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Call to Order

Present: Tom Harbinson, Chairman
         Bill Dyer, Vice-Chairman
         Jim Tate, Commissioner
         Joe Welsh, Commissioner
         Ed McCreery, Commissioner
         Sherri Dutkanicz, Commissioner
         Jim Goodman, Commissioner

Also
Present: Teresa Gallagher, Conservation Agent
         Marianne Chaya, Clerk

A. Call to Order/Pledge of Allegiance
Chairman Harbinson called the meeting of the Conservation Commission to
order at 7:00 p.m. All in attendance recited the Pledge of Allegiance.

B. Approval of Minutes
Commissioner Dutkanicz Dyer MOVED to approve the minutes from the
July 11, 2012 Regular meeting. SECONDED by Vice-Chairman Dyer. All
were in favor, MOTION PASSED.
C. Public Portion (items not on agenda)

Mr. & Mrs. Ralph DiSanti, 67 Oak Valley Rd

Mr. DiSanti said that they are here tonight because we want the driveway right-of-way moved. Currently the City owns the property where the right-of-way goes through. It’s a 420’ ROW and the trail now comes right up to the property line. There are a couple of issues; one being we’d like to move the driveway so we can create a buffer between our property and the trail and we’d like less of potential conflict with people using the trail. We often come down our driveway or when we come home and there are people on our driveway. We’d like to minimize that issue.

Commissioner Tate asked where he would like to relocate the driveway. Mr. DiSanti said that Bob Pruzinsky and Brad Wells came out yesterday and did a rough walk-thru. We have a sketched out map to show you. The potential driveway is flagged.

Commissioner Tate asked, what do you need from the City?

Mr. DiSanti said we have to get a new ROW. Vice-Chairman Dyer said they would have to go through the 8-24 referral process.

The DiSanti’s and the Commissioners reviewed and discussed the drawing. Mrs. DiSanti said that she was told this was their first stop, to bring it to you for review. We started this last fall with members of this Committee. The Commissioners said yes, they did remember going out there but didn’t remember where we are at and if there was an alternative we would have to defend. We would have to see it and then be able to comment in the form of a letter based upon what your application is. Commissioner Tate asked how they came up with the routing.

Mr. DiSanti said that it was because it would be less invasive to the big trees and it lets us incorporate our existing turnaround.

The Commissioners and DiSanti’s continued their discussion. Chairman Harbinson said that they would schedule a time to meet this month with the DiSanti’s to review the property. The process would be that we would write a letter of recommendation or advisement to Planning & Zoning and because it involves some sort of a swap of an easement there would be some legal paperwork to be processed and some sign-offs by the Aldermen.

Boy Scout Gabriel Brown came to the meeting to get the Chairman’s signature on the permit form for Inland Wetlands for his Eagle Scout bridge project at Hope Lake. This bridge will go from the trail to an island.

Guy Beardsley, Shelton Farmers Market

Mr. Beardsley apologized for not making the July meeting. That night there was the Boy Scout banquet at the Derby/Shelton pavilion. They asked me to keep the Farmers Market open for use of the restrooms. That was not a problem but
there were about 15 teenagers in the area that were not part of the event. I didn’t feel comfortable leaving the market open unattended. I stayed until the event was over. Whenever there is an event at the pavilion then the toilet facilities would be needed. The Farmers Market could be opened. If that’s the situation we will need to have someone there to monitor the building. I don’t mind doing it. Mr. Beardsley reported that the market is doing very nicely. We have a gift bag every week that’s given via a drawing. We have a basket with the tickets at the coffee bar. We have regular, decaf, tea and hot chocolate available.

Mr. Beardsley said that he counted 13 additional groups of people who he had never seen before almost every Saturday. We do have some new people coming to the market, some of which are from the Birmingham condos, as well as from out of town. I have asked some of the people how they found out about the market and they said mostly word of mouth. We do have all of the producers participating.

Mr. Beardsley talked about the rain in the past year and how it affected the production of vegetables, in the positive way. We hope that we don’t have the late blight in our tomatoes again this year. It is reported in the state already. So far it is not locally.

Commissioner Tate said that the irrigation system is now operational and someone could show him how to access it if he needs it.

Tape 1, Side B

D. Shelton Lakes Recreation Path, upgrade to handicapped-accessible standards. Status.

Vice-Chairman Dyer reported the Rec Path is now complete! This has been a work-in-process for 20 years. The Trails Committee and Vice-Chairman Dyer have confirmed that the Rec Path is completed and the contractor has completed it to their satisfaction. Vice-Chairman Dyer has the final invoice for $21,500 for approval for payment. We already approved the first invoice for $7,500. This brings the total to $29,000. In addition to the work that was in the contract, the contractor installed 5 granite pillars, added a rock barrier and mulch to the north end of the trail, used millings to create the approach to the south end of the trail, and installed a new mailbox that was run over. They also created parking at Eklund Garden, improved the driveway to the rental house, re-rolled the section from Great Ledge to Crabapple, and moved a pile of brush on Oak Valley Rd. and replaced with grass seed and hay. Therefore I do request we approve the invoice for the final payment.

Chairman Harbinson asked if these extras were at an extra cost. Vice-Chairman Dyer said no, just out of goodwill. Chairman Harbinson said we should let him know we really appreciate it and it tidies up the project and dresses it up.
Vice-Chairman Dyer MOVED to approve the final invoice to Pruzinsky & Sons in the amount of $21,500. SECONDED by Commissioner Tate. All were in favor; MOTION PASSED.

Chairman Harbinson said that we have set a date for the ribbon-cutting ceremony of Friday, October 5th @ 4:30.
Vice-Chairman Dyer said he likes Commissioner Tate’s idea of having the ceremony earlier in the day and having a tent event and having it catered.
The Commissioners spent quite a bit of time discussing the date, time and the details of the event.

E. Trails Committee Report – Bill Dyer

Vice-Chairman Dyer said that they have a count of the granite bollards that we will need. We also have a count of the removable bollards. I will go to Orange Fence to get a quote to have them installed.
He also said we have some volunteers from UHC. We thought we could use them either August 14th or 15th. They could fill in the ruts at Wiacek and cover it with mulch and do some clearing.
The big tree next to the red barn at Nells Rock Rd. has died, presumably from all the new activity from the dog park. The town is going to hire someone to come in and take it down. Agent Gallagher said that they already took one tree out at the entrance. The big tree that they will be taking down is a sugar maple that had root damaged, most likely from the increased activity in the area.
We recommended that the ribbon cutting event in October include the Paugusset trail. We should invite the CFPA to the event and make it a double grand opening.

We do want to continue the Paugusset trail. Now it is from Indian Well to John Dominick Drive. We eventually want to get to the Housatonic. The issue is how to get from Buddington to Bridgeport Ave. The only way to do it is through Royal Wells’ property. We did go out and flag it and I talked with Royal Wells yesterday about it. Chairman Harbinson asked about the liability issue and Vice-Chairman Dyer said that CFPA has some information about it, basically as long as you don’t charge admission and you don’t put pits with sticks in the middle, you are ok, and the landowner is not liable. Agent Gallagher said the law was written specifically for these blue trails since a lot of these trails does travel on private property. This would be a pedestrian easement only, no bikes.

Vice-Chairman Dyer MOVED to approve payment to Lynn Reid to reimburse her for the purchase of Roundup used on the Rec Path in the amount of $19.61. SECONDED by Commissioner Tate. All were in favor, MOTION PASSED.
F. Open Space Trust Account - Status
Chairman Harbinson stated that he got an email from John Anglace saying that he wanted to get together with me and the Mayor to go over the Open Space Trust Account ordinance.

G. Budget Status
No report

H. Request to mow open space adjacent to 11 Rushbrooke Lane
Chairman Harbinson reported that we received a request to mow the open space on Rushbrooke Lane in Well Springs Estates. He said some of the comments from the homeowner were that the open space dedication from the development was never properly delineated to clearly show public versus private areas.

Agent Gallagher stated that there was a 4x4 post with an open space sign.

Chairman Harbinson pointed out that we did that after the application had been approved and after we saw some conflict. Someone has since removed the post. Chairman Harbinson suggested putting up a split-rail fence down the property line between the public and private space.

Commissioner Tate said that we need a formal record of our comments for this issue.

Chairman Harbinson asked if everyone understands the situation and the history of this site. They all said yes. There was discussion through the google group emails plus this issue came up a few years ago and we discussed it at a prior meeting. We also met at the site with the Association and we proposed a solution.

Commissioner Tate asked what has changed since our resolution to change the circumstances out there.

Commissioner McCreery said that several requests have been made to the Association or the unit owner to stop having the open space mowed. They have declined to succumb to our repeated requests to stop utilizing the city open space as their private lawn area. Instead of complying with our requests that you stop using the city open space as your private lawn, they sent us a letter trying to justify why they would be entitled, and only them, not any future owner. As long as they live there, they should be allowed to use City Open Space as private
lawn area. For observation purposes or recreation you don’t step foot on it, I think that’s inappropriate.

Commissioner Tate said his recollection is that they offered compensation for use of that area.

Chairman Harbinson read from the letter from Mark and Susan Krantz. They are residents of 11 Rushbrooke Lane and sent a letter to the Conservation Commission. (full letter and attachments are appended to these minutes).

Commissioner McCreery suggested that in our response to them that we thank them profusely for their generous offer but decline.

Commissioner Tate said that from his standpoint, I don’t see any reason why we would change our position from the last time we reviewed the situation. I don’t see any new information that would change the opinion, at least my opinion. Therefore it appears that the area, monetary compensation at this time, in my opinion does not solve a problem, nor is it appropriate for this commission to accept a fee to do something that we have already enacted a position on. Nothing that I have heard has changed that position. Therefore, I propose that the problem seems to be that the boundary is not clearly defined. That may be an issue because apparently the marker is not sufficient enough to define the boundary limits. It looks like we will have to put in a stronger boundary in to make sure that this line is upheld and there is a clear demarcation of what I call Association property and open space. Therefore, I’m open to suggestions for that but I think one Commissioner suggested a split-rail fence. We’ve used that in the past with some success. I would propose that the Commission, at its own expense install a split rail. If the Association would like to contribute to that effort of installing the split rail fence, we’d be more than happy to accept.

Agent Gallagher asked why the Association would want to. The Association is not making this request. When I contacted the Association a couple of years ago to ask why it is still being mowed, they said they are not mowing it and we have no interest in mowing it.

Commissioner Tate asked who is responsible for the property. It was answered, the Association.

Vice-Chairman Dyer said that the Association hires the mower for the common space. There was discussion of who actually is mowing that space.

Chairman Harbinson said that what this person is proposing is to do something that would be really an association responsibility, or something an association would offer, not an individual homeowner.
Agent Gallagher said he (homeowner) is not in a position to speak for the homeowners association. He is just a homeowner. They (Association) said at a previous meeting that they didn’t care about that piece.

Commissioner Tate said that he is under the impression that we had an agreement at that point in time for certain actions to take place. These actions need to be upheld. If they are not upheld, unless a letter comes from a recognized authoritative source, such as an Association President, I don’t recognize it.

Chairman Harbinson said that it doesn’t matter that this is coming from an individual or an association, what we are recognizing is that there is a misunderstanding of previous owners, previous association individuals, current owners, current individuals; where there is an obvious lack of delineation between what is association private space, and what is public open space.

Agent Gallagher said that they know where the public open space is.

Chairman Harbinson said they might know right now and they might have not known when they moved in but knew subsequently.

Agent Gallagher said they did know, and they said they knew.

Vice-Chairman Dyer said they were at the meeting.

Chairman Harbinson said if you say they knew, you are implying are violating something.

Agent Gallagher said they are. I’m not implying it, I’m saying it.

Vice-Chairman Dyer said that they are encouraging the homeowners association mowers to mow that property.

Commissioner McCreery said what Tom is saying is that we don’t need to go there. It’s simply, they made a proposal, whether it comes from them individually or from the association, it doesn’t matter. I think the consensus of the room is that it’s inappropriate proposal.

Vice-Chairman Dyer said it’s not the whole room.

Agent Gallagher said it wasn’t done because they didn’t know where the boundary was.
Commissioner McCreery said it doesn’t matter what the motivations are, what they knew or didn’t know. The bottom line is there is city land and association land, there is a line. They are asking permission to ignore the line and pretend its property and to “pay” us a certain dollar amount for them to have the right in perpetuity to ignore that line. Black and white, that’s really inappropriate. We simply need to say no, and the way we say no is in the form of a letter; “no” and by the way we find it necessary to more clearly delineate the city open space by means of a split rail fence.

Vice-Chairman Dyer said he didn’t agree. We made an offer to the Association before and I think we should re-iterate that offer and that is if they cut the meadow.

Chairman Harbinson said that the issue is, time and time again, what we are witnessing, is when there is a development, the delineation between what is a public area and a private is not being done. It’s not being marked with pinning the corners of the property or a stone corner. We are seeing this here. You have an open area that is a meadow or lawn, and without a proper clear delineation it has the perception that it’s private. We need a clear physical delineation. We thought in this case the delineation would be done by a post, but it was removed.

Agent Gallagher said we put a split rail fence at the end of Lane Street and it has worked well.

Commissioner Goodman said we need to be consistent. We can’t be making separate deals.

Vice-Chairman Dyer said we can make separate deals if it’s in the best interest. Who, in their right mind, of the public, once we put the fence it, who is ever going to go into that space that’s fenced in? Nobody. Ever. It benefits no one.

Several Commissioners disagreed with that no one would go there.

Commissioner Tate said that he doesn’t look at open space as a developable area. Discussion of open space philosophy in Shelton.

Agent Gallagher pointed out that fishermen do access that open space to get to the river and our own extended Paugussett will likely go through there too. You are going to be walking past it. Do you want to walk past woods or do you want to walk past somebody’s apparent lawn?

Commissioner Tate said that it’s a precedent.
Vice-Chairman Dyer said we made an offer before. All I’m saying is we go back and say no. We said if you will mow the meadow around the corn crib once a year (brush hog), you can continue to mow this. We actually said you can continue to mow this space we are now talking about and keep it as lawn for the association, not for one house.

Agent Gallagher said the offer was made to the association. They had no interest in it whatsoever.

Chairman Harbinson said ok, the association didn’t want to do it. End of discussion, really. These people are not the association.

Commissioner Goodman asked about the size of the property in question. The Commissioners said it is very small. Commissioner Goodman said that he (the homeowner) doesn’t have the capacity to make the offer, that’s the reality of it. He’s not the association.

**Commissioner McCreery MOVED to instruct Agent Gallagher to send a letter to the property owner indicating that we are in receipt of their letter and we have to inform you that we do not find your proposal acceptable. We must insist that the mowing of the City open space cease immediately and we cannot accept your proposal no matter how generous it may seem. We will be installing a split-rail fence to demarcate the City property line. Subject to editing of the letter by the Conservation Commission Chairman or Agent as they deem appropriate.**

Vice-Chairman Dyer said we would first have to have the property surveyed.

Agent Gallagher said this is true. Royal Wells had put the 4x4 post in and I don't know exactly where it is.

Commissioner Goodman asked, why don’t we decline the offer because they don’t have the capacity to make the offer, and just leave it at that?

Chairman Harbinson said it should be a simple letter to say we thank you for your suggestions but we decline the offer.

Commissioner Goodman said that if the Association makes a plea to us, then we’ll consider it.

Vice-Chairman Dyer said there would be a benefit to having it brush-hogged once a year?

Chairman Harbinson said they are not offering it. It’s off the table. We are not talking about the what if’s. They’re offering to mow the lawn, we’re saying no.
The Commissioners discussed the fact that they are under the impression that the homeowner is personally mowing that section. Agent Gallagher said that the President of the Homeowners Association swore that neither they nor the landscapers are mowing it.

Commissioner McCreery added to the motion:

**To avoid future enforcement action, to stop mowing the City open space.**

SECONDED by Chairman Harbinson.

Vice-Chairman Dyer said his question is, if the Association came back and said, does your offer still stand to brush hog the area once a year, would we consider it?

Chairman Harbinson said that’s not on the table.

Vice-Chairman Dyer said the person will call Agent Gallagher.

Commissioner Tate said that then she can say, they write a letter and make a proposal.

Agent Gallagher said the Association has said a couple of times they have no interest in doing that.

Vice-Chairman Dyer said they didn’t want to pay for it. If this couple is willing to pay for it.

Chairman Harbinson said we are all talking about conjecture here. That means nothing to what we’re talking about.

Commissioner Goodman said that the next step is to fine them. They discussed the Open Space Ordinance which allows a fine of $250 per violation.

Commissioner Dutkanicz asked if we should include that in the letter. Chairman Harbinson said it wouldn't be appropriate. He made the offer, we're saying no thank you, and please abide by the letter to please stop mowing.

Commissioner Goodman said it's a bad precedent. You can’t have people coming to us making deals for the property next door to theirs. You’ll have them lined up out the door. This is a right way to handle it.

Chairman Harbinson asked, is there any further discussion?
A voice vote was taken; all were in favor. MOTION PASSED.

Note: See letter communication at end of document.

I. Review of PZC or IWC Applications for Subdivisions and/or Developments

1. Old Applications/monitor/follow-up
None

2. New Applications
None

J. Communications

• CACIWC newsletter

K. Quality of Life – Executive Session (land acquisition and security issues)
Commissioner Goodman MOVED to go into Executive Session at 8:40 for the purposes of discussing land acquisition issues. SECONDED by Vice-Chairman Dyer. All were in favor: MOTION PASSED.

Chairman Harbinson MOVED to return to Regular session at 8:55 P.M. SECONDED by Commissioner Tate. All were in favor; MOTION PASSED.

No motions were made in Executive Session.

L. Comments by members
Agent Gallagher brought a book for the Commissioners to look at regarding the urban environment.
Commissioner Dutkanicz said that there was a bill, Public Act 12-152, concerning the state’s open space plan was signed. It took 3 years to get this passed. It is the CT Audubon, the CT Land Conservation Council, the DEEP, etc. It the precedent that the state conducts more frequent, not less than every 5 years, comprehensive updates of the states open space conservation strategies, identify priorities for acquisition, that integrate existing priorities such as wildlife habitat, ecological resources in the greatest need of preservation. Make recommendations for establishing a voluntary state-wide registry to keep track of all conserved land, private, municipal, state, federal in a format that is easily accessible to the public and work with other state agencies to identify lands of...
conservation value held by those agencies and develop a plan for permanently protecting them.

She said there is a ceremony for the Audubon society that she was invited to and it is on the same date as our ribbon cutting ceremony @ 2:30.

Commissioner Goodman said that on October 6th, St. Paul's Church will be having a chili cook-off at 12 noon that day. Maybe after the hike, people could stop off there. St. Paul's is having a 200th anniversary of the rebuilding of the church. The church had burned down 200 years ago. We are going to have the chili cook-off, tours of the facilities, and everyone will be dressed up in historic garb. The cook-off will probably run till about 2PM. There will probably be a nominal admission fee. We also plan to have historic games and face painting.

**M. Adjournment**

The meeting adjourned at 9:05 pm.

The next regular meeting is Wednesday, September 5, 2012.

Respectfully submitted,

Marianne Chaya

Clerk, Conservation Commission
July 16, 2012

Mr. Thomas Harbinson
Chairman
Shelton Conservation Commission
City of Shelton
54 Hill Street
Shelton, CT 06484-0668

Dear Chairman Harbinson,

We have received correspondence (Exhibit l) dated June 25, 2012 from Teresa Gallagher informing us that we are in violation of the Connecticut Encroachment Law regarding the Conservation Area adjacent to our property.

We believe that this letter is unduly severe given the complicated history of this issue and what we believe to be extenuating circumstances—not to mention our impeccable reputations as solid citizens of this community. We are not lawyers, but technically, it appears at least on that surface that our personal conduct does not meet the standard of "encroachment" as defined in the law: we have neither "caused damage" nor "altered the land" in any permanent or long-term way. In fact, the space is unchanged since we moved here in 2008.

However, our purpose in writing this letter is not to defend ourselves on legal grounds but to explain the situation from our perspective and seek an amicable solution that will be acceptable to all of us.

We also want to make it clear that we are staunch supporters of conservation and the protection of public space. We know that you and the Shelton Conservation Commission have very challenging responsibilities, and we recognize how arduous it is to try and satisfy so many different constituencies. We appreciate everything that you do for this community.

While we understand that it is preferable for Open Space to be left in its natural state, we do not think that it is fair to expect us, as individual homeowners and taxpayers, to be financially or otherwise responsible for undoing a condition that was literally "deep-rooted" long before we arrived here.
This situation was apparently created by the builder more than five years ago when the Open Space was inappropriately used as a staging area for construction. In 2007, a year before we moved in, the lawn was installed and was regularly mowed from that time onward. However, it was not officially declared to be an “encroachment” until 2009, almost an entire year after we moved into the house (Exhibit X).

In September, 2008, when we moved in, we had no idea that there were any issues with the Open Space area behind the house. The builder had clearly informed us that the lawn beyond our property line was Open Space owned and controlled by the city and was not ours. He told us that in exchange for his planting evergreens at the far end that curves around the street border, he was given permission to put in the lawn beyond the property line with an agreement that the homeowners association would be responsible for mowing it. This was corroborated by the Well Spring homeowners association.

We never imagined that we would now be contemplating growing a forest (albeit a very small one) in our backyard. That does not mean that we would not want to have woods near our house, but only if it was already established. In her letter, Ms Gallagher’s statement that “this process can appear untidy for several years” makes us very apprehensive. After all, “untidy” could just as well mean shabby, scruffy, and unkempt—the complete opposite of the way it looks today.

We also have concerns about the possible impact on our home’s resale value. We believe that prospective buyers could be repulsed if they see the Open Space lawn as being “untidy”—or shabby, scruffy or unkempt—and this could adversely affect our home’s selling price. Interestingly, if there was already a mature forest in the Open Space, our home might have greater perceived value because it could be marketed as being adjacent to a “wooded lot.” However, we will likely be selling this home long before there is any semblance of a “wooded” area behind us.

There is no question that there are environmental benefits to having a lawn evolve into a forest, but it unquestionably takes a good amount of time and apparently requires hands-on care and maintenance if it is going to be done right. Honestly, we have no desire to be weeding constantly and regularly removing invasive species before rampant species take hold.

This concern has been raised by Commission members during its discussions about how to maintain the Open Space surrounding the corn crib:

“The first issue is the area where the corn crib is...the city really doesn’t have a fleet of people to go out and mow, it’s going to become an overgrown briar field...if you see what happens to a pasture when you let the multi-flora take over; it’s not going to be a pretty site. We are concerned that the invasives will take over.”

--Commissioner McCreyer, Minutes from Conservation Commission Meeting, January 2, 2008 (Exhibit II)

“Yes, the area (behind your house) will resemble the area around the corn crib (before it was brush-hogged) if it is not otherwise managed before turning into a forest”

--Teresa Gallagher, email message, June 24, 2009 (Exhibit III-A)
Besides the unknown impact of just letting the grass grow unfettered into forest land, we are seriously worried about the risk to our health posed by the potential proliferation of deer ticks. We have read your blog on this subject and understand your viewpoint that it may not be prudent to eliminate foliage and trees in an attempt to reduce the risk of Lyme disease. However, in this case, we are not discussing removing or altering the landscape in any way.

When we mentioned our fear to Ms. Gallagher, she responded as follows:

"...There is no height of mowing that will reduce your chance of ticks—they can be found in short grass as well as tall grass and brush, although they do not like to be hot and dry, so a very dry, sunny area may have fewer ticks if the grass is kept very short and there are no trees or shrubs for shade."

—Teresa Gallagher, email message, June 24, 2009 (Exhibit III-B)

For the record, we want to say that the majority of open space lawn adjacent to our house is in direct sunlight for most of the day—with only partial shade early and late in the day—so it would seem that the area is now ideally landscaped to minimize tick infestation.

Most experts agree that fewer ticks are found in the sunny, manicured areas of lawns and, therefore, it is generally recommended to keep grass mowed. Ms Gallagher seems to agree (as she states above).

The Tick Management Handbook from the Connecticut Agricultural Experiment Station (a recognized authority on the subject, endorsed by the Centers for Disease Control) corroborates this:

"Fewer ticks are found in the sunny, manicured areas of lawn." (Exhibit V)

"Here are some simple landscaping techniques that can help reduce tick populations...Mow the lawn frequently..." (Exhibit VI)

If the Open Space lawn as it now exists is allowed to evolve into a forested landscape, it will undeniably harbor more ticks, and we will be knowingly creating a habitat much closer to our home that will in all likelihood increase our exposure to Lyme disease. We do not think this is a good idea.

In addition to the various reasons we have cited in asking you to re-examine this situation—including our concerns of creating “not a very pretty site” just a few feet from our doorstep, the increased risk of Lyme disease and the potential harm to the resale value of the house—there are other mitigating factors relevant to our position that we want to bring to your attention.

First, we are aware that there are members of the Conservation Commission who feel that we are treating the Open Space behind our home as a private backyard. However, it appears that there is no consensus as to whether or not this is a significant concern:

"I don’t believe that all open space needs to be treated in the same way and that all open space should be allowed to return to nature...is it terrible if some open space is mowed for a waffle ball game or so that a grandparent can play catch with a grandchild?"

—Vice-Chairman Dyer, Google Groups, June 3, 2009 (Exhibit IX)
Regardless, we want to ensure the Commission that we do not consider the Open Space behind our property to be part of our backyard. Again, we want to reiterate that we have not physically altered the Open Space in any way. It was neither our decision to build this house in this exact location—abutting an isolated and very small piece of public space with no natural or man-made barriers to demarcate the public from the private space—nor was it our decision to landscape the property as it is.

With the exception of the Conservation Commission, we are not aware of anyone taking offense with the current landscape design and, therefore, we do not feel that it is necessary or reasonable to expect us to be totally responsible for creating a defined boundary between the Open Space and our private property (recommended to us by Ms. Gallagher—Exhibit III-C).

Even though we are fortunate to have Open Space in such close proximity, we also fully understand that the public has an equal right to enjoy it. However, with its narrow access (through a secluded, roped off driveway), limited parking and no amenities, it is does not really offer most Shelton residents benefits that can be readily enjoyed. With the exception of a few fishermen, we know that most people choose larger, more convenient public spaces in parks or other areas that also offer opportunities to experience nature.

Next, after the homeowners association declined the Commission’s offer to allow the Open Space behind our home to continue to be mowed if the corn crib area was also mowed did this become an official encroachment in 2009 (a year after we moved in) Exhibit X. Therefore, it seems clear that in order to settle this to the Commission’s satisfaction, we will need to propose a solution that will offset the “negative environmental impact on the open space” from mowing.

Here is our proposal: We will donate $1000.00 to the Conservation Commission to be used for ongoing maintenance of the Open Space meadow area. It will be paid in annual installments of $250.00 for four years in July. If we sell our home before the end of the four year term, we will pay any remaining balance due upon closing. As an option, the Commission can decide to accept a single lump sum payment of $800.00, payable upon agreement of all terms.

In exchange for this donation, the Commission will provide written authorization and guidelines to the Well Spring homeowners association that make them responsible for the mowing/maintaining the Open Space behind our house. This authorization will be in effect indefinitely or until after we have sold this residence.

We consider this to be a fair and generous offer and believe that is mutually beneficial. We look forward to hearing back from you soon and putting this behind us for good.

Thank you for your consideration and all your efforts on our behalf.

Sincerely,

Mark Krantz          Susan Green-Krantz
CERFITIFIED MAIL – RETURN RECEIPT REQUESTED

June 25, 2012

Mark and Susan Krantz
11 Rushbrooke Lane
Shelton, CT 06484

Dear Mr. & Mrs. Krantz:

As a follow-up to our phone conversation, the Conservation Area owned by the City next to your unit shall not be mowed. In addition to Ordinance #833, which specifies a fine of $250 per violation for cut vegetation in City Open Space, the Connecticut Encroachment Law allows the City to file suit and collect damages to restore the land to a natural state as well as penalties of up to $5,000 for repeat, knowing violations, and the recovery of all attorney’s fees. I have attached a copy of the encroachment law.

I do have documents in my file going back several years that show you are aware that this is conservation land and understand that mowing is prohibited. The issue was also brought up at one of Conservation’s regular meetings, during which the Commission declined to allow mowing of this property.

At this time you are directed to stop mowing the conservation area and allow it to regenerate back into a natural state, which would be a forest. There should also be no cutting of vegetation or dumping of lawn debris. As we discussed, this process can appear untidy for several years. If you do not like the appearance you can install a fence or line of pine trees along your boundary. In addition, you could plant native pine and spruce trees in the open space to speed the regenerative process. A planting plan would require approval by the Commission.

Sincerely,

Teresa Gallagher
Conservation Agent

Cc: Tom Harbinson, Chair
John Coniglio and Arthur Keating, Well Spring Estates Homeowners Association

Agent Gallagher said that this Commission had questions regarding the field where the corncrib is and the maintenance of it and the conservation easement area.

Vice-Chairman Dyer said that all the issues we had with the developer have been satisfied and we have ok'd the release of the bond.

Agent Gallagher and Commissioner McCreery said we wanted to know how it would be handled by the homeowners association. The first issue is the area where the corncrib is. It is now City owned open space, in fee, not by conservation. The question is, in terms of going forward regarding maintenance, because the city really doesn't have a fleet of people to go out and mow, it's going to become an overgrown briar field. We'd like to know if you'd mow it.

Agent Gallagher asked if they mean once a year?

Commissioner McCreery said similar to how the Land Trust members do theirs; a rough mowing two or three times a year.

Commissioner Welsh said they do it once in the fall. It all depends on what kind of look you are going for.

Mr. Coniglio said no one in our association is using it right now.

Chairman Harbinson asked if they would like to use it for maybe something like a picnic spot.

They answered that we thought about it and thought about maintaining the corncrib but it is in such poor repair that it would be way too expensive to restore it. It is a potentially dangerous issue there and Royal didn't want to do anything with it and neither do we.

Mr. Keating said that they would be willing to talk with their landscaper and get a price to maintain it.

Mr. Coniglio said that when we had the initial discussions with Royal and Ron it was our understanding that we were not supposed to improve the area. We just entered into an agreement with a new landscaper and this will be an additional cost to us.

Commissioner McCreery commented that if you see what happens to a pasture when you let the multi-flora take over; it's not going to be a pretty site. We are concerned that the invasives will take over.

Mr. Coniglio said we will certainly take a look at the cost to do this.

Mr. Keating said that we have been proactive in that area already. We pulled over 20 bags of litter from the open space along the Far Mill. We wanted input from you regarding some of the open space is the Association's and the other is Shelton open space. We are running into problems in the association's open space along Old Stratford Rd. You have postings in the back of our houses but would it possible to post on that road. What we have is the neighbors across the street dragging all their stuff into our property.

Agent Gallagher said she could provide them with signs.
Dear Mr. Krantz,

Yes, the area will resemble the area around the corn crib for a few years if it is not otherwise managed before turning into a forest. Eventually trees will grow there and shade the heavier brush except right along the edge. That process can be sped up significantly by planting white pines, which can grow a foot per year. Other trees will come in naturally such as red maples, tulip, or black birch and may grow even faster than the pines. Once the trees are taller than the brush they will shade it out and the brush will die back from lack of sunlight.

Mosquitos breed in water, not in brush. Adult deer ticks are found in brush because of the deer overpopulation. However, deer tick nymphs (juveniles) are not found in brush, but only in grass and shorter herbaceous plants, and it is the nymphs which most commonly cause Lyme Disease because they are much harder to see. There is no height of mowing that will reduce your chance of ticks-- they can be found in short grass as well as tall grass and brush, although they do not like it to be too hot and dry, so a very dry, sunny area may have fewer ticks if the grass is kept very short and there are no trees or shrubs for shade. I don't think that is the case in that location because there are trees around it.

Because I am frequently in the field, I am constantly pulling ticks off of me and have never contracted Lyme Disease. That is because the most important preventative measure, by far, is a thorough daily tick check. If you remove a tick within 24 to 48 hours you cannot become infected. Most people I know who have contracted Lyme Disease never go in brush or in the woods or hiking, but instead picked up a nymph tick going out to the BBQ or mowing the lawn and never checked themselves for ticks. I have found several nymph ticks on my daughter that she picked up during Field Day at Booth Hill School from being in the short grass all day. Also be sure no one in the area is feeding the birds during the summer, which can attract mice that spread the deer ticks nymphs, not to mention rats (a surprisingly common problem in Shelton).

If you can show that the area will be used by the general public and you will be able to fully delineate the property line so that a reasonable person would not feel like they are intruding into your privacy, then I would suggest putting together a written proposal with a map showing your plan, and presenting that to the Commission at one of their meetings. Do be aware, however, that the Commission previously stated they wanted the corn crib area field mowed once a year in exchange for this negative environmental impact on the public open space.

Teresa Gallagher
Conservation Agent
City of Shelton
(203)924-1555 x315
www.sheltonconservation.org
MANAGING TICKS ON YOUR PROPERTY

Prepared by Kirby C. Stafford III, Ph.D. (March 2005)
The Connecticut Agricultural Experiment Station, 123 Huntington St.-Box 1106, New Haven, CT 06504
(203) 974-8485, Web site: http://www.caes.state.ct.us

In Connecticut, the two most common ticks are the blacklegged tick, *Ixodes scapularis*, which is commonly known as the deer tick, and the American dog tick, *Dermacentor variabilis*. The establishment of homes in wooded areas has increased the potential for contact with wildlife and their ticks. You can reduce the number of ticks near your home by landscaping changes, manipulating or treating tick hosts, and the selective application of least-toxic pesticides. Most people acquire Lyme disease from the nymphal stage of the “deer” tick, which is active during late spring and summer. Therefore, most control efforts are targeted towards the nymphal stage. Adult *I. scapularis* are active in the fall, warm days of winter, and spring. More detailed information is available in the Experiment Station’s Tick Management Handbook or other fact sheets (available on our website).

**Landscape modifications . . .**

Deer ticks are most abundant in the woods where hosts for the tick flourish and ticks find high humidity levels necessary for survival. On lawns, most deer ticks (82%) have been recovered within 9 feet of the lawn edge, especially areas adjacent to woods, stonewalls, or ornamental plantings. Fewer ticks are found in the sunny, manicured areas of the lawn. Ticks may also be found in groundcovers such as *Pachysandra*.

Create a tick safe zone by altering the landscape to increase sunlight, reduce tick habitat and discourage rodent hosts. Create a clearly defined, manicured border. A dry wood chip, tree bark, mulch, or gravel barrier between woods and lawn can reduce tick migration into the lawn. The removal of leaf litter at the lawn perimeter also can help reduce the number of *I. scapularis* nymphs on the lawn. Landscape modifications include:

- Keep grass mowed.
- Prune trees, mow the lawn, and clear leaf litter and brush, especially along edges of the lawn, stonewalls, and driveways.
- Move play sets away from the woodland edge.
- Restrict groundcover in areas frequented by family.
- Adopt some landscaping practices such as gravel pathways, mulches, decking, stone, tile, and other hardscapes around the home. Wildflower meadows, herbal gardens, etc. have very few ticks and may be an acceptable alternative to grass in some areas.

**Exclude key wildlife . . .**

Deer are important to the reproduction of the deer tick. The exclusion of deer from large areas by fencing and reductions in the deer population has been shown to reduce tick abundance. For example, deer tick larvae, nymphs and adults were reduced by 100, 85, and 74%, respectively 300 feet within an area surrounded by an electric deer fence. Fencing smaller areas probably would not be as effective without the addition of other management strategies (eg. landscape modifications, perimeter barrier application of an insecticide, bait boxes, etc.).

**Don’t attract key wildlife hosts. . .**

Discourage tick wildlife hosts (not all wildlife) by reducing targeted habitat and food sources. Clean up stonewalls near the home that provide shelter for mice and chipmunks. Place woodpiles away from the house.

Discourage browsing by deer around the home by planting landscape plants that are less palatable to deer. While no plant is completely resistant from deer damage, some plants are highly susceptible to deer browse. Plant the most deer resistant plants along the edge of the property to deter deer from including your landscape as part of their feeding territory. A list of susceptible and resistant annuals, perennials, shrubs, and trees is available in Experiment Station Bulletin No. 968 Limiting Deer Browse Damage to Landscape Plants. A deer repellent may also reduce the attractiveness of plantings to deer.
Apply Pesticides Outdoors to Control Ticks

Pesticides for ticks, known as acaricides, can reduce the number of ticks in your yard. These benefits have been best-studied for *Ixodes scapularis* (the black-legged tick), and include:

- Consistent and timely pest control
- Easy to apply
- Relatively inexpensive
- Safe if applied according to the label

Only small amounts of acaricide applied at the right time of year are necessary. Application should focus on control of nymphal *I. scapularis* ticks, the stage most likely to transmit Lyme disease, anaplasmosis, and babesiosis, by spraying once in May or early June. An October application of acaricide may be used to control adult blacklegged ticks, however, they less commonly transmit disease. The use and timing of acaricides to control other ticks of public health concern is less well studied, but may still be helpful.

If you have health concerns about applying acaricides:

- Check with local health or agricultural officials about the best time to apply acaricide in your area.
- Identify rules and regulations related to pesticide application on residential properties (Environmental Protection Agency and your state determine the availability of pesticides).
- Consider using a professional pesticide company to apply pesticides at your home.

Create a Tick-safe Zone to Reduce Ticks in the Yard

The Connecticut Agricultural Experiment Station has developed a comprehensive Tick Management Handbook for preventing tick bites. Here are some simple landscaping techniques that can help reduce tick populations:

- Remove leaf litter.
- Clear tall grasses and brush around homes and at the edge of lawns.
- Place a 3-ft wide barrier of wood chips or gravel between lawns and wooded areas to restrict tick migration into recreational areas.
- Mow the lawn frequently.
- Stack wood neatly and in a dry area (discourages rodents).
- Keep playground equipment, decks, and patios away from yard edges and trees.
- Discourage unwelcome animals (such as deer, raccoons, and stray dogs) from entering your yard by constructing fences.
- Remove old furniture, mattresses, or trash from the yard that may give ticks a place to hide.
Re: SheltonCC Re: End of open space signs

Teresa G <sheltontra...@gmail.com>

'But is it terrible if some open space is mowed for a wiffle ball game or so that a grandparent can play catch with a grandchild?'

If that open space now seems like it's private property and only the one neighbor can play catch on it and no one else (because everyone else assumes they would be trespassing or at least FEELS like they are intruding), then I am convinced the vast majority of Shelton residents would say that should not be allowed. They are not paying for open space so certain homeowners can have extra large private lawns without paying taxes on those lawns. The open space set aside is not meant to provide new homeowners with tax-free lawns at everyone else's expense.

If the area is clearly a common area, then that is completely different. However, that is rarely the case, and is certainly not the case at Well Spring. A fisherman walking down the drive would assume the lawn was private.

Public Open Space should never be used as a defacto private yard.

On Jun 3, 2:02 pm, Bill Dyer <bill.dye...@gmail.com> wrote:

> I don't believe all open space needs to be treated the same way and that all open space should be allowed to return to nature. We will go to Wellspring Estates tonight and maybe the area to the right of the driveway could be used for parking. But is it terrible if some open space is mowed for a wiffle ball game or so that a grandparent can play catch with a grandchild? Allowing all open space to be overrun with Russian Olive and brambles sounds like a waste do so much.

> On Wed, Jun 3, 2009 at 1:56 PM, Teresa Gallagher <

> conservat...@cityofshelton.org> wrote:

> >> think we should be clear with our message so there's little doubt how the CC will react to Open Space encroachment when it comes to private development. I personally feel that's why we are on the CC .... to protect our open space areas and safeguard against permanent intrusion or marking...>

> >> I agree, but I don't think CC has been at all clear or consistent with regard to encroachments. This commission has repeatedly allowed residents to encroach on open space in an effort to maintain "good relations" (while other residents affected by those encroachments are not taken into consideration). Well Spring is another example - they are mowing a substantial amount of city property that was never meant to be mowed and the response seems to be that it's OK if they mow, just don't remove the open space sign. Yet the entire point of the open space sign being there was to prevent residents from mowing it and making it look like their back yard - private property instead of public open space.

> >> To be honest, I receive calls from residents complaining about encroachments on various open spaces and at this point I don't feel any...
<table>
<thead>
<tr>
<th>Date reported</th>
<th>OS #</th>
<th>Location</th>
<th>Description</th>
<th>Estimated Acreage</th>
<th>Status</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009 11-09</td>
<td>65</td>
<td>Wellspring Estate, Rushbrook Lane</td>
<td>Area adjacent to Unit #11 mowed, about 0.1 acre, and 4x4 post with open space sign on that boundary was removed.</td>
<td>0.01</td>
<td>Homeowners Association and owner of Unit #11 were notified not to mow that property. As of late 2010, the area was still being mowed. Contacted Homeowners Association again.</td>
<td>FOLLOW-UP in 2011. Add posts and signs along boundary.</td>
</tr>
<tr>
<td>2009 9-09</td>
<td>9.01</td>
<td>Huntington Wellfield, off Sycamore</td>
<td>Very large piles of brush and logs</td>
<td></td>
<td></td>
<td>Met with owner, piles removed.</td>
</tr>
<tr>
<td>2010 9-02</td>
<td>116</td>
<td>Soundview Ave powerlines</td>
<td>Fence, woodpile, lawn on open space. Anonymous complaint rec'd Previous encroachment documented 2005.</td>
<td></td>
<td></td>
<td>Certified letter mailed to homeowner, John and Nancy Collins 236 Soundview Ave. Materials removed from open space</td>
</tr>
<tr>
<td>2009 10-02</td>
<td>1</td>
<td>Coppel Lane</td>
<td>Historic clearing up to the river dating back to at least 1994. New Owners.</td>
<td></td>
<td></td>
<td>Letter sent to Matthew &amp; Dawn Petrocelli, 4 Coppel Lane</td>
</tr>
<tr>
<td>2009 11-09</td>
<td>3</td>
<td>#52 Honeybee Lane</td>
<td>OS3 and LT1. Clearing, raking, piles of rocks. Also parking on OS at end of driveway.</td>
<td></td>
<td></td>
<td>Cert. letter sent to Christina Raffaele &amp; Samuel Paolletta, 52 Honeybee Lane</td>
</tr>
<tr>
<td>2009 11-09</td>
<td>74</td>
<td>Hidden Pond Lane</td>
<td>Pile of lawn debris 20' x20 x 5' into wetland off sides of road. Origin unknown</td>
<td></td>
<td></td>
<td>Sent letters to #18, #19, and #22 asking for info and also to not dump there. Refers to John Cook. Tacked 'no dumping' sign to tree.</td>
</tr>
<tr>
<td>2009 12-23</td>
<td>105</td>
<td>Klapick - Long Hill</td>
<td>ATVs, John &amp; Cathy Loughrey, 51 Laurel Wood Drive, tracks lead to house.</td>
<td></td>
<td></td>
<td>Sent letter, referred to Police.</td>
</tr>
<tr>
<td>2009 7/07</td>
<td>90.01</td>
<td>Rec Path off of Lane Street</td>
<td>Caller stated she has seen dirt bike riders from 97 Lane Street riding on the Rec Path for hours, and also on the street. Lynn Reid reported dirt bike going extremely fast on the path, &quot;about 50 mph&quot;</td>
<td></td>
<td></td>
<td>Referred to Police and Land Trust.</td>
</tr>
<tr>
<td>2009 7/28</td>
<td>90.01</td>
<td>Rec Path off of Lane Street</td>
<td>Complaint re neighbors dumping yard waste, concrete blocks on Open Space</td>
<td></td>
<td></td>
<td>Referred to Police and Land Trust.</td>
</tr>
<tr>
<td>2009 4/20</td>
<td>82.01</td>
<td>Pine Lake - West Street</td>
<td></td>
<td></td>
<td></td>
<td>Cert letter sent to Beverly Borucki and Patricia Passaro, 4 Edward Street.</td>
</tr>
</tbody>
</table>