

**Town of Watertown
Planning and Zoning Commission
SPECIAL MEETING**

Time: 7:10PM
Date: May 20, 2009
Place: Watertown High School
Technology Center
324 French Street
Watertown, CT

- 1. Call meeting to order**
The Chairman opened the meeting at 7:10 PM
- 2. Roll Call**
The secretary executed the roll call.

Present: Chairman, Mr. David Minnich
Vice Chairman, Mr. Gary Martin
Mr. Ronald Russ
Mr. Carl Mancini
Mr. Jim Blais
Mr. Glen Duplissie
Alternate, Mr. Ray Rondeau
Alternate, Mr. Ken Demirs

Absent: Secretary, Mr. Michael Masayda
Alternate, Mr. Duane George

Also Present: Land Use Administrator, Ms. Ruth Mulcahy
Town Engineer, Mr. Chuck Berger
Land Use Secretary, Ms. Carol Allen

Chairman Minnich appointed Alternate, Mr. Ray Rondeau for absent regular member Secretary, Mr. Michael Masayda

- 3. Articles on agenda**
 - a. Applicant** **Becky Matthews**
Re: **Site Plan/Special Permit #263**
For an accessory dwelling
At: **895 Park Road, Watertown**
Zone: **R-90**

Commission Members Concerns

Mr. Minnich suggested line one put a period after the words street line and take out the rest of the sentence.

Chairman read the draft motion into the record.

Whereas the Town of Watertown Planning and Zoning Commission received a Special Permit/Site Plan application for an Accessory Dwelling located at 895 Park Road, Watertown, CT on 18 acres for Robert and Becky Matthews in an R-90 Residence District which includes an A-2 Survey Map titled Zoning Location Survey Plot Plan for House Prepared for Robert Matthews, Park Road, Watertown, Connecticut dated May 5, 2009 prepared by Robert Green Associates L.L.C., 6 Old Waterbury Road, Terryville, Conn. 06786 in an R-90 Residential District; and

Whereas, the Commission heard the application presentation on April 1, 2009, May 6, 2009 and May 20, 2009;

It Is Therefore Resolved the Watertown Planning and Zoning Commission APPROVES the Special Permit#263/Site Plan application for an Accessory Dwelling located at 895 Park Road, Watertown, CT on 18 acres for Robert and Becky Matthews in an R-90 Residence District with the following conditions:

1. No additional driveways shall be created at the street line.
2. All exterior lights on the proposed buildings and in the parking areas shall be full cut off fixtures in accordance with Article VI Section 61.4 Outdoor Lighting.
3. One of the dwellings shall be owner-occupied at all times.
4. Prior to Town officials signing a final A-2 Survey Mylar site map and the two paper site map copies, the final map with a signature block for the Chairman of Planning and Zoning shall be submitted to the Land Use Office for review and approval by the Town Engineer and the Administrator of Land Use and are subject to review and approval by the Commission at the discretion of the Chairman or Commission. The signed Mylar copy shall be filed on the Town of Watertown Land Records before a zoning permit is issued.

In accordance with Section 8-3(i) of the Connecticut General Statutes, all work in connection with this Site Development Plan shall be completed within five years after approval of the plan. Said five year period shall expire on June 11, 2014.

MOTION: Martin moved to approve the application.

SECOND: Martin.

VOTE

AYES: Minnich, Martin, Russ, Mancini, Blais, Duplissie,
Rondeau and Demirs.

NAYS: None.

MOTION UNANIMOUS PASS 8-0.

Mr. Dupliese asked to clarify this is not a subdivision, this is an accessory dwelling, this will never be subdivided.

b. Applicant: New Millennium Development
Agent: Robert Reeve, Scully, Nicksa & Reeve, LLP
Re: Preliminary Discussion
At: Proposed Mount Fair Village
Corner of Buckingham Street and Nova Scotia Hill Road, Watertown
Zone: Scotia Hill Road, Watertown R-30

Robert Reeve – 79 Main Street, Farmington

Mr. Reeve said they are here to solicit feedback from the Commission and see if we could be on a productive path or if we need to go down another road. Mr. Reeve gave a brief history on the parcel dating back to 1986 to the present. The original parcel of 78 acres consisted of 38 acres of open space donated to the Town to the east, Westview Condominiums with 42 units on 16 acres to the South and the remaining 23 1/2 acres left purchased by New Millennium. From the earlier application withdrawn they have had numerous discussions with neighbors and updated the Wetlands investigation suggested by staff. Mr. Reeve sent a letter dated April 21st detailing a revised plan and enclosed a concept plan.

1. We have eliminated the affordable housing and under conventional zoning rules the units will be sold at market rates.
2. We reduced the number of units from 89 to 78 which is the remaining number of units not built from the 1986 approvals.
3. We are not proposing a new zoning district with this application. We are proposing a zone change to an existing district in town which is the RG district. The densities would include 3.3 units per acre, 12% building coverage and 23% impervious. Both in terms of coverage and dwelling we are at roughly 1/3 of the densities that are allowed in the RG zone.
4. Addressed concerns from staff as part of this proposal we would deed some land to the Westview Condominium Association at no cost to them.
5. We have updated our Inland and Wetlands investigation and we will be respecting the 100 foot upland review area recently adopted. We would anticipate making an application for storm water management facilities to Inlands and Wetlands.

Mr. Reeve asked if he could get from staff the sequencing of applications.

Dave Whitney – Professional Engineer, Avon

Mr. Whitney said soils on site are not highly erodible. All units will be served with public water, sewer, and gas. We will be enlarging the existing detention base in front of the site and constructing a second detention basin at the rear of the property. We intend for the plans to be in compliance with the 2004 DEP storm water quality manual as well as all town regulations.

Robert Donald – Town Planner and Landscape Architect, Farmington, CT.

Mr. Donald showed the buffer zones of 250 feet at the intersection of Buckingham and Nova Scotia Hill Road and a buffer on the easterly portion in regards to storm water management and wetlands. He would like to adhere to a more contemporary form of housing types that is the single family detached condominium we believe it is a village kind of location design, layout and circulation system and that is our goal. Mr. Donald emphasized there is a different mix of family now moving into single family units there are working couples, older families who do not want to live in age restricted communities and jobs changes.

Commission Members Concerns

Mr. Minnich said he has talked to Ms. Mulcahy and to not address this as a site plan review but rather on the issue of zone change. This is just a decision and nothing is held against us and to see where it all goes. It is intended to be anything other than her reviewing and comments that may be helpful in this conversation.

Ms. Mulcahy said there would be a lot of changes that you would have to make either in the regulations or on their project in order to fit into the Planned Community Development Overlay District, for example density, lot area requirements, the setbacks, lot orientation towards a common space.

Ms. Mulcahy showed the Commission members a map where the RG zones are in town.

Mr. Minnich asked what impacts would this have on the existing RG zone.

Mr. Mulcahy replied there were a few amendments that they wanted to make. The front yard setbacks would be decreased from a private road to twenty feet and increasing from a public road to fifty feet. Explained a lot of these homes are close to the road and making them a fifty setback from the front yard would affect them and create a lot of variances problems for the existing homes.

Mr. Whitney responded the language that Ruth is referring to is on his memo page 3 we are proposing some changes to the setbacks. It says *“the Commission may permit a development in RG zones wherein the land and common facilities shall be under a single common ownership in which case individual lots and yards shall not be required.”* It then sets forth some separation distances between multi dwelling units on one common interest lot and setbacks from the public road. It was not intended to have an impact on the single family dwelling.

Mr. Martin asked about the separation fire wall distance.

Ms. Mulcahy replied she has seen 20 feet as a common amount between buildings and a reduction to 15 she said would not have any effect.

Mr. Duplissie asked it is a currently a PCD and you wanted to make it an RG what happens to the next one that comes in and wants to convert the next R30, or R70 into a RG are we setting a president.

Mr. Minnich responded there are two issues involved; one is the spot zoning issue and the second issue placing a zone in there. In terms of setting a president it is a legislative act on our part to change the zone, there is no requirement that we have to do anything.

Mr. Martin was concerned with the number of units if there is a give and take in that number to reduce it.

Mr. Duplissie said I understand this was approved for the 78 units in 1986 and we build differently today than we did 30 years ago. Today's subdivisions we never allowed this density it is way too high.

Mr. Blais asked if you have any architectural similarities to West view Village planned. **Mr. Donald** replied it is more contemporary style colonial architecture than West view Village.

Mr. Blais asked will there be garages with these units.

Mr. Donald replied there are two car garages with every unit except 2, 4, 6 and 8 of the triplex units which are smaller units with a one car garage.

Mr. Blais asked about the school buses.

Mr. Donald said they would be at the entrance of the post development at Nova Scotia Hill Road with a pull off.

Mr. Duplissie asked about the number of bedrooms per unit.

Mr. Donald said the single family units are all 3 bedrooms, a den and or computer room. The three family units are two sizes either one bedroom or two bedrooms.

Mr. Minnich commented how he liked the now formal access. He was concerned about the issue with the parking with guests and where they are going to park. The 22 foot road does not allow parking with the density and that they are going to park behind the driveway which means they can only have two guests with two cars.

Mr. Donald responded they have similar units one progressing with 46 units and the other in Farmington Village with 26 units and they all have similar arrangements and none of them have posed a problem.

Mr. Minnich asked if you could provide to Ruth some of the places that you have mentioned with interest particularly with the parking. To also check with the Condominium Associations and ask what issues they might have with the parking.

Mr. Mancini said the density is a problem and I think it should be the same ratio as Westview. The road width of 22 feet is too narrow and I believe that should be wider to allow for parking. I think you should stay at the 20 foot side yard setback.

Mr. Rondeau asked to clarify what they are allowed to put on this parcel now.

Ms. Mulcahy replied the PCD they would be allowed 30 units.

Mr. Minnich said you have heard our comments are pretty clear you may want to come back again with another preliminary plan to have us look at that, keeping in mind what we said.

Mr. Reeve commented this is the type of feedback we were looking for.

Mr. Minnich asked about common ownership documents are you anticipating that the common ownership association is going to be maintaining all of these buildings or is the individual owner going to be maintaining his own building.

Mr. Reeve said the condo association takes care of the landscaping and grounds there but the owners would maintain their homes mentioned in his letter.

Ms. Mulcahy asked about the multifamily units.

Mr. Reeve said the Association would take care of those because of the shared use.

Mr. Martin asked about the square footage of the units.

Mr. Donald replied 22 hundred square feet on average.

Mr. Rondeau asked the scale of the units.

Mr. Donald said the unit would sell for between \$425,000 and just under \$500,000 depending on finishes and a wide variety of options.

No Motion made by Commission.

c.	Applicant:	Echo Lake Brownsfield
	Agent:	Ted Crawford, Milone & McBroom
	Re:	Preliminary discussion of traffic study and future application for placement of 212,000 cubic yards of fill for site restoration
	At:	Echo Lake Road, Watertown
	Zone:	IR-80

(c. done verbatim)

Mr. Minnich said we have asked our Town Attorney Paul Jessell to be a part of this discussion.

Joe Wellington- Environmental Attorney – Carmody & Torrance

I have been working with Echo Lake Brownfield to assist in addressing environmental questions. I have two very quick points to address and then I will sit down and I ask that Ted stand up and talk. I understand we are here today for a preliminary discussion about the application. My first point to cover is the question about whether or not we have to do something else to get on the next agenda as an application. Because at the last meeting we withdrew our application we said we had to file again and the answer was no but we found out it was preliminary.

Mr. Wellington said the second point I would like to address very quickly at the end of the last session there was a comment made to the effect that Echo Lake Brownfield needed to obtain DEP approval prior to the time that it could initiate transfer investigation work. That information was sent in and I received an e-mail on May 14th from Robert Isner who is the head of the Waste Engineering Enforcement Division and his comment was that departments through the remediation division will provide a review and make comment on the scope of work although a formal review and approval is not required. I have that available if you would like it.

The last thing I would like to address is again briefly is that I submitted a written request that the cease and desist order be lifted with regards to the site. I have the statement as to the reasons why and I would like to go forward with the investigation and as a good citizen. We have strictly complied with that order and we believe that in the interests of maintaining a good relationship with the Town we will not go forward without having that order lifted. We would request as this time that the cease and desist order be lifted in total and also the lifting is in writing so we can send it to the DEP because it is their understanding that order is in play and that is our request. I am also available for questions after or take questions now.

Mr. Minnich asked how you wish to proceed.

Mr. Wellington responded what we are actually wanting to find out is that the cease and desist aspect is concluded and all that is left to talk about is the traffic study and any questions you might have unless you want me to reintroduce the project. I don't know if any of the members of the Commission that were not here last time when I spoke. I will be glad to do that if you like.

Mr. Minnich said whichever way you would like to do and I was just trying to think how we were going to approach this.

Mr. Wellington replied maybe I will make a brief introduction, make sure that everybody is on the same page. There is a parcel of land located at Echo Lake Road that contains a historic landfill. The landfill was first issued a permit in the early 1970's and it was used for demolition debris and other materials. That landfill has never been closed in accordance with the law. The law requires that certain activities be taken and parts of

those activities are environmental investigation or remediation. So one component of what has to be done at this particular property is the closing of the landfill.

Another aspect that needs to be done at this property is removal of solid waste, there is approximately 150,000 tires in various stacks and locations on the property and approximately 100 rusted drums. That waste has to be removed from the site and sent off site for disposal.

In regards to the development there is a water course on the property and there are some Wetlands areas. Echo Lake received its Wetlands permit in February, what will occur is if the water course will be put in a 36 inch culvert. The wetlands areas in the central portion of the property will be filled. The wetlands area at the two extremities will be enhanced. Echo Lake Brownfield has both the Town Wetlands permit and an Army Core of Engineer permit. Both of those contain aspects dealing with Wetlands litigation, wetlands at both ends of the property will be enhanced to make a compensation for the wetlands that will be eliminated in the center.

With regard to the environmental investigation remediation work at this site is subject to the Connecticut Transfer Act. That is statute that says that when someone buys a property that has historic contamination on it and in this case when contaminants are found on site put it in that category an investigation has to be done. When the investigation is completed a determination has to be made as to what soil contamination exists if any and to what extent. Additionally brown water investigations have to be done to see whether or not there is a continuing source other than what has been found with regard to the soil. Now since this has been sitting in same condition for the past 30 years to the extent there were contaminants that migrate there is a strong possibility have already migrated over the past 30 years. The property has not been used for any purpose whatsoever since it was a landfill.

The investigation involves going in with two types of vehicles, one will be a pickup truck with a small drill rig on the back. The other will be a track vehicle with a small drill rig on it. The drill rig is approximately 6 1/2 to 7 feet tall it collects soil samples and it will go down several feet, you bring it back up ,it is sent to a laboratory and you find out what contaminants are located at what levels in the soil. Once you find contamination you have to keep going until you find the edge of it. You might start out with five samples of in one location and find out that you have to go outside those five to seven, and you might have to go outside of those with eleven, or you might have to go one way because the contamination goes off to one side.

A third form of investigation will be test pits, the test pits are done with backhoe or other equipment. The purpose for that is to satisfy the requirement of the DEP with regard to landfill closure. In that context the DEP wants to know how close to the surface of the current grade is the solid waste and what does it consist of.

Historically in the late 90's this property was considered for development, the deal fell through, there was some excavation, woodblocks were found in there and other materials, glass, concrete, blocks and so forth. So the DEP said as part of the land fill closure process they want to know what is down there and how far down is located. Is it located 4 feet down, 6 feet down, 8 feet down, so that is part of the land fill closure process. The investigation at the conclusion of the investigation work will be able to figure out how much of the contamination has to be dealt with. It might have to be dealt with excavation; it might have to be dealt with in other ways as authorized by the DEP regulations.

So the purpose and literally the first step in this process is doing the investigation to figure out where is the contamination and what is its extent vertically and horizontally. Now once the contamination has been remediated, we move from the site or otherwise dealt with in accordance with the law. It is estimated at 212 thousand cubic yards of soil will be brought in. This soil will be screened before it arrives on site. By screen I mean it will have laboratory analysis we anticipate. The person sending the soil will have to certify its cleanliness and provide the laboratory data. Samples will be taken of select loads on a recurring basis to conform that the soils are in fact as represented. Records will be maintained and any soils brought in will be brought in with strict accordance with DEP regulations concerning reuse of soils.

As a result when Echo Lake Brownfield is finished what they will have is raised the elevation of the back portion of the property approximately 60 feet to make level with the front portion of the property that is on Echo Lake Road. At that juncture someone other third party will develop for industrial commercial purposes. So that is the nature of the project but actually it starts with the environmental investigation that is the very first step. The ultimate removal of the soil and so forth, the grading and so forth will all be part of the application that has been before you and will be before you again. You will actually see all aspects of what is going to go and where. With the limited exception of we don't know how wide the contamination may be, we may have to take out more in one area than we thought, we have to do whatever we have to do to comply with the law. I don't know if that is helpful or if there are any questions.

Commission Members Concerns

Mr. Duplissie asked is says somewhere here that the property is transferred back in 08.

Mr. Wellington responded the land record it depends it either early January 08 or 07.

Mr. Duplissie asked was there a Phase III study done.

Mr. Wellington said there was a Phase II study done.

Mr. Duplissie asked why was there not a Phase III study done.

Mr. Wellington responded because the company purchasing this property has an in house environmental capability, they make their living by evaluating properties. Based upon the information they have gathered from the Phase II plus other environmental

investigations that have been done before, they had sufficient information for their purposes.

Mr. Duplissie asked about the historical examination of the site, which was preliminary, decided what the contaminants were.

Mr. Wellington responded there were contaminants found in the soil, there has been lead found in the soils. In the monitoring wells NW5 historical there have been volatile organic compounds found in the ground water. The last time they were tested they were below DEP standards, prior to that in the late 90's they were above the DEP standards. That indicates one of two or three things; one thing is that perhaps somebody dumped hazardous wastes on this property that is one possibility. Another possibility is that the property across the road which was used as an auto salvage yard had volatile organics and they have migrated underneath the road and onto this parcel that is part of what this investigation is intended to do, is to find out what is the source of volatiles and whether there were some PCD's contaminations found.

Mr. Duplissie said he was familiar with this site; I use to work for industrial developments, the one that brought this site back in early 90's in front of this board to reopen the site. In our investigations on that site there we never got the whole story, so we are not really sure. We did probably 5 to 20 test pits with Phoenix Soil at that time and we discovered a 1 1/2 to 2 foot layer of black and it was solidified at that point it had been there for years and it was discovered that it was PCB's. We don't know who did your examinations but I know back then there was at least 12 tests pits that we did find PCB's and we determined that it covered about an acre and a half.

Mr. Wellington responded I have not seen that investigation as a matter of fact and if you do have a copy.

Mr. Duplissie said this was done through an industrial development group who was the owners at that time and Phoenix Soils who wanted to purchase the property at the time. There was a Phase III study done by the industrial development, I no longer work with them but they will have that for you.

Mr. Wellington responded it was purchased from them and all of the exchange of information has already occurred so what they had has been given to Echo Lake Brownfield. I have seen an investigation report the PCB contamination was 6 inches deep, it was about 50 feet long and 40 feet wide. It was surfacial source of contamination that is the investigation that I have seen in the data and I cannot vouch for the data.

Mr. Duplissie asked the chain of custody, I saw in one of the original packets that the material was going to be brought into the site which is probably going to be a clean fill from other sites or fill that had been processed through Phoenix Soil and was now determined as clean fill and that they were going to remove any contaminants but there were PCB's but they could not handle anything over 50 parts per million of PCB's. I just want to make sure that if there is that PCB that we had found on the site that it is going to be handled properly and just wondering if there is going to be independent third party that will be monitoring Echo Lake Brownfield during the site even though they have an in house, it is not that I do not trust them but I want to make sure it is so close to the river.

Mr. Wellington replied if you call DEP and check with Mary Salabe at the DEP, PCB section we have already met with her and talked with her, she has the prior results in some respects and she will have the additional information that we have. In that regard I have heard and normally there is some people nearby who happen to have a facility that deal with waste metals and may have gotten their hands on some transformers and they may have dumped some PCB's oils and that is totally consistent with what we found which was a surfacial contamination what was found in 98 over an area approximately 50 by 40 and it was 6 inches down. I do not recall seeing any information about a black layer.

Mr. Duplissie said the investigation when I was there it covered an acre and half which was a considerable amount of material somewhere around off the top of my head 18 cubic yards. That was a large number that was why we never did it.

Mr. Wellington responded that is all the more reason for us to go forward and do our investigation.

Mr. Duplissie said I am just a little more concerned because I am familiar with the site and when we did our test pits we did find a lot, those woodblocks that you are talking about came from the history, came from Chase building which a lot of hydrocarbons in it and those were laced with it and filled with it. There was 1,000 yards of it a whole area that had been taken from the floor in the plant and brought there. The tires that you are talking about and then we found drums on the site and drums, upon drums, upon drums, nobody knew what we in them but there were liquids in some of them. As you go through I want to make sure that some and I am glad that somebody is cleaning up this site, somebody has got pockets to clean it. There is a huge rock face that is in the back, which comes off of Mattituck State Forrest and its bleeds down that hillside come into that intermittent stream that you are talking about piping. So when they are excavating the site I just want to make sure that we do not have a lot of that surface water coming into the containments and coming down and washing into the Naugatuck River. As long as you're working with DEP I am glad that is what you are talking about you are with DEP and they will manage the site better.

Mr. Wellington said we are also working with the Core of Engineers and we are working with Wetlands and we have hay bales to keep the water from infiltrating. The way you clean up contamination sometimes look at the Hudson River. Where they have PCB's in the Hudson River and the question is, is it going to cause more danger and harm to clean it up then to leave it, the EPA has decided to clean it up. So there is a certain amount of residual contamination that can occur as part of the cleanup.

Mr. Duplissie asked has anybody investigated now there is a intermittent stream that goes through the pile of fill, has anybody looked at it, instead of trying to pipe it where it is, instead of going through the actual pile of material is to maybe actually to excavate to the back of the pile and has somebody looked at maybe just capping that instead of opening it and or sending it down to the river.

Mr. Wellington replied the issue that you are raising and quite honestly I do not think it will get to the river it is called disruption in solid waste contacts. What it means is you take part of the land fill and you open it back up. The DEP has said they want minimal

disruption. However in order to pipe the water course we have to open it up and there is a small portion in this area at the upper end that in fact the water course is buried by the land fill because the land fill exceeded its legal limits. Part of this process is addressing the watercourse it will involve some disruption but also it is also closure of the land fill. So this is integrated as part of an overall package. It is not that we are going to do this and do that separately. The transfer act is tied to the land fill closure; the size of solid waste removal is tied to Wetlands litigation as one big package. It is designed and will ultimately be reviewed by the DEP. Trust me the DEP has interest in this because they have been trying to get this thing closed for 30 years.

Mr. Duplissie said the reason why I am asking all of this that we just went through this with a site just down the road. Somebody came in and said they were going to do one thing but then left us holding the bag. It is not a pretty bag that we were left holding. I am glad that it is you and that you are watching it.

Mr. Wellington said yes I am as well, and I know there are a lot of people out there who will ask questions. But anyway the purpose is to do it by the book and do it right and do it effectively. The first step is to do the investigations. If we find things it has to be dealt with but it has to be dealt with in the context of the law as determined by the DEP. It is not that this company has unilateral discretion to decide what to do and how to do it and where to do. They are going to be very closely monitored by the DEP. They will follow the law because if you do not follow the law and the DEP is very sensitive to the site it is not good for you. I know that from other clients who have not followed the law.

Mr. Duplissie asked that brings me back to the cease and desist order and how we are with the cease and desist order at this point.

Mr. Minnich replied that is why Paul Jessell is here to help us and guide us through with the cease and desist order and Ruth has some comments.

Mr. Rondeau asked about the furthest test pit that you had tested and that is on the edge of your property. I am assuming that this still continues on beyond that.

Mr. Wellington replied I am not suggesting that we already done test pits, this company has not yet done test pits. It has done some preliminary investigation work and some preliminary drilling the test pits will be in locations where contamination of identified number one. Number two it will be on the location that DEP will want to be able to determine how deep the contamination is. Logically if there is a black layer detected somewhere out there then that will be looked into as well. I do know that there was an informant who made a complaint to the DEP claiming that there were PCB's at the site, the DEP came up and investigated it and did not find it. You may have hard data and I have not seen it yet and I would love to see it if I can get it.

Mr. Duplissie replied you have to ask industrial development.

Mr. Wellington said they may not have it because they exchanged all information they had at that point. It may in fact be with David Green felt that he does not have it any more. Let me have it if it is out there, that is one less dime that somebody else has to spend. If it is there I would like to see it.

Mr. Rondeau said what I was trying to ask there are water courses and eventually leaves your land and goes somewhere else on another piece of property eventually into the river. You will be testing to the edge of your property who is responsible for any contamination that may have left your property and is somewhere between your property and the Naugatuck River.

Mr. Wellington responded our immediate down grade neighbor is the Connecticut Resources Authority who has a transfer station. I am sensing there is a perception that the ground water contamination moves rapidly. It does not, ground water contamination moves very slowly. Surface water contamination can migrate rapidly particularly if there is no sedimentation control. However prior to going on site to do the investigation where there is already sedimentation control and it was installed last year until we stop. There will be no contamination migrating off site as a practical matter.

Mr. Rondeau responded that place has been there for 30 years what has been happening 10 years ago and eleven years ago, I guess what I am asking is when you guys are done and over with there is a potential that there is some contamination somewhere are you guys responsible for that or who is responsible for that.

Mr. Wellington replied the people who are responsible under current common law in Connecticut that is why the cases have been cited by the courts, are the people who caused the contamination and the people who own it at the time that the contamination has to be dealt with? We did not cause it and if we do not own it as the time that it has to be dealt with then we would have no responsibility. Whoever owned it thereafter, the other point that I made is that the site has been sitting here for 30 years, so the odds of having a great deal of leachable contamination is going to mobilize and go off site is probably fairly remote. The steep grading on this particular property as you say there is a rock cliff here and there is no way that our clients can get to the back two thirds of the property. There is a rock cliff and that is along the edge of the water course. The rest of the area slopes down steeply, very steeply and so as a result there has been rain water washing over that area and ground water infiltrating long before 1970 long before when the land fill was developed. So what contamination is there, can I say there is zero contamination there, of course not no one could do that and do it honestly but is there contamination migrating to the property all over the state of Connecticut. Yes. Is the firm going to try to do the best they can to clean it up and minimize it. Yes. If I experienced the better of 19 years that is what the DEP look for. I am hoping I am answering your question.

Attorney Paul Jessell said the cease and desist order is really based on the original approval from this Commission. Some actions that were taken they are water over the dam. I think that Echo Lake Brownfield had adequately explained how and why some things occurred at the site that should not have occurred. They admit that those things should not have occurred and cease and desist order properly issued by Ruth as a result of those occurrences. That application has been withdrawn, that approval is gone, they have a new plan that they are bringing forward, frankly this Commission has no place in trying to regulate the investigation of whatever contamination may be there. So to the extent of the cease and desist order prevents them from doing that it has got to be lifted. At this point in time it would be my opinion that you should lift the cease and desist order again

the violations of the approval that was basis of the original cease and desist order essentially are gone because the original approval is gone we are going into a new phase. Certainly our Zoning Enforcement Officer has the power to make sure that they are not doing things that are beyond the scope of what they are permitted to do and the environmental laws if they impact on zoning. My recommendation would be to lift the cease and desist at this point in time and act on this new application allowing going forward with their investigation.

Ms. Mulcahy said Attorney Jessell addressed everything and I think the cease and desist was issued and the Commission wanted that issued as soon as possible during that time period and at this point they have addressed several parts of the cease and desist order and going back to Wetlands to get a permit that was part of it to bring this application for the Commission. As far as I am concerned I always follow what Attorney Jessell does and the Commission as far as enforcement and I just act upon whatever the Planning and Zoning Commission and especially the Town Attorney on what to do.

Mr. Berger suggested we clarify if maybe Attorney Wellington can do it, you talked about two vehicle mounted drill rigs, then test pits by the backhoe. Just to give to the Commission recognizing that we do not have necessarily any jurisdiction, but how many test pits and what the sizes are, just so if they drive by this goes forward and they see what is going on.

Mr. Wellington replied I will have Ted or Rob give you that type of detail. One thing I did not explain is why there are two different types of drill rigs. The truck can go in places and go there safely and without making a great deal of disturbance. There are some places the truck just can't get to and need to have the tract mounted rig to go over there safely. Because OSHA rules also apply to making sure that the employees are kept safe, so that is why there are two different kinds of vehicles. The excavations will be dictated in part by what is found and preliminarily I do not know the exact number I would have to defer someone else.

Robert Rhine – Environmental Director

I believe I sent the scope of work to DEP to the Commission it was a couple of months ago.

Mr. Wellington responded and said that was April 22nd the letter that I sent to you the scope of work.

Mr. Rhine responded in the scope of work it details the size of the equipment, what kind of equipment, the size of the test pits, it also has the initial location of each test pit. You start in one area, you test it and then you radiate from that area, so I don't know how many test pits we're are going to have. Initially there is probably twenty or thirty or so it is a pretty big area. Test pits are actually going to define the area of the land fill itself. We actually have to dig down and look at the material, whereas the kind of boring to get a core sample and very difficult to determine whether or not it's the permitted land fill or the unpermitted land fill material. So we actually have to see the depth and open an area up so we can identify what kind of material is in there whereas a test boring is too small

to identify that that is why we have to bring a test pit in there. It is the usual way to identify the limits of the land fill.

Mr. Martin asked is there any ongoing reporting that is done to the Town Engineers on okay we completed test borings for Phase I and we found this amount of contamination we are now going to complete another 30 test borings and 15...

Mr. Rhine replied there is no specific reporting requirement, the only specific reporting requirement is yearly to the DEP under the transfer act. We have to summarize what has been done throughout that year which includes all of the maps, borings, the analytical data, and what is going to be the next step for the next year. We do collect data and we have data we do not record in specific format.

Mr. Wellington commented I would like to follow up on that point, the question that you asked has more than one answer. There are many levels of degree on reporting, one level of reporting is simply giving a figure showing the samples that were collected, a boring log showing how deep the sample was taken and data. That is raw information. It is not until you analyze that information that you actually end up with a product that concludes what the information means. So you can have a series of data and certainly it could be shared with the Town. It won't make any sense unless you have an environmental consultant retained to look at it but at the end of the investigation a report is made that takes all the data analysis it and puts into a framework describing what was found, where it found, how big it was, how bad it was, and shows the actual location of the samples points, the data for the laboratory and includes the report. Certainly that information can be provided, I do not think it would be very useful without that analytical step at the end and typically do not do that until you complete the investigation. I offer that as a comment, I do not know if that is responsive to

Mr. Berger said I am looking for clarification just so the Commission members know in addition to the one truck and one track mounted rig you probably will not see anything going on out there other than the rig itself. They will be digging a minimum I think of 20 to 30 test pits throughout the site, with a backhoe or an excavator of certain size. There will be holes 20 to 30 large holes 4 by 4.

Ms. Mulcahy said 5 by 5.

Mr. Rhine responded they are opened up we look at them we take a picture of them; we log them, collect our samples and fill them back again.

Mr. Berger said I am not questioning the necessity of it just so you know when you see things going on out there, this is what they...

Mr. Martin said the only question in my view is there have been things that have happened on the site that should not have happened and it brought attention to many. I am just trying to avoid somebody else driving by and saying "*what is going on here.*" If we know that there are only two boring machines that are going to be on that site that is all we ever see that is great. One excavator that is going to dig, five foot by five foot holes that is great, that is all we see and that is within the parameters that we understand and there are no problems. And that is what I am hearing you are going to have.

Mr. Wellington responded I would like to add one other thing, up along the road there will be standard well drilling rigs, because they can go deeper and they can go through

bedrock, the geo pros can't go deep or into bedrock. So up along the road there will be I believe standard well drilling rigs to install actual monitoring wells which will be used perhaps for a number of years they will be installed using standard procedures. I would like to and don't want to split hairs, there may come a time when there is three machines on site because the areas are so big somebody working over here, and somebody working over there. I would hesitate to say there would never be more than two but you are not going to see five or six and probably not even see four out there but you may see three. It just depends on the economics of actually doing the work. Because it is cheaper to mobilize once and get a lot of work done than keep coming back out particularly when you have to run equipment. I would not want to represent that absolutely no more than ever two machines on site but there is not going to be a large number. It is not going to look like the cartoons with vehicles going all over the place.

Mr. Minnich said I am well aware of our jurisdiction in all of this and at the same time and I know you can appreciate we end up getting the comments and then having somehow to deal with them and ask you to think in the next few minutes of how best with not getting involved with this all this legal issue in terms of what is the jurisdiction. How best this project as it goes along can be communicated to the staff so that they can understand what going on and hopefully help to deflect some of the questions that are being asked and minimize the conversations that go on by being have some immediacy of having them answered. Could you help to...

Mr. Wellington said what I would suggest that might be a consideration are short letter reports from time to time simply saying during this period of time investigations have been going on the purpose of the investigation has been to look at soil samples, this was the equipment that was used, there were x samples taken, that type of thing. Which is basically a very short letter report simply saying that work has been done at the site consistent with requirements of the transfer act. Now what I am suggesting responding to a question earlier that I am suggesting is that all of the drilling, boring logs and the data, and all of the laboratory reports and all that be provided because that type of thing requires analysis and it is raw data. A simple communication saying that we are out here during this period of time and this is what we are doing just to give you information.

Mr. Duplissie asked perhaps you can indicate to staff when you are going to mobilize out there, kind of in advance, again just to deflect any questions that might occur because if staff knows okay on the 30th of May we going to start with our drilling rigs out there or geo pros they will know that it is going on.

Mr. Wellington responded questions you do not know you have answers.

Mr. Minnich said I know you do not have to do this and I thank you for volunteering to do that does staff have permission to go on the property during this time?

Mr. Wellington responded I see no reason why not.

Mr. Rhine commented it is pretty dangerous out there; test pits are previously conducted by others that were left as open pits.

Mr. Wellington said I practice OSHA law, and I do recommend protection foot protection and sturdy clothes.

Mr. Rhine advised there is hazardous waste so technically if there is any I am all OSHA trained.

Mr. Wellington replied there are requirements that before you send people on site that they have proper training and that they are properly equipped. This is OSHA requirement and there are courses that you have to take, there are also safety plans that built into all the work which says who is going to do what. So if someone just showed up and did things that were not consistent with the safety plan their employer would be in violation of the OSHA regulations and could also create liability on Echo Lake's part if they somehow injured themselves on that property theoretically. We do not want to set up that situation. I was a Lieutenant Colonel in the Marine Corps we had impact area that had been used since WWII it had munitions out there, periodically had it burned off to explode because they were duds. EPA came down and said you have to have a fire extinguisher, emergency phone and a fire truck near your burning point. So okay come on and follow me so I got down there and we stopped and he said you see that fellow there called explosive ordinance, step where he steps because if you don't he could blow us up. EPA said maybe we do not need to smoke inside of the fire truck. I share that with you as an observation. We did not have any smoking signs and we did not have a fire truck. I share that with you on the interest of safety both for your staff and for my client. If there is a need please let us know and we will see if there is some way that we can accommodate it.

Mr. Minnich said I understand.

Mr. Duplissie said as far as reporting and I understand the test drillings that it is raw data and to interpret is one thing. Once you have submitted to DEP and DEP has given you your direction as to what you are going to do, what is going to happen will we get a copy of that?

Mr. Wellington replied what you said is not accurate. What we do is we actually do the investigation and complete a remedial action, an investigation report. We are not required to submit that but we are required to submit that at a given point in time. Certainly it will be available it is public information. So it certainly can go to the Town at that point. It is information that has been interpreted and analyzed. Now whether or not it will make sense is one thing, but certainly it is in the public domain. So there is no reason that a second copy could not be sent to you all even though recognizing that it is not within your jurisdiction, we are trying to be good neighbors. You want the information it is just printing off one more copy.

Ms. Mulcahy said DEP is not the lead agency on this. They have hired an LAP, the LAP can tell you better. The name of it is Berkshire...

Mr. Rhine said we had to hire an independent LAP for this site. We hired Jim Ciaglo of Berkshire Environmental Services out of Torrington.

Ms. Mulcahy said DEP is not the lead and they are not doing any monitoring, it is their own LAP that is in charge of the site.

Mr. Martin asked reporting to DEP.

Ms. Mulcahy replied I do not believe they do not have to have any DEP approval of data plans.

Mr. Wellington responded let me go into that area. Under the Connecticut Transfer Act when a party makes a commitment to do a cleanup. The DEP s two options, one option is to say we are going to maintain oversight on this cleanup, submit all your plans, submit all your correspondence for our review and approval. The second way to do it is call the delegation to a licensed environmental professional an LAP. In 1996 the general assembly created a law which allowed the DEP to licenses Environmental Consultants. Those licensed consultants can make decisions that in essence bind the DEP except that they could be reverse by audit. So a licensed Environmental Professional does the investigation and decides what the remediation will consist off and does remediation and at the end verifies that it was done in accordance with the law meeting all required standards. So what DEP finally gets when they get to the point of the end of the process is verification from the LAP supported by the documentation for the investigation and the remediation's. So in essence what the DEP is done is privatized cleanups, they just do not have enough staff or enough people to oversee all the cleanups in Connecticut. So they created this body of licensed professionals and they are the ones that go out and do the work subject to audit.

Ms. Mulcahy asked where he is from.

Mr. Rhine replied Berkshire Environmental Services, Torrington.

Mr. Minnich said before we go forward with the issue of cease and desist there are interveners in this process and they are welcome to comment at this point before we go forward regarding specifically the cease and desist.

Mr. Duplissie asked is there an application?

Mr. Minnich replied we asked them to withdrawal but we also told them and they are going to come back again as they expected this evening but they are coming back next time. We said in our process here that because this is an ongoing process that the interveners could be part of the process. We are considering the cease and desist on that topic if you wish to comment you are welcome to.

Interveners

Judith Birdeau

I have a lot of things to say but I do not know if should say them unless there is a public hearing.

Mr. Minnich responded there will be and there will be an opportunity later on.

Mrs. Birdeau said I have a concern with this lifting of the cease and desist. I have quite a few concerns actually. They did quite a great deal of damage to our property and I don't who is going to be overseeing this to protect my property in the future. It took them one full year in writing to make an offer and eight pages of comments why they felt it was insignificant but I am really concerned about that. I do not see why it has been overlooked and I do not understand that.

Mr. Minnich said I do not mean to focus your comments but we are going hear all of that from everyone at some point here in the very near future in fact two weeks from now when get the application. I just wanted to just give you as we said we would an opportunity and we are going to be speaking in a moment about lifting the cease and desist order. You are an intervener if you could just focus on that issue of whether what comments you wish to have on the cease and desist order at this point. Then all the other comments you have certainly we will take later on.

Mrs. Birdeau said she was concerned with the cease and desist I am very concerned about my property because if that is lifted considering what they did in the past if they lift the cease and desist where is my protection that is my concern.

Mr. Duplissie asked can you show us the section of your property is that the little white line and how big a piece.

Mrs. Birdeau responded yes it is .6 acres. It marked on the original map of Watertown it did not have my name but it was clear that it was not their property and the amount of damage that they did, they blamed it on their tree cutter but I am concerned about that cease and desist being lifted.

Mr. James Birdeau said I think the concern is if they are going to trespass again on us while they are out there. That is her concern with them going in there which is working now. My question is I think it is actually good that they are doing the testing. I mean it needs to be done we are not against that. The way that they are saying that DEP is overseeing, the LAP is overseeing it who they hire. I am curious who is doing this sample testing in the lab, what company because I think it is their own company doing the testing to and to take that into consideration.

Mr. Rondeau asked when you mentioned that people were trespassing in the past, was it this particular group or was it the prior ownership.

Mr. Birdeau responded yes this group.

Mr. Minnich asked does anyone have any comments.

Mr. Martin asked the point that he brings up this is all stuff that is going to be discussed in detail once we lift this and it comes to us to continue this process. Is that correct?

Mr. Minnich said I would comment that the issue has trespassing the property, is a civil matter and between them and the owners of the property, I have listened to their comments, I don't take that we have any jurisdiction.

Mr. Martin asked I am making the point that they are testing of the soil and the everything is in house that is the question I have is everything being done in house and I am going to be able to ask that question in the future.

Mr. Minnich responded you can ask the question and I am sure they will answer it but we all informed again by our Town Attorney of our jurisdiction.

Mr. Wellington said perhaps I can answer the question the investigation is going to be conducted in Connecticut will use Connecticut certified laboratories or independent third parties. You can only keep samples so long and you put them on ice and you have to promptly get them to a laboratory. It is too far to go to New Jersey and so it is going to be local certified laboratories which are required again by DEP.

Mr. Rondeau asked would it be appropriate to give the people that made the comment earlier about the Echo Lake Brownfield trespassing over their land. At least give them direction as to what if anything they can do to ensure that this does not happen whether it's go to the Police Department for us to not do anything, I feel bad and they are sitting there asking us for guidance. Although as a board we may or may not be the appropriate people to discuss this with and I do not know what the appropriate procedure is maybe the Town Attorney knows but they should be able to go to the Police Department, they should be some regulation that they have to put up no trespassing or whatever. At least give them an outlet to go to get an answer to what they need.

Attorney Paul Jessell said the proper course would be to just recommend that they seek legal counsel with regards to the civil portion of this.

Mr. Minnich is there is no further comment may I suggest then that the Commission consider lifting and ending the cease and desist order dated April 28th 2008 to Echo Lake Brownfield.

Mr. Rondeau said can we make contingent that they stay on their own property and not trespassing. I am asking if it is possible to do it.

Attorney Paul Jessell said unfortunately it is a civil matter it is not a zoning matter.

Mr. Birdeau asked will these test borings go outside of their property or can they.

Mr. Wellington replied the answer to both is no, there was some recent communication DEP concerning whether or not Echo Lake Road is part of the Town property and whether or not certain contamination on there was the town's responsibility. The title search that I have done I have found out in fact we don't own property contiguous to them, the Town may own some property and the Town may have a buffer area between us and our neighbors. We have no interest on going on anybody else's property because we have to investigate our own. The subject area was an inadvertent accident we taken up the position we are prepared to address other matters in that regard but today is not the time and place to do it.

MOTION: Duplissi moved to rescind the Cease and Desist Order.

SECOND: Mancini

VOTE

AYES: Minnich, Martin, Russ, Mancini, Blais, Duplissie,
Rondeau and Demirs.

NAYS: None.

MOTION UNANIMOUS PASS 8-0.

Mr. Minnich asked you had two other parts one was the traffic study and then another part.

Ms. Mulcahy replied resubmit the form.

Ms. Mulcahy said they have no fees of the Commission to waive. I guess when their application comes is whether to waive the fees. They have not paid any fees on their application. They said it was waived and I think the Attorney was going to address that.

Ted Crawford – Professional Engineer

They have information on the previous minutes that they would supply at the next meeting regarding the waiver of the application and their request for those.

Mr. Duplissie asked why they wanted the waiver.

Mr. Crawford said it was actually stated that a previous meeting the fees would be waived because they paid them under the old application.

Ms. Mulcahy replied they paid them under the first phase where they were issued the cease and desist. That was the only fee they paid. Any of the subsequent applications they did not pay the fees.

Mr. Duplissie asked the original submittal was as Phase I, and now that Phase I has been pulled back and it is no longer coming as a Phase II it is coming back as a total submittal. So there is going to be re advertising and there is going to be cost associated with it.

Ms. Mulcahy replied there is cost associated with it right now.

Mr. Duplissie said I am not sure I will go along with that, but we will talk about that next meeting.

Mr. Minnich said to keep in mind I do recall that conversation in the past when a project becomes larger than the original ones the fees that we have collected they are applied to it, that is not that is necessarily becomes the entire fees that are waived. We have applied the fees to the new application, if some new application decides to double the size of the subdivision and whatever then it does not mean that is applicable to the whole new subdivision, so all of that is part of this mix, exactly what it is you are requesting and maybe you are not requesting that all of the fees be waived and we wait till next week. We have a fee structure the last time they came with a project, they withdrew the project and we will apply by standard language as you know, now they are coming back with another project, the project is bigger but that does not mean the those fees to which are going to necessarily be with the fee that we have now maybe more and he was only going to be able to apply the fees to which we waive for the first project.

Mr. Crawford said there would be a comparison if the fees were to change.

Mr. Crawford asked about the traffic study has not been reviewed yet and could we finalize that right now.

Ms. Mulcahy replied I have the estimate the Fred P. Clark estimate for the review of the study and someone needs to come in and sign the third part review. I think it has to be when you submit your application because there has to be an application...

Mr. Crawford responded when we met originally with the Commission back in April the idea was to kind of get the ball rolling because we have a limited time frame. I wondering how we could get a review, this of this traffic study started prior to having the application accepted in two weeks.

Ms. Mulcahy said your application has to be started anyway in next few days we are on a two week cycle in our packets our going out next week so I have the third party review agreement typed up today and I have the estimate from the Frederick P. Clark Associates and I have a copy of that document here with me tonight and I will give you a copy of that. All you need to do is have someone sign the document, the third party review agreement and Mike Galante might want you to sign something as well for the Frederick P. Clark.

Mr. Minnich said we would hope very much as we said last time whatever you are going to get with these third party agreements if you could work it out with them we want to get that started.

Mr. Minnich said Ruth is the signer for us.

Mr. Crawford said we could go ahead and start the review because I actually sent a set of plans directly to Fredrick P. Clark.

Ms. Mulcahy said we got them and that is how he based his estimate on and I received his estimate and I have a copy of that here tonight and I can give that to you so that you know what it is and then you can sign the documents, you are dropping off the application.

Mr. Minnich said just for clarity last time as you requested that all the other documents that you submitted that you have prepared are part of this new application.

Mr. Crawford said I don't think there is a need to go into any details the traffic study because once we get the third party reviewer we will have our experts our traffic engineer come in.

Mr. Minnich asked Attorney Wellington do you have anything else.

Mr. Wellington responded no.

Mr. Ronald Russ left at 9:20 PM

4. Old Business

a. Zoning Map Update

The end goal here is that we will get from this subcommittee a statement that they have looked at the maps and the new map is what we have approved already and that we then adopt a new map.

Jim Blais, David Minnich, Ken Demirs will sit on the Committee and will give a call to Ron Russ as well.

No Motion made by Commission.

b. Workforce Housing Grant

Town Council has requested to assist to see if the funding could be retained in this year's budget.

Consider getting a purchase order to get the portion of this piece for the specialized attorney who is going to help do the zoning.

No Motion made by Commission.

c. Text amendments initiated by Commission members:

1. Parking Regulations: G. Martin

Mr. Martin will meet with Attorney Hess and go over what he has and come up with some verbiage on this issue.

Mr. Minnich said the funding for him on this project we had paid him in a check in advance of him doing the work from last year's money.

No Motion made by Commission.

2. G. Duplissie: Lot sizes

Mr. Duplissie was concerned about future developments and the increase for schools with the number of children. He was looking at the R30, R70 and R90 that have not been developed yet and if we turned it into R200.

Mr. Minnich suggested to get together with Ruth with regards to first look at the plan of development before we get to the text amendments which is

specific language you want to revise I think we need to look at revising the plan of development in that area.

Ms. Mulcahy said we can look at the plan of Conversation and Development and then we will look at some of the properties that might be appropriate for rezoning the other things is always to incorporate in an area where you see and contact the owners and see if they are interested in that.

No Motion made by Commission.

3. R. Rondeau: Open spaces

Mr. Rondeau will draw up the language in regards to open space and fee in lieu off.

No Motion made by Commission.

5. New business

a. 90 day subdivision extension for document filing for the Velardo Subdivision.

MOTION: Duplissie moved to grant the extension.

SECOND: Martin.

VOTE

AYES: Minnich, Martin, Russ, Mancini, Blais, Duplissie, Rondeau and Demirs.

NAYS: None.

MOTION UNANIMOUS PASS 8-0.

b. Discussion on Cease and Desist Order Robert Santa Maria, 676 Northfield Road, Watertown, CT

No Motion made by Commission.

c. Discussion on Cease and Desist Order Daniel & Florence Hreha, 101 Portland Street, Watertown, CT

No Motion made by Commission.

- d. **Watertown High School bond reduction for sediment and erosion control, storm drainage and storm channel improvements totaling \$43,605.00**

MOTION: Blais moved to reduce the bond.

SECOND: Duplissie

VOTE

AYES: Minnich, Martin, Russ, Mancini, Blais, Duplissie,
Rondeau and Demirs.

NAYS: None.

MOTION UNANIMOUS PASS 8-0.

6. Adjournment

MOTION: Duplissi moved to adjourn at 10:00 PM

SECOND: Blais

VOTE

AYES: Minnich, Martin, Russ, Mancini, Blais, Dupliessie,
Rondeau and Demirs.

NAYS: None.

MOTION UNANIMOUS PASS 8-0.

Michael Masayda _____
Secretary