to deny Application 13-1187. Mr. Anastasio seconded the motion. Mr. Annes, Mr. Anastasio, Mr. Shadle, Mr. Brand, Ms. Lakin, Mr. Montgomery and Mr. Gnida voted in favor of the motion. Mr. Milazzo voted against the motion. Therefore, the motion passes 7-1-0.

b. 09-1146 385 & 415 Putnam Avenue-Amendment Request
Design & installation water quality basin
Joseph Natale, Applicant

Mr. Bernard Pellegrino, Attorney, addressed the Commission and explained that the application was approved in 2009 with a condition that there be a design for a storm water quality basin. Mr. Pellegrino submitted pictures of the site conditions. He noted the conditions prior to the remediation and he also described the existing conditions. Mr. Pellegrino explained that the water quality basin will be sized to provide functional cleaning of storm water. He reviewed the site inspection. Mr. Pellegrino submitted two letters from Gardner Environmental Partners. One addresses the Stormwater Quality Basin Evaluation and the other addresses the Potential Leachability of Copper.

Mr. Jim Rotondo, Professional Engineer, submitted & explained that he prepared 3 different alternatives that provide different levels of treatment. The Commission discussed with Mr. Rotondo the different levels of service and Mr. Rotondo stated that his preference is the use of alternative number one because it provides a greater amount of stormwater treatment. He reviewed the flow of water into the basin with the Commission.

Mr. Shadle asked if Mr. Greg Gardner, LEP, has signed off on the environmental quality of the entire site. Mr. Pellegrino reviewed what Mr. Gardner has signed off on to date. Mr. Pellegrino explained that Mr. Gardner is designated as the LEP for the site and he acts as the agent for the DEEP. Mr. Shadle discussed the alternatives

Mr. Ron Walters, RWA, addressed the Commission and stated that the alterrative plans numbers 1 or 2 would be acceptable to the RWA. He asked that maintenance notes on plan C-1 be included as a condition of approval.

Mr. Montgomery reviewed the proposed alternatives and he stated that he prefers alternative number 2.

Mr. Brand asked that in the maintenance notes it states how the invasive species will be removed. Mr. Rotondo responded that he will consult with the landscape architect.

Mr. Montgomery made the motion to approve the Amendment Request to Application 09-1146 with the use of alternative number two and incorporate maintenance notes on page C-1 to the alternative, also, a stipulation that pesticides are not to be used in areas between pavement and the wetlands area without prior approval of the Commission or its officers. Mr. Gnida seconded the motion.

The Commission discussed with Mr. Kops the 2009 bonding requirement. Mr. Pellegrino will discuss the question of the bonding condition with Mr. Tim Lee, Assistant Town Attorney.

Mr. Milazzo discussed the original conditions of approval which are not being modified. This application applies only to condition number one of the orignal approval.

Mr. Montgomery, Mr. Shadle, Mr. Brand, Ms. Lakin, Mr. Anastasio, Mr. Gnida and Mr. Milazzo voted in favor of the motion. Mr. Annes abstained. Therefore, the motion passed 6-0-1

c. 13-1192 135 & 145 Sanford Street-construction of a 33-unit multi-family building
New Haven Home Recovery, Inc, Applicant

Mr. Milazzo made the motion to table this item until the September 11, 2013 meeting. Mr. Anastasio seconded the motion. The motion passed unanimously.

d. 13-1193 4135 Whitney Avenue(aka 0 Willow Street)
Installation of ground mounted solar panels
Solar City Corporation, Applicant

Mr. Douglas Stewart, Professional Engineer, addressed the Commission and reviewed the site and location of where the five acres of clearing will take place to install the solar panels.

Ms. Rosenbaum noted that comments from the RWA were received today.

Mr. Kops asked how much undisturbed area is there between the second fence and the western edge of the property behind the shopping center on Whitney Avenue. Mr. Stewart said that there is 75 feet of clearing in this area and it will be approximately 30 feet from the closest edge of the shopping center's property line.

Mr. Milazzo made the motion to approve Application 13-1193 subject to the installer following the RWA Oil & Chemical Spill Prevention Plan. Also the RWA Environmental staff will be inspecting the project on a regular basis to make sure all best management practices are being followed. Mr. Annes seconded the motion. The motion passed unanimously.

e. 13-1194 Whitney Avenue at Eaton Brook-installation of a water main
South Central CT Regional Water Authority, Applicant

Mr. Lawrence Marcik, RWA, Project Engineer, addressed the commission and reviewed the application and the locations where the water main pipes will be placed. Mr. Marcik noted that the RWA will meet with the DOT because the have specific requirements that must be followed.

Mr. Annes asked if Mr. Ron Walters, RWA had any comments. Mr. Walters, RWA, said he will email his comments. The concerns are related to fuel handling, dewatering and erosion controls. Someone from the RWA will be on the site daily to do inspections. Most of the work on the project will be in the street. When digging the piles and dewatering someone from the RWA will be on the site.

Mr. Anastasio asked if a contractor had been chosen and Mr. Marcik replied no.

Mr. Gnida stated that there are no specific erosion controls. He said it will be a difficult situation because of the channel walls of Eaton Brook and the pilings that are being placed outside of the slope. Mr. Marcik stated that they are spanning as far as the pipe can span to minimize the impact.

Mr. Anastasio asked if a double row of silt fence can be put in place. Mr. Marcik replied yes and noted that the grading and the landscaping will be done as soon as possible once the work is completed.

Mr. Anastasio made the motion to approve Application 13-1194 with the comments made by Mr. Walters as stated for the record for inspections and fueling included in his comments dated July 2, 2013. Mr. Annes seconded the motion. The motion passed unanimously.

3. Notices-of-Violation, Cease & Desist & Restore Orders, Notices-to-Appear

a. N.O.V. 64 Rocky Top Road – clearing of trees & removal of vegetation
b. N.O.V. 251 Welton Street – oil spill or discharge
c. N.O.V. Lot 10-Benham Hill Estates (aka 0 Benham Hill Place)
Failure to repair & maintain stormwater detention basin

Ms. Rosenbaum stated that all N.O.V.'s remain tabled.

4. Review Site Inspection Schedule

There are none.

5. Review of June 5, 2013 Meeting Minutes

Ms. Rosenbaum asked that the minutes be amended to reflect that Mr. Brand was in attendance. Mr. Montgomery asked that on page 1, paragraph 2, 2nd sentence under application 13-1187, be amended to read: The plan was modified to incorporate planting areas A through D, the relocation of one rain garden, addition of an additional seepage envelope to the driveway plans, and the area of the process gravel was clarified. Also on page 3, 4th paragraph from the bottom, 2nd sentence should read: Mr. Montgomery is concerned with the possible spread of the Japanese Knot Weed and would like a revised construction sequence. Also third paragraph from the bottom should read "Mr. Strub stated that he will work with Mr. Tim Lee, Assistant Town Attorney to determine wetland bondaries, non disturbance areas, and the language for land use restrictions.

Ms. Lakin made the motion approve the minutes as amended. Mr. Brand seconded the motion. The motion passed unanimously.

Mr. Anastasio asked that the record reflect that he had read the Minutes of June 5, 2013.

6. Other Business

Mr. Milazzo made the motion to cancel the August 7, 2013 meeting. Mr. Anastasio seconded the motion. The motion passed unanimously.

a. Request for the Commission to review the de minimis finding at 1605 Sherman Avenue granted April 26, 2013

Mr. Gnida reviewed his findings noted in the de minimis. Mr. Tom Vocelli, Wetland Enforcement Officer, stated that he and Mr. Gnida checked the zip line course and there are parallel zip lines which are anchored to the trees and are half way up the slopes of the basin. When operational the people will be zip lining back and forth over the basin. There will be some foot traffic, but he and Mr. Gnida concluded that there would be minimal impact to the area and this could be considered a de minimis project.

Mr. Annes asked if any comments or complaints were received that were relative on the impact of the wetlands. Mr. Vocelli replied not directly from the public.

Mr. Montgomery stated outdoor recreation play and sporting areas is permitted as a right and as a non-regulated use provided that there is no removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse. He asked Mr. Vocelli what was observed. Mr. Vocelli stated that the foot path is not operational, it was said that there would be no wood chipping or mulching, and no deposition of gravel..

Ms. Rosenbaum advised the Public that the Commission is concerned with the preservation of the wetlands and watercourses and comments should be addressed to it. She stated that two letters in the Commissioner's packets are in support of the YMCA program.

Ms. Kathy McCarthy, 30 Bear Path Road, addressed the Commission and stated that she lives behind the YMCA Adjacent to her property is a 50 foot right of way that is all wetland and when it rains there is a river that runs through it. She submitted pictures of mulch and the damage to the area with the removal of trees. She also submitted a letter addressed to the Commission. Ms. McCarthy and the Commisison had a lengthy discussion with regard to the removal of the trees, the zipline, rope course, and the deminimis finding.

Ms. Susan Rossotto, 1640 Sherman Avenue, addressed the Commission and read a statement addressing the deminimis finding at the YMCA. She submitted pictures of trees that had fallen in the last 72 hours that the YMCA have not cleared. Also pictures of an area where children are walking. She would like the Commission to revisit the deminimis ruling. Ms. Rossotto asked if the deminimis ruling had to be published in the legal ads. Mr. Vocelli stated if the property owner did not publish the ruling then it can be appealed, if it had been published the appeal period would have expired. He also noted that a petition with a 82 signatures was received.

Mr. Michael Zito, 690 Shepard Avenue, addressed the Commission and stated his concerns of the area being a natural watercourse and the possibility because it has been disturbed that it will overflow into abutting properties. He stated that the removal of the trees allows him to now see a trailer and porta potties. He discussed with the Commission the need for an application vs. a deminimis. He reviewed the YMCA site and feels that there is no guarantee that water will not cascade because it is a natural terrain for water to shed and he feels that this is not an area for kids to play.

Ms. Lynn Orser, 1620 Shepard Avenue, addressed the Commission and stated that as a Y member she walked their property. During the month of June it was wet and you walked through mud. She discussed the trees that have been cut down and feels that water will flow onto her property. She expressed her concerns and feels the deminimis ruling affects the community.

Mr. Dan Griffith, 51 Bear Path Road, addressed the Commission and stated that he scouted out the site and he reviewed his findings. He feels that the impact of the work done is greater then implied.

Mr. Josh Royce, Executive Director, YMCA, addressed the Commission and stated that he followed all the necessary steps to have a deminimis ruling. He reviewed the activity that has taken place on the site.

Mr. Dave Runlett, 40 Funaro Road, addressed the Commission and asked if the map submitted by Mr. Royce was done by a licensed surveyor. The Commisison discussed the map that was submitted with Mr. Runlett and Mr. Royce.

Mr. Dan Kops, Assistant Town Planner, stated that the Mayor had advised people if they were opposed to the deminimis ruling they could go to the IWC. They would also file an appeal with the ZBA, and that was not done.

Mr. Michael D'Adamo, 1660 Sherman Avenue, addressed the Commission and stated that he was saddened to sit at a meeting for three hours and hear applications be approved and denied, and yet he was never notified about this deminimis. He feels that there is no concern for the neighborhood.

The Commission & Staff further discussed with the property owners the deminimis finding and that Mr. Vocelli can revisit the property to determine if any violations have occurred that were not approved with the deminimis finding.

Mr. Milazzo made the motion to uphold the de minimis ruling. Mr. Milazzo seconded the motion.

Mr. Shadle would like a condition that chafing gear added to the tree to avoid damage. The Commisison discussed whether or not a condition can be made to a deminimis. Mr. Montgomery would not entertain a change to his motion.

Mr. Montgomery, Mr. Milazzo, Ms. Lakin, Mr. Anastasio, Mr. Brand and Mr. Gnida voted in favor of the motion. Mr. Shadle and Mr. Annes voted against the motion. Therefore, the motion passed 6-2-0.

7. **Election of Officers-**Vice-Chair & Secretary

Ms. Lakin made the motion that Mr. Brand be nominated as Vice-Chairperson. Mr. Annes seconded the motion. Mr. Brand accepted the nomination. The motion passed unanimously.

Mr. Annes made the motion to nominate Mr. Milazzo as Secretary. Mr. Anastasio seconded the motion. Mr. Milazzo accepted the nomination. The motion passed unanimously.

8. **Adjournment**

A motion to adjourn was made by Mr. Milazzo and seconded by Mr. Brand. It passed with no dissenting votes. The meeting ended at 10:50 p.m.

Submitted by: _____
Stacy Shellard-Clerk of the Commission