

**INLAND WETLANDS COMMISSION**  
**April 9, 2009 – Regular Meeting - Room 302 - 7:00 P.M.**

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**CITY OF SHELTON  
INLAND WETLANDS COMMISSION  
REGULAR MEETING MOTIONS  
Thursday, April 9, 2009  
7:00 P.M., Room 319**

Chairman Zahornasky called the Regular Meeting of the Inland Wetlands Commission to order at 7:06 P.M.

**1. PLEDGE OF ALLEGIANCE**

All in attendance recited the Pledge of Allegiance.

**2. ROLL CALL:**

- Gary Zahornasky, Chairman
- Randy Szkola, Commissioner
- Charlie Wilson, Commissioner
- Robert Dunford, Commissioner
- Ken Nappi, Commissioner (arrived at 7:17)
- Neil Hayes, Commissioner

Absent: Jack Goncalves, Commissioner  
Celeste Beattie, Commissioner

Also Present: Kim Wells, Clerk

**Commissioner Wilson motioned to reconvene the Public Hearing of the Inland Wetlands Commission of the March 19, 2009 Special Meeting. Commissioner Szkola seconded the motion.**

**A voice vote was taken; motion passed unanimously.**

**3-B. OLD BUSINESS**

**PUBLIC HEARING RECONVENING FROM MARCH 19, 2009 SPECIAL MEETING.**

1. PERMIT-APPLICATION #09-05, 714 LLC – 405 BRIDGEPORT AVENUE/NELLS ROCK ROAD/BUDDINGTON ROAD. Proposal to create 129,000+SF commercial facility involving wetland excavation, watercourse elimination, discharge of storm water, and work within regulated upland review area. Possible close of hearing and commence discussion.

Dominic Thomas: Attorney Dominic Thomas for the applicant, we are going to devote this public hearing to a response to the concerns expressed at the last hearing. The suggestions that were made and how we can address them. The one thing I would like to point out was that one of the discussions concern possible bio-filters and stuff with respect to the area that is under consideration right now by

the City of Shelton to discontinue Access Road and the state highway line goes almost up to the pavement. The rest of that property, which I could describe basically as the island between Access Road is state property. So it's our intent to cooperate with you as much as possible subject to the state. The reason I always say this is because one of my early experiences was after an elaborate public hearing and after an elaborate discussion with this commission on Wal-Mart. This commission wanted two ponds in front and we proposed that we agreed to do it and we went up to the DEP and before we got the maps laid out, they crossed out the ponds. Whatever the state says, you have to do. It's our intention, I think this is a doable thing, but we do have to go to the state for that. So I turn it over to Jim.

Jim Swift: Good evening, Again, Jim Swift landscape architect, professional engineer. One of the main things, and that was one of the main things, the other main thing was the issue of the City Engineers letter, I think for drainage, he objected to a pipe underneath the building. That was this plan, so I'm going to attack two of those things here at once. One of the bio filtration and one is that (tape inaudible). This is the pipe the City Engineer objected to coming out this way. And I just wanted to just reiterate the bio filtration issue just briefly. What happens is if you look between Bridgeport Avenue and Access Road, you get a swale. And what I wanted to make sure that was clear in everyone's mind, that we're maintaining all that. That's all still going to be there, and that's the bio filtration. So anything that comes off our property hits our curb and goes into the main treatment. But anything that runs off Bridgeport Avenue still gets treated; I think it will actually get treated a little better because there are two depressions that are being made in here now. So hopefully, but all that filtration is still there and it's going to work better because it's not as overloaded with stuff coming off Access Road; now it's just going to have to deal with Bridgeport Avenue. But also taking the filtration issue to heart, so we had that issue down there as Dominic describes but there is one area where we can do something about it. And that's Buddington Road and areas West of Buddington Road. You got the drainage coming down the streets, coming off the house, coming down here. We used to have a pipe that used to come straight across and what were going to do is we are going to reroute it around obviously. But, this is going to be an opportunity to, you know, maybe it's not filtering ours, but it's doing some good for Buddington Road. So we're going to let this water come off, we're going let it get between the curb line and the rock or retaining wall; whichever it happens to be. Then we are going to force it for a distance, we're not just going to pick it up. So what will happen is, you're going to have the curb for the parking lot and you're going to have the rock cut and between there we have some area, we are going to run that all flattish, very, very, flat; like a half a percent, which is almost no pitch at all. So everything you see in the dark green, coming up this way and over this way, so all this water that comes off here, will get into there. And then we have the specks and I'm sure John will want to come and look at them. Or the grasses we are going to plant being and unmaintained area and we'll get some filtration in that way. So I think we're helping out the Buddington Road situation.

Commissioner Szkola: How wide is that area Jim?

Jim Swift: That area in between is 10 feet.

Commissioner Szkola: So that will take care of any snow shelf stuff too and salt and sands.

Jim Swift: Yes, it will have a real good pitch down and we're not going to let the parking lot stuff get in there. We're just going to take it from up in here and run it through for awhile and my thinking was from here to here, but then I realize that this whole thing is just level. So you could just run it over to here. So, you know, you do that whole area in a flat way and you take care of a couple of birds with one stone. So, another issue, so this is a change, the drainage gets picked up and goes down into the city drainage down in here and comes around, so that is how we are rerouting that. We have all the drainage laid out for that. What I'd like to do, this is a presentation copy, and this is two sign sealed copies of this particular revision for the record. Last thing we talked about is something in regards to

maintenance. We have these two chambers here, I couldn't find what we did for Split Rock, but what I did do is that these are Hydro Works chambers and they have a specific maintenance schedule. That schedule is laid out in these papers, this manual, which I'll submit for the record. But just to go through it very briefly, it gives a schedule of how much water is going through there, when you should clean out the trash, when you should clean oil, how you suppose to clean out the oil. Also, what kind of equipment you use to clean out the sediment that's in the bottom, so it gives us that whole spiel on those two structures. What we can do is also add by a condition of approval or refer it to John to combine that and extend it to the main storm water system as well and use those same techniques and the same time frame for doing that. And lastly, I just want to make reference to the fact that Planning and Zoning and Dominic and perhaps (tape inaudible) as well on this, in the statement of usage and standards, this is a planned development district, so we get to throw out the rule book and write a new rule book which is the planned usage and standards for this particular site. And what Planning and Zoning have been doing is adding a maintenance section in it, and that maintenance section for the purposes of Planning and Zoning pertains mostly to, you'll have to sweep the sand off the parking lot, you'll have to mulch the beds, you'll replant those trees and things like that. But it's a fairly elaborate schedule and it gives us spring, summer, fall, type of a schedule to it. We can also make, by condition, tie this into that issue as well.

Dominic Thomas: On that point as well, the new PDD regulation that they adopted in 2006, does contain a specific reference to consideration to your reports. Now, in the normal circumstance your report would come in in-between the initial concept plans and the final site development plans. Because of this site being a pre-existing site, the way it is, we've decided to come in ahead of time. So the advantage which I think is that when your report is issued, if you want to put that maintenance system as part of the statement of usage, that could be very easy to do and that could be incorporated. There's now a lengthy maintenance section in the statement of usage and standards. So that can easily be incorporated. And then it becomes part of the zoning regulations that governs this site.

Chairman Zahornasky: OK... Any questions?

Commissioner Szkola: Yes, Can we include the use of calcium chloride instead of salt?

Dominic Thomas: I think we discussed that last time. We have no problem with that.

Commissioner Szkola: We asked for a schedule of construction so if the sites opened up at once we want to see, it goes through seasons.

Jim Swift: And I think we agreed at the first phase of the hearing that we will work with John. I mean we do have, there is a complete soil erosion plan where they have a phasing plan submitted. It includes, we identify the stock piles which are these upper parking lots, and we identify the pond area down in the lower corner. We call for the swales and such, so we do have all that.

Commissioner Szkola: I'm looking for something in addition to.

Jim Swift: Right and I understand. What you are looking for is in addition to once we get a better handle when we can start work and then we can assign that.

Commissioner Szkola: Right.

Jim Swift: And we agree that, any sort of kind of condition, we will provide that to John Cook prior to his preconstruction meeting.

Commissioner Szkola: I'd like for the commission to also think about a bond tied in with Planning and Zoning. We've got stuck in the past where if they don't seed it say before the winter, then we can go in there and do it, use the bond money to do it. Almost like a bond separate from ...

Chairman Zahornasky: That would go before the Planning and Zoning board.

Dominic Thomas: They put a soil erosion sediment control bond, but there is nothing to prevent this commission from analyzing and suggesting to them in your report the amount of that bond. In every PDD, there are two bonds. There's a site bond for the site improvement bonds and we've gone back and forth with the legality of that one but clearly when P&Z proposes its soil erosion sediment control bond, that one which is basically to ensure that areas are stabilized. That can take input from there and the best example I can give you because it involved enormous construction, one hundred times bigger than this. That is the way they did it for Oxford Greens. As they were opening up that development, they imposed what amounted to a large soil erosion sediment control bond, and those were large areas that were being opened up so that they could be stabilized in the case that the developer walked away. And I think that should be included in your report when it goes to Planning and Zoning, that it should be an appropriate amount to allow this. They usually require 15 thousand, 20 thousand, something like that. Sometimes they go as high as 35 thousand dollar bonds.

Commissioner Szkola: So we can have John analyze that and give them the suggestions as to what and how.

Chairman Zahornasky: Right.

Commissioner Szkola: And then the other thing, the last thing I talked about is that I was not happy that in my mind we didn't get any mitigation out of this, period. And I wanted to see some more landscaping in order to cover mitigation. Did you address that?

Jim Swift: That's the space that we are sort of left with. And I think our main point on the mitigation was, that you have a wetland and that's what we're asking you for. You have a wetland and we're asking you to let us go in that wetland and that's the whole reason we are here. There has to be some concept that you're losing some sort of benefit, which it would be crazy to argue that you're not. What it is, you've seen the pictures, it's not God's gift to wetlands but it's something.

Commissioner Szkola: I'm not arguing that.

Jim Swift: So I guess the counter argument that I have Randy, is what we're doing with the runoff quality and the runoff volumes is the mitigation. There's not a whole lot other we can do. I mean if you have something specific about, and don't say take out this block of parking, and put in a park or anything. Anything else to do with the landscaping, we'd be glad to do it but you know...

Commissioner Szkola: First of all, I don't buy your argument. Because if you came in, it was a blank site, never been done, whatever, doesn't matter what it is; we are still going to require top quality water, and we are going to require a 0 increase in runoff, the whole bit. I mean, our record stands on that. I mean, we are not gaining anything there above what we require.

Jim Swift: Right. That is what we are giving you.

Commissioner Szkola: Right, right. There is no argument. You've done a good job. But now, I would like to get something for mitigation. I consider additional landscaping to make this a greener site, aesthetically and for whatever habitat we can squeeze out of it to make it a greener site. I consider that beneficial in mitigation.

Dominic Thomas: Let me address two points. First of all, this isn't, and I'll get to the landscaping second because there have been some discussions about that already. This is a restricted business zone, with an existing use on it. If Szarmack came in to use it as it is, I really don't know at that point, basically because it would be a site plan approval at the Planning and Zoning level. What, if any authority this commission would have to require changes in water treatment; because it's just a continuation of existing use. So, with all due respect, I don't think it's a situation where we're giving you something we could have got anyways if it continued in the same use. We are making the change. That being said, do you have the pictures of the proposed wall and landscaping in the front? This was addressed initially in the informal discussions with Planning and Zoning. The front of the property right now, other than being weeds, fence, and pavement coming down to Access Road, which tends to look ugly in itself. Planning and Zoning was very concerned with the green look, facing Bridgeport Avenue. Remembering what you have, this massive building, granted you do have what is on the hillside in the back. The proposal, and this includes, this is what they want people to see from Bridgeport Avenue, a stone wall, aesthetic trees, plantings and everything around Bridgeport Avenue. And there is also a great concern for creating a landscape buffer up here and of course, this is not going to be the parking lot that looks like that, it's going to be a parking lot with island and trees. So there's going to be extensive landscaping on the site and I assume, Jim this doesn't even show that area of land that you are proposing for filtration? Correct?

Jim Swift: Correct.

Dominic Thomas: OK, so there is and we are addressing in addition to that, that we are addressing the landscaping issues. This is going to be a very green site and I guess to contrast it; when you're looking at Split Rock, you're looking at a multi-level site. And Split Rock is able to achieve the look at the bottom of green and pond and as you go in and go up. This is going to be a relatively flat spot, but slightly elevated to the road and the image that they want to see is going to be green, a very nice wall and then if you're looking at the site from the angle you are looking at, it's going to be green, it's going to be trees. And that's going to be the impact and if you're looking over the building you're going to see trees. And as these people are looking down, they are not going to see anything other than evergreens. So that's that. I do think we are addressing it. And I think it's a combination of that plus the water treatment impact that is the mitigation. Jim I don't know if you have anything else to add to that.

Jim Swift: The only thing I can add to that is that this is the area we are going to be concentrating on and to the point of mitigation, you think of, fauna and birds. The only thing we could say is in areas where we are not trying to make as dense an evergreen screen as we can with spruces and things like that, we throw in some bird and friendly animal species in there. You know, berry bearing species like that.

Commissioner Szkola: I don't think it's that much of a habitat for birds.

Jim Swift: But it's pretty much all we got.

Commissioner Hayes: The bottom line, it's not going to be a new and used parking lot.

Commissioner Nappi: If we want to put to our recommendations that the bond or they submit the landscaping plan and that the bond covers that, so we don't fall into a problem Randy. I think that's a sufficient thing to do.

Dominic Thomas: That's PDD, that's the second half of their bond.

Commissioner Nappi: OK, as far as we're concerned to satisfy that...

Dominic Thomas: Yes, they impose a site bond that requires us to ensure all the site improvements.

Commissioner Szkola: Here's my but...

Commissioner Nappi: Well with all respect, if we don't have a list of what the site improvements are, we have run into this in the past.

Dominic Thomas: The only catch and this is the catch of coming before you now, before we are going for the initial concept plans. If you've ever attended a PDD public hearing, they are very landscape intensive when it comes to this. So I think what you can do to address it is when the final landscaping plan is approved, that it gets submitted back to you for your referral for filing so that you can observe it. And certainly then, before the final site development plans go in, you can make any comments, as a commission, you're welcome to make any comments. But normally at this public hearing stage, that we're going to have in May. Unless Tony and Rick both are away, they are going to comment, very heavily on landscape, on it.

Commissioner Szkola: So your argument with me doesn't hold water. Because we are increasing the site by a third at least and we are turning it into an impervious site. Which most of it now is already? Chances are there is too much parking anyways. For your sake and for our sake, there is too much parking. If you go to any shopping center around here and there is too much parking, it sits there empty.

Commissioner Nappi: Well, parking determination is not of this board.

Commissioner Szkola: No, it isn't.

Commissioner Nappi: It's of Planning and Zoning, based on what kind of plan they are submitting.

Commissioner Szkola: So, what I suggest is, if we write a letter to P&Z, and say that we would rather see some of this parking turned over into green space and defer it and let them really analyze this. It would be beneficial to you and it would be beneficial to us.

Jim Swift: Well, OK, I'll explain what we did with the parking on this one. We obviously have a lot of experience doing these kinds of things up and down Bridgeport Avenue. We started out with Crown Point which has its own problems because the whole traffic pattern is just such a disaster. We started out 5 per 1,000 for commercial, 4 per 1,000 for office on second floors, and 8 per 1,000 for restaurants. We did the same thing with Split Rock. Same kind of parking ratio and what we are finding out, and not at Crown Point because they went crazy with restaurants, but at Split Rock it's probably over paved. It fills up in certain areas, like Outback and V's, but it's probably over paved. On this project, we had that experience on mixed used parking in this general area, so we are going with a straight up 5 per 1,000. That's it! So no matter what's restaurant in here, it doesn't matter, we're not going to the 8 per 1,000. We are going 5 per 1,000. So, I don't have any problem with your suggestion and your issue and your request to forward it to Planning and Zoning and let them consider it. And many times they have deferred parking and that's fine. I just wanted to make sure that you were aware of that there is a difference between this one and Split Rock because we did condense the parking.

Commissioner Nappi: What does it show for parking spaces?

Jim Swift: 5 per 1,000. You mean the actual count?

Commissioner Nappi: Yes.

Jim Swift: 671

Dominic Thomas: This is the first PDD we are going into using the blended system of parking for it. One of the things that we are going to be arguing to P&Z on it is that you can't use the system that you have used in the past. Because by doing it that way, the 8 per 1,000, you are actually putting parking in for uses that don't have similar use time. Therefore, the blended rate is better because you have a site that has shared parking. Now, one of my experiences with the parking issue is Wal-Mart. When Wal-Mart first came they had a stock parking amount. And the initial amount of parking, they initially wanted was 800 and something spaces and it was decided that that was too much. Now, in Wal-Mart's case, there were two areas and I think if I'm not mistaken those two areas still exist. They were designated as, to be, graveled or grass and they were to be, they were told, if they needed the parking, they could add it. Certainly, we can propose whatever we want. But with Planning and Zoning, if they believe that something here is excess parking, with the understanding that we are going to have to set it up so it can be paved at some point if that's the case. The fewer pavements we have, it's easier to maintain and it also looks better than black top. So, we are on the same plane with you and we've actually taken steps in this case to do the blended parking. If they say, four or four and half to start with, fine. We will shrink it and add more green.

Commissioner Szkola: Yes, if we can write a letter to ask for consideration in that and ask them to consider deferring the parking.

Dominic Thomas: We have no issue in that at all.

Chairman Zahornasky: Now getting back, you're proposing some mitigation up on top. Is that in lieu of what you're doing on the state property?

Jim Swift: No, that remains.

Chairman Zahornasky: Well, then what I would ask, and maybe along your lines with some additional mitigation. Can you actually, there is nothing shown on this plan, is there something you could possibly draw up, so we have a better feeling of what you're going to submit to the state and ask them for. In other words, if you just go in there blank and say the commission would like us to this, I would feel more comfortable if I saw what you have proposed to the state. Even if you couldn't put a bio filter in there, maybe you could get in there and clean it up, plant with different types of plantation that act in the same way. I think maybe the state would go along with that, I think it would be a benefit, but I would like to see it on this plan, so even though it may not be approved, it is on this plan, it's part of the record.

Commissioner Nappi: The only thing is that we are not the approving authority.

Chairman Zahornasky: No, no I'm saying, do you see my point. At least this is what we are proposing to the state. Or you're proposing to the state. We know what you're going in there to ask for.

Commissioner Szkola: I think it's a good idea.

Jim Swift: Well, the state does listen to local boards. I would suggest a condition that prior to submission to the state for their encroachment permit, that the plans be submitted for review and comment sent to John.

Chairman Zahornasky: OK, that sounds good.

Commissioner Hayes: So the specific uses of the facility have not been determined?

Dominic Thomas: Well, retail. The list of uses for the usage and standards are retail, office, other retail. The largest block you see there is most likely going to be a food store.

Commissioner Hayes: I think what Gary is saying is if it goes back and the use changes and you can pick up more landscaping on the front side. And that's what Randy was...

Jim Swift: For marketing purposes though, we're never going to get below 5 per 1,000 for parking.

Commissioner Hayes: You already have more parking than what you need.

Chairman Zahornasky: Anyone from the public that wants to make a comment on this?

Gil Pastor: 150 Trail. I just went over a couple of things in the proposal; one thing was the water detention on the Shelton preconstruction cubic feet per minute, cubic feet per second. Post construction detention there's actually a decrease in the post construction in the water cubic feet per second. Which personally I think is a good thing because one if you go down stream and follow the detention area that goes down stream along Bridgeport Avenue where it goes past I believe it's a Japanese restaurant the Wendy's, in that area. If you take a look at that area of the stream, it's become highly eroded, the banks. And it's because of all of the pavement, all the construction, and all the additional runoff that's going in there. The banks of that river is a small stream that is extremely eroded and also take into consideration that take a look at the Well's farm where the stream eventually runs into, you have a good working farm there. What's happening is at Mill Street, currently right now even if we have a one to two inch rain storm that water coming through there basically flood now. And you're getting massive amounts of silt runoff going into the Far Mill River. That's something you really need to take a look at, not only with this application, but with anything else that comes before this committee. Right now, the silt runoff going down into the stream is eroding the embankment. Naturally, that drains very badly and at a very rapid pace. You did a great job with the detention; you may want to expand the detention because eventually you're going to have more construction downstream and it's very vital to keep as much silt out of that river as possible. They did a pretty good job, but I would ask for an increase in the size of the detention pool. That's it. Thank You.

Chairman Zahornasky: Thank You.

Commissioner Szkola: The other side of Bridgeport Avenue, DOT land; where all fragmentizes are and stuff, that's how you're going to do the spill way in there, and that's it?

Jim Swift: Well that fragmentizes was generated by other activities.

Commissioner Szkola: Right, I'm just asking. I don't have a problem with it.

Jim Swift: It seems to be maintained.

Commissioner Szkola: Right. OK, but they are not requiring you; DOT at this point doesn't require you to do anything? They're fine with just a spill way?

Jim Swift: Well, we haven't talked to DOT yet. But I can tell you from experience that all DOT is going to care about on that side and as far as that issue, is flow capacities. They are not going to ask us about the landscaping per say on that side.

Commissioner Szkola: No, I figured why not do it now, if you're planning on purposing anything.

Jim Swift: Well as I say the...

Commissioner Szkola: I'm not asking for anything, it's just a question. Are you purposing to do anything beyond the spill way?

Jim Swift: No.

Dominic Thomas: There are two points I'd like to make. Number one and it's for the record, its overkill and it's not necessary, but if Commissioner Hayes is going to vote on this, if he would state for the record that he's reviewed the previous tapes. I don't think you were at the previous meeting, at the previous public hearing, and this is a continuation. And number two and it's something you may be hearing more often after what is known in the trade as the Stew Leonard's fiasco. I would certainly hope, and I know you're not going to vote on this tonight, but prior to the next meeting, if there is any input on the motion, I would be glad to with either John or with Town Council to comment on the motion. Everybody is now trying to make sure that the conditions, everybody's on the same page as respect to any conditions, if that's the case, and if there is any conditions that are missed. We can communicate with staff, we can't communicate with you as a commission, but we can communicate with your staff. This is something you may hear more often as a result of what happened at the Stew Leonard's, where the commission was up against time, which you are not obviously because you have 65 days from today to make a decision. But they just had to wing it because Town Council was on vacation, and they wrung it and they wrung it wrong. So those are the only two points I have to make. Thank you very much.

Chairman Zahornasky: By that, you mean leave the hearing open until the next meeting?

Dominic Thomas: No. Once you close the hearing tonight, your within your 65 days, once you close the hearing, you have 65 days, I'm sorry 35 days to conclude your public hearing. You have 65 days to make your decision. The only two points I'm making are that Commissioner Neil Hayes identifies that he has reviewed the record of the previous hearing and number two that if there is consideration by this commission as a result of its discussion, to recommend approval that the appropriate motion for approval obviously hopefully going to be done with John with input if necessary, it may not be necessary if Town Council and I'm just offering that staff could communicate with me and resolve any questions about the conditions that we have been talking about tonight. I'm saying this especially because John is not here, because of illness he is not here. That's all.

Chairman Zahornasky: That was going to be my recommendation that we close the hearing tonight and not have discussion on it tonight, but at next meeting. So that John and the City Engineer could review the changes that were presented tonight.

Commissioner Szkola: OK, before we close it. As long as we still have a back and forth going. Let's just go over what we talked about. We talked about a schedule for construction

Commissioner Nappi: I just want to object to the format of the public hearing. It's to hear the comments of the public, not to debate what should be in our motion, or what our deliberation is. To take a public hearing and say we are going to start debating, I don't think that proper what we should have in our public hearing. We should close the public hearing and we could always add something to the agenda.

Dominic Thomas: The important thing that I want to be able to have is the applicant. I want to make sure we are on the same page.

Chairman Zahornasky: This is information that you are asking for? Right?

Dominic Thomas: That's acceptable.

Commissioner Szkola: Asking for schedule for construction, we are asking for a landscape plan review after it goes to Planning and Zoning. We are asking for an addition of Planning and Zoning maintenance schedule, whatever it is. We are asking that calcium chloride be used instead of salt.

Dominic Thomas: Can I go back to number two; you should clarify that to say you want the landscape plan submitted to you for your review prior to the filing of the final site development plans. That would be the appropriate time. That would be after we've done, we've gone through the initial concept of it.

Commissioner Nappi: Let me understand this, your just asking them to produce it. You're not bringing it up that you are requiring or this commission is not taking any action or have we acted upon any of those things. So you may be asking as you, but not the commission.

Dominic Thomas: We're not allowed to go before the state until after we have our full approvals.

Commissioner Szkola: This is just stuff I noted and jotted down. OK. Also that the bond that's going to be put on it gets reviewed by John, so that we can see if we need any additional, so it covers any aspect of the wetlands soil erosion sediment control bond. That commission might want to consider a letter to go to Planning and Zoning for parking concerns, as far as deferment of parking, a reduction of parking spaces. And that a plan is produced for review for the bio filter on DOT property.

Dominic Thomas: Fine.

Chairman Zahornasky: I think those are the points that were made.

**Commissioner Wilson motioned to close the Public Hearing of the Inland Wetlands Commission of the March 19, 2009 Special Meeting. Commissioner Szkola seconded the motion.**

**A voice vote was taken; motion passed unanimously.**



**City of Shelton**  
Office of the City Engineer  
54 Hill Street  
Shelton, Connecticut 06484-3207

Robert F. Kulacz, P.E.  
City Engineer

Rimas J. Balsys  
Assistant City Engineer

203-924-1555 Ext 17  
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Email: shelton.eng@cityofshelton.org

March 19, 2009

John R. Cook  
Wetlands Coordinator  
City of Shelton  
54 Hill Street  
Shelton, CT 06484-3207



Re: Proposed Retail Center, 405 Bridgeport Avenue;  
1) Plan Sheets 1 through 5 all dated January 26, 2009  
2) Storm Drainage Report dated January 28, 2009

Dear Mr. Cook:

A cursory review of the above referenced documents was completed by this office. The following comments are offered for the public hearing on this application:

- We concur with the intent of the stormwater management plan, which provides both stormwater quality enhancement and detention.
- We do not concur with the proposal to locate a 24-inch storm sewer beneath Retail Building A. There is sufficient gradient to run the storm sewer around the perimeter of the building.
- This application shows the portion of Access Road in front of the two former Auto Dealership Buildings as part of the proposed development. The City must agree to discontinue and abandon that portion of Access Road and the developer must purchase the right of way from the City in order to include Access Road in the parcel area.
- The ConnDOT District 3 Drainage Engineer and Permit Section will need to approve the culvert replacement under Bridgeport Avenue as well as the discharge of runoff into the state drainage system.

Very truly yours,

  
Robert F. Kulacz, P.E.  
City Engineer

CC: Richard D. Schultz, Planning & Zoning Administrator  
File:

using 18-8 stainless steel bolts, nuts and washers. Bolts shall be evenly spaced every 8" to 10" along the entire circumference of the joined flange. The bolts holding the upper chamber to the concrete wall are then re-tightened and the exterior surface where the two flanges meet and the slots in the upper chamber shall be caulked with Pro-Seal 34.

13. Install the top cap on the riser sections  
Install the supplied gasket material to the upper riser as per the other riser sections. There will be a vertical alignment mark on the top cap that lines up with the inlet /outlet pipe riser section. The cap must be installed with these marks aligned to ensure that the frame and covers are properly oriented.
14. Grade adjustment  
Concrete grade adjustment rings (minimum 2" thick) or other acceptable materials to the engineer and local or state agencies (ex. brick with 0.5" mortar layer on interior and exterior surfaces) shall be used to adjust the frame and covers to the grade shown on the drawings
15. Set the Frame and Cover(s)  
Frames and covers shall be set to conform accurately to the finished ground or pavement elevation established by the approved drawing unless otherwise directed by the Engineer. Frames should be set in a full bed of mortar such that the frame is watertight.
16. Backfill the structure  
The remaining portion of the structure that is exposed shall be backfilled to grade or the sub-grade of the road or pavement surface in 12" lifts that are compacted to the engineer's specifications.

## **Inspection and Maintenance**

### **Inspection**

#### **Procedure**

#### **Floatables**

A visual inspection can be conducted for floatables by removing the covers and looking down into the separator. Multiple covers are provided on Hydroguard units to access all areas of the separator (The HG 4 may have a single larger (30" or 36") cover due to the lack of space for multiple 24" covers)

#### **TSS/Sediment**

Inspection for TSS build-up can be conducted using a Sludge Judge® or Core Pro® or equivalent sampling device that allows the measurement of the depth of TSS/sediment in the unit. These devices typically have a ball valve at the bottom of the tube that allows water and TSS to flow into the tube when lowering the tube into the unit. Once the unit touches the bottom of the device, it is quickly pulled upward such that the water and TSS in the tube forces the ball valve closed allowing the user to see a full core of water/TSS in the unit. The unit should be inspected for TSS through each of the access covers. Several readings (2 or 3) should be made at each access cover to ensure that an accurate TSS depth measurement is recorded.

The Hydroguard should be inspected every two weeks and after every large storm (over 0.5" of rain) during the construction period.

### Post-Construction Period

The Hydroguard should be inspected once per year for normal stabilized sites (grassed or paved areas). If the unit is subject to oil spills or runoff from unstabilized (storage piles, exposed soils) areas the Hydroguard should be inspected more frequently (4 times per year). The initial annual inspection will indicate the required future frequency of maintenance if the unit was maintained after the construction period. Hydroworks conducts the first annual inspection free with the sale of each Hydroguard separator.

### **Reporting**

Reports should be prepared as part of each inspection and include the following information:

1. Date of inspection
2. GPS coordinates of Hydroguard
3. Time since last rainfall
4. Date of last inspection
5. Installation deficiencies (missing parts, incorrect installation of parts)
6. Structural deficiencies (concrete cracks, broken parts)
7. Operational deficiencies (leaks, blockages)
8. Presence of oil sheen or depth of oil layer
9. Estimate of depth/volume of floatables (trash, leaves) captured
10. Sediment depth measured
11. Recommendations for any repairs and/or maintenance for the unit
12. Estimation of time before maintenance is required if not required at time of inspection

### **Maintenance**

#### **Procedure**

The Hydroguard is maintained using a vacuor truck. There are numerous existing companies that can maintain the Hydroguard. Envirocalm, LLC, an affiliate company of Hydroworks offers inspection and maintenance services and can inspect and maintain the Hydroguard. ([www.envirocalm.com](http://www.envirocalm.com)).

Vacuor trucks vary in size with respect to holding capacity. Typical sizes include 200 to 4000 gallons although larger capacities are available. Typical cleaning hoses are 3" diameter rigid metal and 4" flexible rubber. Access openings are provided on the Hydroguard to clean all areas of the structure using these standard hose sizes.

If there is no defined oil layer, and if acceptable to the local sanitary sewer authority, the water in the Hydroguard can be disposed into the sanitary sewer. In some localities the entire contents may be able to be disposed of in this manner. This represents the most economical method of maintenance. If the solids cannot be discharged with the water into the sanitary sewer, the solids are typically disposed of in a sanitary landfill. It is not expected that the contents will be classified as hazardous waste.

In some cases where oil contamination is present, the entire contents will have to be disposed of at a special facility. Maintenance of a Hydroguard will typically take 1 to 2 hours.

### Frequency

#### Construction Period

A Hydroguard can fill with sediment quickly during the construction period. It must be maintained when the depth of TSS/sediment reaches 30". It must also be maintained if there is an appreciable depth of oil in the unit (more than a sheen) or if floatables other than oil cover over 50% of the open water surface on the inlet side of the outlet baffle wall.

The Hydroguard should be maintained at the end of the construction period, prior to utilization for the post-construction period.

#### Post-Construction Period

The Hydroguard must be maintained if there is an appreciable depth of oil in the unit (more than a sheen) or if floatables other than oil cover over 50% of the open water surface on the inlet side of the outlet baffle wall. It should also be maintained once the accumulated TSS/sediment depths reach 18". For typical stabilized post-construction sites (parking lots, streets) it is anticipated that maintenance will be required annually or once every two years. More frequent or less frequent maintenance will be required depending on individual site conditions (traffic use, stabilization, storage piles, etc.). The long term maintenance frequency can be established based on the maintenance requirements during the first several years of operation if site conditions do not

change.

2. PERMIT-APPLICATION #09-4, SHELTON CANAL. Proposal to fill portions of the Shelton Canal for road widening and development amenities involving watercourse fill and work within regulated upland review areas.

John Guedes: Good Evening, I'm John Guedes, President of Primrose Companies. I have with me, Joe Pereira, engineer for the project. I have with me Keith Metzker, who is an environmental biologist, with our company, geologist, I'm sorry. This is a continuation of our previous hearing, and I think at our last hearing there were just two remaining issues. One we will address tonight and the second I think is, we are going to have Keith Metzker give a report on, and he'll explain also some of the conversations he today with Town Council Attorney Sous, and unfortunately John Cook is not here. But we are going to try and finalize some of the issues, try to give you more information, so to clear up any misinformation or misunderstanding that I provided at last meeting and hopefully provide a clearer understanding to all of you on it. So why don't you first explain, so let's start with the easy one. At the last hearing, there was a concern about how to deal with any sediments and any water quality issue and Joe can go through that and explain what he's done.

Joe Pereira: Again for the record, Joe Pereira. As John mentioned storm water quality the thinking was what we are doing about this runoff that travels into the canals. And what we've done is that we've introduced deep sumps with hooded outlets. It's a very simple system, yet effective. Its localized treatments, what we're doing on site C and D, we've done on the other sites as well. And again what that allows us for separation of swales as well as sediment from this storm water treatment. Again, we will accomplish that in both catch basins before it heads into the canal. It's very simple, but very effective.

John Guedes: Now leading on to the issues of the placement of fill in the canal system, we should understand one thing, a couple of things. One is that the primary purpose of the fill, the partial filling of the canal areas, is for the future road construction of Canal Street by the City. That's the primary purpose. And in doing so, it's being done on the basis that the State Traffic Control Commission requirements on the permits that they issued. The introduction of the Canal Park was something that I introduced, that had nothing to do with the requirements for the road system. And it was strictly done on the basis of me as the architect for the Shelton Riverfront Development, as the primary developer of the project. I wanted to introduce a Park feature to this and that was the main purpose. The issue of the placement or the elevation of the bottom of the existing canals, first of all, there is no real knowledge as to the exact depths, they all vary because of the silts and so forth. But, it wasn't purposed that we would touch any other areas of the canal, it was only purposed in the pools that were being created and again that was only to create the park feature. And then the issues come up that in a statement, I thought I made a statement that this area had historic contamination in the fill and then we got into the discussion of historic fill, and so forth. As far as the issue of what is in the canals and nobody's ever done any testing, we have no knowledge of what's there and what's not there. We do know that there is no history of any companies dumping any type of sewer systems into the canals. The history of the canals were that the water travels through this for the purpose of cargo being shipped through and the purpose of providing water to run the facilities, whether it was through the generating of electricity or running equipment, and so forth. So with that, I'm going to bring up Keith Metzker, Keith as I said, is an environmental geologist with my firm. He's been involved in this project, with the Shelton Riverfront and all sites, from its inception. He was involved with the work that was performed at the Canal, at the Asphalt Plant, the mitigation that took place there, the clean up and so forth. I'll let him now go through it.

Keith Metzker: Keith Metzker, for the record, environmental geologist with Primrose. I'd like to start by saying that I do have pretty intimate knowledge of all the properties involved. I manage all the

environmental issues and redevelopment for all these properties. So if there have been any investigations for ground water soil, any of the properties, since we've become involved, I've been on site. I've been involved and watched the consultants we've been using. And anything that's been done prior to our involvement, I've reviewed extensively. That being said, there's no, like John said, there's no evidence, there's no sampling. There's no reason to sample. When I spoke with Attorney Sous earlier today, a number of times, at length, it's a dilemma because there are certain regulations, federal and state, for how environmental investigations are done. There has to be a reason why you go sample something. There has to be an area of concern, so if you investigate an area, you look at an area, you do a Phase One and if there's a use of the property that would require that you physically take a sample, in this case we are talking about sediment. We would have to go and take a sample from that specific location where they were changing oil in cars or something like that. In this case, it was a waterway; previously it was filled in the 1950's in most of the portions of it. And we've had Phase One's done of all the properties on the other side and these encompass a radius of area which obviously would include, most of them go up to two miles for some of the searches, and they would tell us if there has been any recorded spills or anything on record, historical dating back, at nauseam, to say if there would be any issues in the canal. None of that has shown up. So there is no reason to think and if there was a reason to think, the testing that has been done, which obviously has been extensive of all the properties, if there was anything suggesting that there was contamination coming from the canal, we would see it in these other properties. Ground water flows from Howe Avenue to Housatonic River. So anything that would be coming out of here, we would be seeing, especially in the ground water. There is no, for the industrial properties, you can see the ground water in these locations...

John Guedes: Just to add to that, excuse me for one second Keith. It's important to what Keith has just said, and the reason being, as you know the Asphalt Plant, we not only demolished it but we also did the environmental cleanup on it. We did about a million dollars worth of mitigation on this site. Now in order to do that, we had to do borings, we had to do the diggings and so forth, and we did that early on. Then we, Avalon came into the picture and Avalon signed a contract for the purpose of building a facility there. And they in turn, because of their requirements under their funding process, they also hired, who did they hire? They also hired their own company to come in and they just drilled holes throughout the whole site to just make sure to the fact that it was clean. And basically, we are satisfied that the work which we have performed on the site, was done properly and all contamination had been removed and again that contamination was strictly associated with previous uses of that property. Whether it was the Beard's with their facility or the Asphalt, whatever it was. But again, as Keith had indicated, why that is important because everything coming from the west side heading east would go in that direction and it would be picked up if there was anything leaching from the canals.

Commissioner Nappi: John I think your right because some of the confusion was when you brought up the word hazardous.

John Guedes: Historic fill.

Chairman Nappi: There's no excavation of this area, it's just going to be a fill in this area.

Keith Metzker: Yes.

Keith Metzker: Well, then there's a couple of other points I'd like to make in that area. Number one, the issue would be sediments in the canals. Even if you took samples, there is nothing to compare it to. There are only soil standards and ground water sample/standards, and surface water standards. There's no sediment standard to compare any results to. And also, the final thing, what John may have been alluding to, I wasn't at the last hearing. If by chance there is something, that there is a problem, we are going to be covering, filling in the canal, filling in portions of the canal. So, even this portion is going to

be made shallow. So we are going to be adding clean material atop of whatever is there. And according to the regulations, what the state would consider remediated would include environment land user restriction. You can't put land user restriction on a property, unless it's in the (tape inaudible) for volunteering cleanup program, which these properties don't qualify for, it's not necessary to put them in. But you can do it in spirit, you can do by complying with the inaccessible soil, so if you put four feet of clean soil on top of any contaminated material, then it is considered remediated, as long as you don't mess around with it. Or two feet of clean soil and then blacktop.

Commissioner Szkola: How do you do that though when it's accentually under water?

Keith Metzker: Well, we are going to be filling this in. You shut off the faucet, basically you turn the water off.

Commissioner Szkola: Don't you have to pump it out though.

Keith Metzker: It doesn't pump out, it will just dry out.

Commissioner Szkola: If I put rocks and sediment down there, what's to stop the, when it goes down it's going to come up. Sediment is a finer material.

John Guedes: Well, keep in mind, and I think we touch on this last time; there are two systems that flow through here. One system is in a six foot pipe that flows between the road and the canal and then the other system is the open canal. When we've had to do work here in the City and so forth, we've actually asked Szarmack to shut down the gate, with the exception of the seasonal brook that does and otherwise this thing will, the water will just stop flowing. The question as to what happens, you know, when we are talking about placing that amount of fill, your assumption is that that's muck and that's not necessarily solid material and therefore that muck may come up.

Commissioner Szkola: I think it's beyond may, it would, but go on.

John Guedes: But again, I think for the areas, obviously we are going to have to drain this, stop the water from flowing, because our intention is to build some walls. And we can't do it unless...

Commissioner Szkola: That's what I was asking, are you going to have to pump it?

John Guedes: Yes, we are going to have to do something so there isn't that muck and so forth. But again, I think that the issue is we are focusing on here and the other sections we won't fill the City's going to fill. The only thing we are talking about is dealing with the construction of a park, not for our purposes, but for the public's purpose.

Commissioner Nappi: I would think that they would have to compact some of this if you're going to put parking on it anyways.

John Guedes: Yes. But again, I just wanted to make sure if the commission had any questions concerning the confusion over this so called contamination; that we had an opportunity to clarify it and any other concerns. I did submit a letter, I don't know if we had it, but if the commission needed some additional time, I gave consent for the purpose of, and I think I said, Keith had numerous conversations with Attorney Sous this afternoon and I think from what I understand, Attorney Sous did get a better understanding of what we were doing. I think what his recommendation is going to be is that we perform any work, that the commission, if they grant this application, that condition on all work being performed per DPE and EPA regulations.

Commissioner Wilson: I assume the city is liable for what's under there anyways?

Chairman Zahornasky: Well that is one of the reasons we went to Corporation Council as to what exactly is the cities liability to this. The last report I have from City Engineer was that, this is obviously prior to your conversations; his advice was basically to not approve it unless the contamination issues are addressed. But now seeing what you're saying and stuff like that, I can see your point, but I would still like to see something from him in writing.

Keith Metzker: I think that that's coming.

Chairman Zahornasky: Because that was one of our concerns, that we would not be liable, because now it becomes City property.

John Guedes: The one thing you have, but it isn't going to be City property.

Chairman Zahornasky: Well it's going to be under the road, which is City property?

John Guedes: Well it isn't. You have to understand the history of how this thing has evolved. The way the administration has decided to go on this is that they don't want me to deed over the land; they want me to provide easements. So therefore, it's never going to be, the property is not going to be transferred over to the City. An easement is going to be provided for the purpose of the road.

Commissioner Nappi: I think for those members who may have not been here last meeting to discuss this, there were a couple other issues that have been resolved, one would be according to DEP and EPA standards for the fill. And two we had asked that, if it's going to be open and it's going to be a park and you're going to aerate that water in there. Did we include a maintenance type of clause; do you agree to do that?

John Guedes: But I think we needs to be done is and maybe myself, the City Attorney, and Jimmy Ryan. You know, all those involved, should have meeting prior to our next meeting, so they all understand, because it seems like you have City officials not communicating with City officials.

Commissioner Hayes: You mention that there was a phase one done, a report of the surrounding areas.

Keith Metzker: We've done for each individual property a phase one.

Commissioner Hayes: Phase one, as far as I know, is a historical paperwork type of thing about what could have happened whenever. But there's been no actual samples taken?

Keith Metzker: No, that's Phase two. Phase two is the samples. No, there's been, along this street?

Commissioner Hayes: No, in the canal.

Keith Metzker: In the canal, no.

Commissioner Hayes: So we don't really know what's in there, because I have seen properties with an oil spill, I won't mention any names, that saturated their property and they cleaned this up for 20 years with monitoring wells, and in the adjacent gas station, had a leak on their tank continuing to leach gasoline and oils into their property. It never goes away until the gas station shuts down and there's no more source...

Commissioner Wilson: I think with him doing the mitigation and the pollution across the street it would have leached down.

Keith Metzker: If there is anything in here, we would see it on the ground water here.

John Guedes: Keep in mind, that some of the clean up done here... The thing you have to keep in mind here, with the exception of this area, we have gone up and down this road on a verbal request from the City. I mean, if this commission was to say, Oh well we deny this application, the next step would be that the City would be that they would take over our position and they would come before you to do this. If you understand what I'm saying,

Commissioner Szkola: Well whoever, someone has to find out what's down there. I think if we require you to sample it, then we are covering us and the City and you. And if there is a historical record, in fact, that PCB's are and we've dealt with that before in this commission, are in this river, and the sediment and the lake above... We've dealt with it before when they tried to dredge that lake up there above the dam. They denied to permission to dredge that lake because of PCB's because it was the water from Housatonic. This is the same water from the Housatonic that goes through this canal has gone through this canal historically, there's no denying that. So I'd feel a whole lot safer sampling it, and if they come up with nothing, great.

Commissioner Hayes: I'm not against filling the canal; I'm looking for a clearer path so that...

Commissioner Szkola: I'm not against filling it either...

John Guedes: What I'm suggesting is let's take the worst case scenario, and let's say that PCB's were found there...

Keith Metzker: And for the record, no PCB's have been detected.

John Guedes: But what I'm saying, your still talking about a hypothetical, and the fact that it is private property and there is no, we are not mandated to do anything with it, meaning there is no order from the DEP or EPA or anything else regardless, I don't know what's there. But to ask us to go around and drain it, to sample it, what exactly is it that we are achieving?

Keith Metzker: We wouldn't even know what to sample or where to sample.

Commissioner Nappi: OK, it's not going to the City. It's going to be maintained there. I feel comfortable putting in a stipulation that it would be filled in and fill used with DEP and EPA regulations. And that would satisfy me.

Commissioner Hayes: I don't know if this is true, I might be going beyond my bound here. But usually when a lending institution lends money to an institution, they want to make sure it's clean, a clean site. So, if Phase one has been done and Phase two is not.

Keith Metzker: No, Phase one has not been done for this. And John, when you purchased the property...

John Guedes: There is no...

Chairman Zahornasky: Let me backtrack and read a letter from John Cook and the City Engineer.

PRIMROSE CONT CO 2033674961 04/09 07 22:23 NO. 924



Mr. John Cook  
City of Shelton  
Inland Wetland Commission  
Shelton City Hall  
54 Hill Street  
Shelton, Conn. 06484

April

Re: Partial Filling of Canals  
Permit application #09-4  
Canal Street



Mr. Cook:

It has come to my attention that the commission members may have some unresolved issues and may need additional information or clarification. Additional time may be needed to address and satisfy their concerns.

If the commission determines that additional time is in fact needed, I hereby authorize and request a continuance of this application until the next regularly schedule hearing.

Sincerely:  
Primrose Companies, Inc.

John N. Guedes, President

1425 Noble Avenue  
Bridgeport, Connecticut 06610 USA  
Telephone: 203-367-5180 Fax: 203-367-4961  
Email: johnguedes@sbcglobal.net



**City of Shelton**  
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April 7, 2009

John R. Cook  
Wetlands Coordinator  
City of Shelton  
54 Hill Street  
Shelton, CT 06484-3207

Re: Canal Street Improvements, Primrose Development, LLC;  
Site Plan Sheets 1 through 10 all dated January 20, 2009



Dear Mr. Cook:

This office has reviewed application No. 09-04, which details the development of the former Canal Company property located between Canal Street and the Housatonic Rail Road Company property.

My discussions with the Executive Director of the Shelton Economic Development Corporation revealed the following background information:

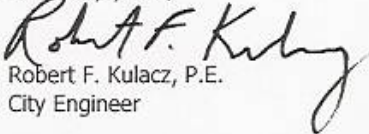
- The developer has acquired the Canal Company property located between Canal Street and the Housatonic Rail Road Company
- The developer has granted an easement in favor of the Shelton Canal Company in order to maintain the supply of canal water to its last remaining customer - Chromium Process
- The developer will grant the required easements to permit the City to reconstruct Canal Street. The final design of the project has recently been authorized by the City

Our review shows significant areas of the open canal being filled and replaced with surface parking and a series of smaller ponds. Sheet 7 has an obscured note stating "*Portions of Canal to be Filled to Accommodate Road Widening, (Approximately 3,474 CU YDS OF FILL)*".

The Canal Street improvements shown on these plans are preliminary in nature and are to be constructed by the City. The final construction plans are being prepared by the SEDC consultant.

I have no concerns, comments or recommendations on this proposal to modify and reduce the area and depths of the existing open canal water bodies.

Very truly yours,

  
Robert F. Kulacz, P.E.  
City Engineer

CC: Richard D. Schultz, Planning & Zoning Administrator  
James Ryan, SEDC

File:

**COMMENTS:** The application proposes to fill portions of the canal for future expansion of Canal Street as well as the creation of several architectural pools in front of the previously approved Radcliff Development. It also seems to indicate filling portions of the canal to create shallower water depths.

At this time just several questions arise. First, what type of material is proposed to fill the canal for roadway, pools and shallow water creation? The material should be clean earthen material or certified process per state guidelines. Second, on what basis does the applicant warrant making the canal shallower and how is future integrity of function maintained? Lastly, in conversation with the surveyor and applicant's geological engineer the question arose as the filling of the upper canal beyond the cul-de-sac. It was conveyed to staff this filling was not part of the application. Staff stated that it should not be shown then. There is existing access to hydro plant and frontage on the cul-de-sac for the Watts Tower. It seems the showing of fill here is for a future road extension and presumes authorization. There has been much discussion and opposition by others to FERC regarding the concept of filling the entire upstream canal for development. Based on this knowledge filling should not be shown here unless it is part of this application.

Chairman Zahornasky: I would feel more comfortable if Attorney Sous would write a letter stating that the City is basically going to construct the road. If the City is going to construct the road then...

Commissioner Hayes: So we are approving an intent here.

Chairman Zahornasky: Right and it's up to the City to somehow ensure that's it's done by state guidelines and accordance to all...

Commissioner Nappi: From our past meetings, just to add to that, in order to get approval to continue, the state traffic commission came out with saying that we will give you approval provided that you do A,B, and C. And that's when the City, and tell me if I'm wrong, and John became partnership in order to make those improvements in order to get STC improvements and to widen the road, that's why the fill is here.

John Guedes: But I think that this commission...

Commissioner Nappi: Not to make an historic park.

John Guedes: But I think this commission can act on it and I understand the responsibility factors, and because of the fact that there are two entities involved. And that's my group and the City as partners that this commission would be in a position to approve the application subject to all activities conducted in the filling operation to meet EPA and DPE standards. And I think that would protect you from, as a commission...

Keith Metzker: And also, just to interject, in my discussion with Attorney Sous earlier, he was trying to call John, but John had left for the day. And that's the conclusion he came to was that will the town have no liability if we put in a condition to say that everything will be done according to DPE and EPA standards.

Commissioner Nappi: And another thing is that the road has to be constructed according to City standards, by an overview of the City Engineer.

John Guedes: You should keep in mind also that in this endeavor, we are just not talking about the City, your also dealing with the state. The state has the matching grant here, so there are a lot of parties at play here and again anything I am doing is an attempt to do is in order to facilitate to make sure everything runs smoothly. And so I said, if this commission or someone says, don't do the park, and then OK, we don't do the park. We are not financially benefitting.

Chairman Zahornasky: I was mostly concerned about the liability of it of not knowing what was in there and now seeing that it does not become a City road, does the liability down the road fall back on us ultimately being the City? So I think that's a very good condition.

Commissioner Szkola: What's the clock on this?

Commissioner Nappi: Makes motion...

**Commissioner Nappi motioned to approve the application with the stipulation that any fill and method of filling come under the regulations and guidelines of DEP and EPA standards. It should be referred to City Engineer for any of his actions on the construction of the road. This is all pending approval of the City Council. Commissioner Wilson seconded the motion.**

**A voice vote was taken; motion passed 5-1 (Commissioner Szkola opposed).**

### **3-C. NEW BUSINESS**

None

### **3-D. OTHER BUSINESS**

#### **1. Open & Ongoing**

##### **a. Dimarco Property – 11 Holly Lane VIOLATION**

Attorney Welch was unable to get response from Mr. Dimarco's attorney.  
Waiting for feedback.

##### **b. Gates Property – 24 Hunters Ridge Road VIOLATION**

He left a message that work has been completed and John will be going up to take a look.

##### **c. Perry Property – 34 Sharon Drive**

Mr. Perry is still working with Tracy Louis, he came to the office last week, he was advised it may be a good idea to come to the meeting and prepare a letter to provide the commission with a schedule coordinating with the owner. Table item.

##### **d. Paiva Property – 49 Blacks Hill Road**

Joe Pereira, he is working on the matter, not done with plan yet.

### **4. MINUTES February 19, 2009 Special Meeting**

Table item.

Commissioner Nappi: Asked for update on the alternates and members.

## 5. ADJOURNMENT

**Commissioner Wilson motioned to adjourn. Commissioner Szkola seconded the motion.**

**A voice vote was taken; motion passed unanimously.**

**MEETING ADJOURNED AT 8:22 P.M.**

**Respectfully submitted,**

*Kimberly Wells*

**Kimberly Wells / Clerk**

1 Tape on file in Town Clerk's office