

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
PUBLIC HEARING
TUESDAY, AUGUST 1, 2017
TOWN HALL 84 SOUTH MAIN STREET
COUNCIL CHAMBERS AT 7:30 P.M.**

Members present: Robert de Jongh, Charles Dimmick, Earl Kurtz, Kerrie Dunne (arriving at 7:33 pm), Will McPhee and Thom Norback.

Member not present: Dave Brzozowski.

Staff: Suzanne Simone.

I. CALL TO ORDER

Chairman de Jongh called the public hearing to order at 7:30 pm.

II. PLEDGE OF ALLEGIANCE

All present recited the pledge of allegiance.

III. ROLL CALL

Mr. Kurtz called the roll.

Members present were Robert de Jongh, Charles Dimmick, Dave Brzozowski, Earl Kurtz, Kerrie Dunne (arriving at 7:33 pm), Will McPhee and Thom Norback

IV. DETERMINATION OF QUORUM

Chairman de Jongh determined there were enough members present for a quorum.

V. BUSINESS

Ms. Kurtz read the legal call for the continuation of the public hearing on the following item:

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|----|--|-----|-----------|
| 1. | Permit Modification | APP | 2016-005A |
| | Clearview Farm Preserve, LLC | DOR | 6/06/17 |
| | Mountain Road (Cornwall Ave Ext. 2016-005) | PH | 7/05/17 |
| | Resubdivision | PH | 7/18/17 |

PH 8/01/17
MAD 9/05/17

Chairman de Jongh stated this is a continuation of a public hearing that started on July 5, 2017.

Chairman de Jongh stated there are issues that have been addressed at each of those meetings and there were several issues that were identified at our last meeting that we will focus on this evening; we will not go back and revisit those issues that we spent time on previously.

Chairman de Jongh informed all present that the protocol the public hearing follows; all present (Commission members, staff and the public) will have an opportunity to ask questions and have comments both pro and against (the application).

Chairman de Jongh stated he did want to point out the public hearing needs to be closed this evening unless the applicant is willing to allow an extension of that.

Chairman de Jongh noted that Kerrie Dunne joined the meeting at 7:33 pm.

Attorney Anthony Fazzone of Fazzone Ryan Ricciuti LLC, Cheshire was present on behalf of the applicant.

Darin Overton, PE and William Root, soil scientist of Milone and MacBroom were also present on behalf of the applicant.

Attorney Fazzone addressed the Commission.

Attorney Fazzone said he would like, not for the purposes of going into the issues themselves – he's like to give a brief recap for the record.

Attorney Fazzone explained this is a continuation of a public hearing; there have been two prior episodes of the public hearing if you would.

Attorney Fazzone said he thought what needed to be focused upon is that this is an application for a modification of an existing inland wetlands permit #2016-005.

Attorney Fazzone stated in the original application there was .350 acres of disturbance in the upland review area.

Attorney Fazzone stated the current application calls out .359 acres of disturbance in the upland review area.

Attorney Fazzone said the modification is brought about by the applicant's showing a sidewalk at the southern end of the roadway which is adjacent to the wetland but located entirely in the upland review area.

Attorney Fazzone said the application also calls out that there is road construction in that area that is different than what was in the last application.

Attorney Fazzone said at the July 5th public hearing – that hearing was continued for basically three reasons; there were three items that were either not completely done or had not received yet.

Attorney Fazzone stated the first was the Regional Water Authority comments; the second was the Chesprocott comments on the septic system locations and testing of that was done although at the time all of the testing was really restating what was done for the prior application permit #2016-005 was approved.

Attorney Fazzone said so those three items were the Regional Water Authority, Chesprocott and the DEEP Natural Diversity Database response; he stated all those letters and responses and approvals if you were – were introduced at the July 18 public hearing and are a matter of record in this file.

Attorney Fazzone said we also at one point in time asked and had the record from the prior application be made part of this record; he said he believed that's noted in the minutes.

Attorney Fazzone explained at the last public hearing an issue was raised over the Deaconwood detention basin and whether or not that constituted a wetland or an inland watercourse.

Attorney Fazzone said with him this evening is William Root of Milone and MacBroom and he has submitted a report on the detention basin and he will go through that report for the Commission's benefit and the public hearing.

William Root, soil scientist, addressed the Commission.

Mr. Root explained as Attorney Fazzone indicated he made a site inspection of the depression along Mountain Road and Sorghum Hill; he said Attorney Fazzone called it a detention basin – he said he's not sure of the exact purpose that it was put in but he can tell a little bit about its function.

Mr. Root said he wanted to first say that as Attorney Fazzone had indicated he submitted a report including photographs; he said he was there on July 21 and inspected the entire area - the upgrade and parallel grade of the small depression area at the bottom of Sorghum Mill and Mountain Road.

Mr. Root explained he investigate this as they normally do for the presence of inland wetlands or watercourses and the criteria that we use for that is in the report.

Mr. Root said the criteria that we use for the delineating wetlands and watercourses – he thought the Commission was familiar with it.

Mr. Root stated that they did not inspect this feature before – it was not a part of the original application and so when the question came up about this feature he really wasn't familiar with it so this is the first chance he had to take a look at it.

Mr. Root said what he found was and what the pictures show there's a small depression in this area; it's not a natural depression – you can tell from the topography of the land around the roadways and raised condition to Mountain Road that it's an excavated feature so it's a manmade depression.

Mr. Root said he spent quite a bit of time tracing all of the hydrologic inputs into it – what he was looking for is to see whether it was a part of a stream course - he said sometimes features like this – before Commissions were very active – they were constructed (the features) in wetlands making use of the wetland area as a treatment wetland

so a lot of time you look for that – is there a through stream – what it originally a wetland.

Mr. Root said he spent a fair bit of time tracing the inputs and checking the soils in the area.

Mr. Root said first thing he'll say is the area as we indicated before is not mapped by the town's wetland mapping or by the soil conservation service as a wetland or watercourse; but for small features like this you might not expect it to be mapped that way; but the soils in this area are mapped as upland soils as we talked about throughout the application.

Mr. Root stated there are no watercourses mapped here expect for the brook that's across the way; so there are watercourses in the area but there are no watercourses coming off of this hill.

Mr. Root said what he did find was a lot of culverts that are feeding this and providing almost all the hydrology; he said he found culverts discharging from Mountain Road into a small constructed swale that's on the east side of Mountain Road and flowing southward; he found another one that gathers stormwater runoff from Sorghum Mill and Deaconwood discharging in a culvert pipe (shown in the report and photos provided).

Mr. Root said there's drainage on the north side of Sorghum Mill that's piped into this depressed area; there's drainage on the south side of the feature coming off of catch basins that are part of Deaconwood that flow downhill to Mountain Road are picked up and travel towards the small depressed area.

Mr. Root said it's got a good sized drainage area but it's all manmade stormwater runoff – he said when he was there on July 21 none of the culverts were running; there was no stormwater runoff at all; it's obvious where the flow paths are but if you go through the definition for intermittent watercourses apart from just being a feature on the landscape where water is conveyed it doesn't meet any of the other criteria.

Mr. Root stated there's no hydro soil development – no wetland vegetation development and no runoff for longer than a particular storm event.

Mr. Root stated its just strictly drainage paths- drainage ways or rills.

Mr. Root said there are no watercourses feeding it – there are no wetlands in the area.

Mr. Root inspected the inundation itself – its constructed in the same Branford and Cheshire soils; they are very red subsoils so if you auger down into the soils in the inundation area they are very, very red subsoils.

Mr. Root said the upper soils are a mix of sand and silt and runoff from the old roadways and there are some cattails in there so there's some decaying vegetation on the top few inches but nothing that would qualify as a hydric soil.

Mr. Root stated he found no hydric soils in the basin.

Mr. Root stated he found no evidence of a watercourse in anyway.

Mr. Root said in his opinion – features like this once the proper time – in his opinion – for a commission in Connecticut to regulate these is when they go in – in upland areas.

Mr. Root said if the commission takes its time to make sure that a new water quality basin is going to protect wetland resources then it's done its job as far as where it's going to be constructed and how it's going to work – how it's going to be maintained – what the previsions are for excavating the forebay – the vegetation has to be maintained – that's the appropriate time for a commission to have its say on how these features are installed and operated.

Mr. Root said then afterward he thought you're digging a hole for yourself if you thinks it's worth your staff's time or commission's time to regulate every water quality feature in the town – there are a lot of them; everything someone wants to mow or dig out the forebay or something like that – it would be quite a task to put them on the agenda and schedule them for hearings.

Mr. Root stated once you cited them properly you've done your job and then if there's staff feature or complaint or something like that you can pay some attention to it then or if it's not functioning properly; but if every time someone wants to work on it their here

before the Commission that might not be the best use of the Commission's time but that's his opinion.

Mr. Root said the pictures he submitted were July 21, 2017; there was a very, very small puddle in it at the time just a few inches deep; we've had heavy rains since then but Mr. Overton was out there on July 31st took some more photos – he said he'd get them to them (the Commission) in just a second – there's no water in the feature at that time even though it had rained quite a bit over those ten days – it dried up and infiltrated so the basin was doing its work as an infiltration type feature.

Mr. Root said he thought that was all he had – his conclusion is that it's not a wetland or a watercourse – it does not have there should not have a regulated upland review area and just doesn't [t] meet the criteria of any one of those features.

Mr. Root submitted photos taken on July 31, 2017 for the record.

Chairman de Jongh asked if any Commission members or staff had questions of Mr. Root.

Mr. Root said he brought something along from the Army Corp – he said he knew that the Commission is not the same as the Army Corp but their authority derives from the Clean Water Act and they are the administers of the Clean Water Act; he said he brought in their guidance.

Dr. Dimmick corrected Mr. Root by stating that our (the Commission) authority does not derive from the Clean Water Act – it derives from Connecticut statues which are not the same as the Clean Water Act – they have overlapping jurisdiction but they are not the same.

Mr. Root said he stood corrected but still submitted guidance from the Army Corp of Engineers on their treatment for water quality basin/detention basins – things like that and a recent jurisdictional determination - they did showing they don't regulate features like that and from his conversations with them and the reason we just talked about it would just be a burden to go ahead and pursue those things.

Mr. Norback explained after the last public hearing he went out there and looked at it and while he's not a professional and couldn't

identify it as wetlands but he could see it was all silted up with obvious fines from drainage from road surfaces and the like and he thought the second to last paragraph (in the report) is the one that resonates with him – along the line of the Army Corp of Engineers put it to rest in his mind.

Attorney Fazzone said in so far as Mr. Root mentioning that we did not consider that in terms of our application that's before the Commission and basically it never dawned on anyone – there was no evil intent to try to slip something by and he would say based on his research of this Commission's records there have never been an application of any activity in this area related to this depression; and that includes the complete repaving and grading of Mountain Road that took place two years ago.

Attorney Fazzone said if you look at the records there's no application or determination or anything like that made and as you know the road just goes right by it and part of the question that arose was two weeks ago was the amount of activity that if in fact this were a wetland the amount of activity that would be going at least within in the upland review.

Attorney Fazzone said the other thing that he would mention is attached to the report that you have are both Mr. Root's resume and the resume of Matt Sanford also a soil scientist with Milone and MacBroom.

Attorney Fazzone stated he specifically asked the two of them to go out there and you'll notice that both Mr. Root and Mr. Sanford have signed that report.

Attorney Fazzone said at the last public hearing there were a lot of questions and comments raised related to the overall drainage – questions related to the stormwater drainage and stormwater runoff and the basin that's provided there so Darin Overton is going to give broad review of that – it deals with a lot of questions about the berm that runs along the eastern side of the property – the western side of the homes on Mountain Road.

Attorney Fazzone said there were definitely some unasked questions that we didn't get a chance to get at and he thought an overview of this will answer those questions.

Darin Overton, with Milone and MacBroom, a licensed professional engineer in the State of Connecticut addressed the Commission.

Mr. Overton explained he did review some of the minutes but Attorney Fazzone as well as others were kind enough to create a summary of some of the issues that may still be unclear as part of the application so he went through that list and he has some responses and clarifications that he can run through tonight with the Commission.

Mr. Overton said the first item is relative to a concern based on public water being brought to this project and then the sewage from the homes being treated by subsurface sewage disposal systems for each of the houses; there would be an elevation of the ground water table potentially causes by that that could affect surrounding homes and low lying areas.

Mr. Overton said there's some information submitted about EPA value of 9 gallons per day per person; and a calculation of 4.5 persons per household – about 90 gallons per day is a reasonable number – 4.5 seems high to him as far the people per household but in the end that equates to about 405 gallons per day per lot for a total of 4,455 per day for all eleven lots.

Mr. Overton said for comparison purposes the Cheshire WPCA as part of their update of the sewage treatment plant – the overall facilities plan – they looked at as part of a wide study for flows coming into that plant and they came to a determination and they used this number today of 227 gallons per day per household as an average for any residence in Cheshire.

Mr. Overton said that would equate to about 2,500 gallons per day for the 100 lots.

Mr. Overton said without doing a detailed model of the ground water how would he relate that flow to the size of the parcel and potential impacts.

Mr. Overton said since it is the septic system that is infiltrating this water to the ground – these are all designed based on the public health code – the reason being is because there are low flows going into individual systems that are distributed throughout the site.

Mr. Overton said even if all of these homes – even if you were to consider the 4,455 gallons per day – even if they were to go into one leaching field in one spot it doesn't even meet the DEP criteria so it would still be designed under the state health code which requires no ground water mounding analysis.

Mr. Overton said the difference between the state requirements and the DEP requirements as far as the state health requirements as far as the state health department or DEP is the DEP when you get into the design over 7,500 gallons per day for one individual system – you have to do a detailed mounding analysis to ground water; and that analysis really one considers the potential mounding underneath the leaching field itself – it really doesn't go beyond that.

Mr. Overton said in this particular case we don't have one individual system that's going in a location and the septic systems are distributed throughout the property.

Mr. Overton said as part of that there's a ridge here and he thought Dr. Dimmick as well as others may know in general ground water flow follows the flow of the natural surface contours; so we have a central ridge (shown on the plan) and you can see it on the existing contours on the map where the ground water flow and surface water flow generally flow to the east and south on the east side and (in another location shown on the plan) to a certain extent to the west into the brook and then draining south through the brook and through the watershed there.

Mr. Overton said in reality you don't have all eleven homes that are mounding in one spot that are going to have an impact on the ground water table and even if you did it would be a localized change in the ground water table and it would be similar to what we would now analyze for a DEP system; in this case eleven lots in total don't rise to that level of review or jurisdiction; if you think about five going in each direction it's even less.

Mr. Overton said in his professional opinion the impact to the ground water table for these leaching fields even with public water supplying them would be negligible on the property itself and as that ground water table flow extends off of the property it even becomes less if negligible at all once it leaves the property.

Mr. Overton said he hopes that's an analogy that everyone can understand – if you have any questions he'd be happy to describe that in more detail.

Mr. Overton said the next issue was related to the FEMA flood plain and he didn't know if this map (before the Commission/public) was presented last time but since the FEMA flood plain is a A-zone instead of an AE zone – the E represents elevations.

Mr. Overton said the FEMA has delineated a flood plain without establishing elevations on it.

Mr. Overton said he doesn't understand how they delineated that flood plain.

Mr. Overton said we went back and did a detailed model using the Army Corp of Engineers criteria using their HEC-RAS model – its typically what we'd use if we were doing a flood study and we have done this for several towns to actually modify the FEMA lines and submit a change for those lines.

Mr. Overton said they did a detailed study of the watershed down to that lowest point where section one is shown and we actually developed flows and elevations to understand the elevation of the 100 year flows would be in North Roaring Brook.

Mr. Overton said the sections that we've shown in that delineation is the flood plain that's based on actual modeling with real elevations and that establishes what we understand where the flood plain actually is and there appears to be some error in the delineation of the horizontal delineation that FEMA had done.

Mr. Overton said this model has been reviewed by the engineering staff and has been accepted as being accurate.

Mr. Overton said there's a question as to whether the design and construction of the detention basin would shift the flood plain – he stated in his opinion it doesn't.

Mr. Overton said the section right at the outlet point – a section four gives us the elevation of the flood plain at the exit of the existing two pipes – the one 30' pipe that comes in from the drainage off of Sorghum Mill and Mountain Road – there's also a 48" cross culvert

that carries the brook and then our proposed discharge pipe comes out at the same location as section four.

Mr. Overton explained section four the elevation and flood plain is 181.15 – while the bottom of the basin is 179 and we do have the outlet pipe there so there is a hydrologic connection there.

Mr. Overton said during the 100 year storm the H&H model on site shows that the 100 year storm elevation in that pond is going to be 185.16 would be the 100 year storm elevation in the basin.

Mr. Overton said with that level of hydrologic head in the basin there's not going to be a back water condition through that pipe.

Mr. Overton explained normal modeling of the flood plain condition – we would not model the flood plain and show the flood plain going through the basin – he said he thought the hydrologics of it with the models they have done there really isn't a way that that water can back up through – even if it did there would only be a foot and a half or two feet of water in the basin and that is essentially the water quality volume that we've calculated which would typically collect in the basin and drain out through the underdrain; so there would be no real flooding impact associated with that.

Mr. Overton said he thought the testimony from one of the neighbors was that the flood plain elevation would get up to 194 and would overtop the berm and potentially flood properties further to the east and out towards Mountain Road.

Mr. Overton said the best he could tell is that elevation is based on interpretation of the current FEMA flood plain at its peak where it goes up the slope – where we believe the flood plain is misinterpreted on the maps; where its overlaid on the town topo it actually goes up to elevation 194 which it really never gets there so we think that data when put together was misinterpreted as potentially getting up to 194 and our model shows it will never get there in that area.

Mr. Overton said there was concern and reference of the DEP manual about having a 4" low flow orifice versus 6" – the recommendation in the DEP manual is 6" and it recommends that you have a trash rack on there with nothing larger than a 6" opening.

Mr. Overton explained they designed a trash rack on there with a 3" openings and there's a need to control the two year storm – we need a 4" orifice – that orifice really only serves a two year storm – beyond that the flow rises up and goes through the V-notch weir so we don't see there's any issue with having a 4" orifice particularly since its protected by a trash rack with 3" openings.

Mr. Overton said there was also some discussion about the design of the basin not meeting the DEP criteria in the DEP water quality manual – we have designed it for the water quality volume to be stored in the bottom – we originally designed this as an extended wet bottom extended detention basin; because of the watershed it would actually be further defined as a pocket pond type of basin and that was the initial design that we submitted.

Mr. Overton stated the engineering staff had a concern about there potentially being a permanent pool of water in there and mosquito breeding and other nuisance things that could occur with a permanent pool in there which could cause stagnant water so they asked us to install an underdrain.

Mr. Overton said we did put an underdrain in there and that's one of the nuisance factors as listed in the DEP storm water manual – and if that is a concern then it is acceptable to put an underdrain in but technically according to the standard it doesn't necessarily meet the primary treatment practice for a wet bottom basin but none the less you still get the storm water treatment – the extended detention for the water quality volume – you also get the vegetative uptake in the plants itself in the basin and we also have a forebay design that will trap sediment in the isolated forebay area and also trap floatables.

Mr. Overton said there was also some mention of us impacting an existing 12" pipe – he said the plan (in front of the Commission) – shows an existing 12" pipe and on the south side its submerged and we went back and looked at and researched the Deaconwood plans and the plans show the design and he thought they were presented at one point to this Commission – it shows the design of this storm water coming through here – the 30" pipe and it actually shows this as an existing 12" pipe at the time of that design – so that pipe has been there for some time – it still exists in the field; and we have a test pit to identify what elevation it's at in the field to make sure it

doesn't conflict with anything but our intention is to leave it in place and allow it to function as it does right now.

Mr. Overton explained the green line (shown on the plan) highlights a broad swale what exists between this property and the homes that line Mountain Road; so there's a broad flat drainage swale that comes down this way – towards this location (as shown on the plans) and he believed that 12" pipe in some manner conveys water under the existing boxed out roadway that's there – the unfinished roadway.

Mr. Overton said on the adjacent neighbor's property we saw there was kind of what looked like a stoned French drain or something and we believe that could potentially tie into that pipe so we have left that in place so that drainage will continue to flow similar to how it exists right now.

Mr. Overton stated that drainage system was accepted by town as part of the Deaconwood project and essentially that 12" pipe existed there – it was accepted at that time as part of the plan so our intention is to just leave it in place.

Mr. Overton said in addition there's concern that construction of this road could impact the surface runoff and how that runs out of this area if it doesn't go into that 12" pipe so we did propose a yard drainage at the low point on our site on the north side of the roadway where any surface runoff that doesn't get into that stone collection area would have the ability to run into there and then go into the drainage system and drain out.

Mr. Overton stated they did speak with the adjacent property owner about potentially putting something in the low point there and we were discussing options for grading rights on the property, etc. but we've been told that there's no interest in allowing us to do work on the property so we've done the best we could and put that on the location of the lowest point on our property to maintain the existing drainage patterns.

Mr. Overton said let him get to the overall grading.

Mr. Overton said he'd go over the colors he has on the map here – the pink line is the existing drainage divide – that's the ridge line that divides the drainage in this area that drains either west towards

North Roaring Brook or to a certain extent there's a small area that drains a little bit to the west; the east side or lower portion – this all drains east either toward this collection swale or south down towards the roadway collection system or into the wetlands and the flood plain area associated with North Roaring Brook.

Mr. Overton said under proposed conditions he's highlighted in orange – the black and orange line is the proposed watershed shed that actually drains to the road; so the road is actually a little bit lower than the homes – its carved in and dropped down a little bit and then the homes sits slightly above the road on both sides; so essentially what we do is capture some water shed that used to drain towards the brook towards the west and we actually capture some of the watershed that used to drain to the east and we bring that down and run it through the stormwater management basin with the roadway drainage.

Mr. Overton said there's an outlet control structure and then an outlet pipe that ties in at the same discharge location as the two existing pipes – the 48" pipe that conveys North Roaring Brook and then the 30" pipe that comes in from Deaconwood.

Mr. Overton said the existing watershed is 6.75 acres – he thought the concerns were from the neighbors on Mountain Road; they were concerned about this project having an increase in runoff over there so the existing watershed – the 6.75 acres and under proposed conditions the remaining watershed that drains there is 4.87 acres – a reduction of 1.88 acres.

Mr. Overton said since the majority of the high point here – there are highly permeable soils; he looked at the reduction of flows and our hydrology model – so for the two year storm there's really only a 1.7 percent increase even though the watershed area reduction is fairly significant with 1.8 acres; for a two year storm you're seeing a lot of the stormwater infiltrating into the ground and the decrease in runoff is relatively small .7%; when you get up to the 100 year storm we predicted a 19% reduction so as that ground becomes saturated more runoff occurs with the heavier rain falls – you're going to see higher in that area.

Mr. Overton said the function of the basin – in red is the new collection system which we propose in the street – it drains down to the basin – there's an inlet pipe – a forebay then we have an outlet

structure – it has the low flow orifice which is set above the basin; the bottom of the basin is at 179 – the low flow orifice is at 181.5 that's where we achieve the water quality volume and the long term detention storage which then gets metered out through the underdrain; so that the basin drains dry and we don't have the permanent pool and the issues that the town engineering staff were concerned with.

Mr. Overton said then we have a V-notch weir that handles the larger storms above that low flow orifice and above that we have an open grate that serves as the emergency overflow.

Mr. Overton said the top of the outlet structure is 185.7 and then the top of the berm we have a foot of freeboard over that at 186.7; so there's kind of belt and suspenders approach as far as handling the low flows – handling the high flows and then you have a foot of free board above that to make sure it doesn't over top and run on to the road so we have a number of protection options there in case that low flow orifice clogs or even the V-notch which the reason we designed the V-notch is that they clog infrequently – there's not much that can get caught in there but even if that all fails we have a large opening on top to serve as an emergency overflow.

Mr. Overton explained that there's was also concern about the potential outlet here causing erosion in the stream – the Deaconwood design when we looked at this – when this came out that pipe was actually below grade; he explained how it looks in the field – he said this was actually lower and there's a manmade channel that was created through there.

Mr. Overton said we're proposing a 24" pipe that is at a .65 percent slope so relatively flat and low velocity; this 48" pipe that conveys North Roaring Brook is at a 7% slope so this is going to have a pretty high velocity and you can see out there in the field there's a scour hole that's formed over the years and what has happened the soil has scoured out and basically the stone that's left is naturally armored that scour hole and on the left if a permanent pool that dissipates velocity; the DOT has design criteria for scour holes that we use all the time when we're doing outlets when there aren't existing ones.

Mr. Overton said we believe that the velocity and the amount of flow coming out of this pipe is significantly less then what is in the main

stem of the brook itself and that scour hole is already stabilized itself to a higher level than what we are proposing to discharge there.

Mr. Overton said in the erosion control plan – he said he understood there was some discussion about the temporary erosion control berm that we show along the bad side or east side of lots 1 through 5; that was put in place as a measure if the developer was to come in and clear for the roadway – clear and strip the top soil for all of the lots on this side that that is a level of protection to control sediment laden runoff from running to the west and down into this broad swale here so that's a temporary measure that would direct runoff down to the proposed storm water basin.

Mr. Overton said that basin would be used during construction as a sediment trap so it would collect the sediments and once the construction had proceeded with the roadway is in the majority of the site is stabilized – that can be cleaned out and then the final construction of the basin could be done – the installation of the underdrain and completion and stabilization; the basin would be constructed early on in the process; the side slopes stabilized and all that before a majority of the runoff would get to it but then in the end the clean out and stabilization of the rest of it would occur once the roadway is constructed and the majority of the site is stabilized.

Mr. Overton said the timing of that depends a lot on the lot development and how many lots are under development at one time but it should be pretty straight forward for the way this property exists with the ridge down the middle – the way the watersheds are divided and how flat the grades are and the permeable soils are.

Mr. Overton said the way we've designed it we believe it will work out well.

Mr. Overton said that's the reason why we proposed that temporary berm; it was never proposed to be permanent; where its shown adjacent to the leaching fields – if you were to leave it there in place there could be creation of water that would be running along the area of the leaching fields which is not preferable for design for the septic systems and Chesprocott may question why we would have that there; so that was always planned to be temporary and would be phased out of the E&S controls through construction.

Mr. Overton stated it is a standard practice listed in the E&S guidelines – it's on page 5-7-9 of the DP&S guidelines.

Mr. Overton said the last item was about lowering of the road – why are we doing that.

Mr. Overton explained the main reason for lowering the road is we have through the process of looking at this we have a number of site constraints – we have the existing drainage that's in there; we have a 50' right of way that is our only access to this and the town standard design is a 30' road with a full 50' graded right of way; recognizing we don't have rights to grade beyond that there's been some concessions made from engineering to narrow that down because we can't grade beyond that right of way.

Mr. Overton said initial discussions with the homeowners on either side – there seemed to be some ability to do some work on the property and there were some concessions being made - those have all been withdrawn so in doing that what it comes down to is key site constraint is the driveway coming into the Smallwood property – so coming off of Mountain Road which is higher we need to get down and match grade at the right of way line where that driveway exists now so because of that on an intersection we don't want a very steep grade going into an intersection – we have to have a relatively gentle grade so that's caused us to reconstruction part of Mountain Road and drop it about 7" – that's calculated from that tie in point much we would need to lower the road and that's the reason our proposal is to do it – we have no other option since we have to tie into the right of way when we do our grading to construct the roadway.

Mr. Overton said the pictures that Bill (Root) submitted – there's one that shows a shot looking from Sorghum Mill Drive of the handicap ramp and sidewalk that exists there – he said the reason he took that is that he went out there and looked at the accessibility of that sidewalk because he thought there was some issues relative to that that came up – he said you can see there's a relatively flat grade shoulder beyond the curb line that goes all the way to the edge where you see the taller vegetation – that's where the slope starts to go down into that depression at the corner of Sorghum Mill and Mountain Road.

Mr. Overton said you can see there's a relatively gentle slope there – the extension of that sidewalk can be easily constructed in that

grassy area along there and make the connection to the crosswalk to the proposed sidewalks into the proposed development; very little soil disturbance there.

Mr. Overton said with the lowering of Mountain Road it's even going to flatten that slope out even more in constructing that sidewalk.

Mr. Overton said that's all he has at this point – those are all the issues that were brought to his attention to address.

Dr. Dimmick said we've mentioned Deaconwood several times – when was Deaconwood approved – roughly.

Attorney Fazzone stated early 1974; before the regulations.

Dr. Dimmick stated we came into existence in 1974 and Deaconwood never came in front of us; the drainage for Deaconwood never came in front of us so anything that was done there we had no oversight on.

Mr. Overton stated the original date on the map was July 11, 1974; revised to September 13, 1977 and he highlighted the 12" pipe that's shown in the existing ditch there and then they ran the 30" pipe over the top of it.

Dr. Dimmick stated that the drainage for Deaconwood never came in front of this Commission; he said our staff oversight before 1977 was kind of weak so a number of things went through and never came in front of us.

Mr. Overton said you can see here it calls for a rechanneled brook on the plan and it's evident in the field when you look at it that it's a manmade channel.

Chairman de Jongh said Darin - you had mentioned in your testimony when you were talking about something called a trash rack – can you explain what that is.

Mr. Overton explained it's basically just like a steel rebar cage so its 3 by 3 square - its bent and shaped that fits over the top of the 4" orifice; so it's a cage that's mounted on the concrete riser structure and protects it basically creates an open area where trash gets

caught in there and there's still a lot of openings for the water to get in the 4" orifice.

Chairman de Jongh said so it doesn't impede the flow of water – it just collects all that debris that might be around.

Mr. Overton said if debris collects on there it helps leave open surface area for water to pass through and get into the 4" orifice otherwise you can imagine a couple of branches getting in front of that 4" orifice and it doesn't work anymore.

Mr. Overton said in the end all that controls is the 2 year storm and if that was to happen it would go through the V-notch weirs – you wouldn't have to worry about the basin failing but with the trash rack it more likely to function as designed for longer term.

Mr. Norback said during the last public hearing the lowering of Mountain Road was characterized as maybe - now in listening to your testimony would it have been characterized as maybe because other options were being explored relative to the grading of the other properties; he said it was uncomfortable as being presented as maybe – was that why it was characterized as maybe – they still may not have to do it.

Mr. Overton said he thought they were still hopeful that other options will arise but right now we do not have another option and that's why we're presenting it this way.

Mr. Overton said it is proposed to be lowered as part of this application and that's what we're going forward with right now – because we have a constraint to deal with that we have not been able to avoid at this point.

Attorney Fazzone said just to clarify a point – the actual subdivision of Deaconwood was done May 28, 1972.

Chairman de Jongh asked if there were any other questions from Commission members of staff.

There were no other questions from Commission members or staff.

Attorney Fazzone said he'd like to wrap up our presentation.

Attorney Fazzone stated for the record Mr. Overton has referred to engineering has looked at this and engineering has approved it – he’s not referring to engineers at Milone and MacBroom – he’s referring to the town engineering department.

Attorney Fazzone said and you do have a response from engineering that came in late last week – the important part from his point of view is that it addresses the issue that Darin has talked about in terms of actually setting the elevations for the flood plain and that resolves the previous engineering comment about whether or not the new road would flood in that area; and they (the engineer department) states they are satisfied that it would not.

Attorney Fazzone said we did talk about the maintenance - RWA talks about the maintenance of the detention basin and he mentioned that we would submit the form of the declaration of covenants and restrictions which deal with maintenance and deal with the homeowners association having responsibility to do that – if they don’t maintain it this declaration says that the Town of Cheshire can go in and do the work, bill the individual homeowners for their share of the work and if they’d don’t contribute the Town has the right to lien their property; based on this they voluntarily give up the right.

Attorney Fazzone stated evidence of this declaration, recording of it – our practice now is to put it in bold type in the warranty deeds to the prospective buyers so that there is this declaration and that they are required to be members of the association.

Attorney Fazzone said in addition – that’s covered in paragraph 16 and 17 of this document; in addition the declaration talks about the non-encroachment line and also the 50’ upland review area.

Attorney Fazzone said the approval that was received before – and that was included in the declaration and was put in last time – that there is to be no activity – no cutting – no excavation in the 50’ upland review area without a permit from this Commission but beyond that there’s an non- encroachment line that’s been talked about up along the area of North Roaring Brook.

Attorney Fazzone said the declaration states again in bold print that there’s to be no activity in the non-encroachment area; not with any permission or approval by the Wetlands Commission – so there’s a differentiation between those two lines; to try to make it clear that

the non-encroachment line in that area is to remain in its natural state.

Attorney Fazzone stated he had a number of copies (to submit into the record which he did).

Attorney Fazzone said he put up a map of what he refers to as the Ben's subdivision – it's the subdivision of all the properties along Mountain Road and it shows the 50' reserve area – that's the area of the plan you saw with the Deaconwood drainage in it that Mr. Overton showed; he said he put that up because it was always intended that that would be the roadway to the remaining portion of the Ben's property; the two houses on either side of that right of way are orientated pointing to the front of the houses – are orientated towards that proposed right of way.

Attorney Fazzone said the two owners there are at the time of the purchase of their homes were well aware of the possibility that that would be made a road – he said he has copies of deeds to the south of that – its Matthew Dell's property and its states in the deed "the property is subject to terms and conditions as set forth in a driveway easement agreement dated March 13, 2003 and recorded in the Cheshire land records that driveway easement agreement says that this easement will terminate in the event that Ben's shall dedicate the easement area to the Town of Cheshire as a public road" provided that their heirs and successors and assigns which Mr. Dell is would have use of the road to get to Mountain Road.

Attorney Fazzone submitted copies of both the deed and easement document (which he submitted for the record).

Attorney Fazzone said the same is true of Dr. Smallwood's property – it has a similar reference to the driveway easement agreement and that same easement talks about when that becomes a public road – if it becomes a public road – their easement disappears and they have access to Mountain Road.

Attorney Fazzone submitted the deeds and easements for the record.

Mr. Norback asked if that infer slope rights.

Attorney Fazzone stated it does not.

Attorney Fazzone said he was sure the Commission is aware both the state statute and the regulations talk about a balance between the protection of the wetlands and economic development; CT Statute section 22a-36 and page 1.1 of the regulations basically repeats the same language of the state statute.

Attorney Fazzone explained the state statute is not intended to be a total prohibition restricting a land owner of developing their property but its intended to create a balance and he would submit to this Commission that the proposal before them takes that all into consideration; there's actually no disturbance in the wetland area – .359 acres of disturbance in the upland review area.

Attorney Fazzone stated he has another map that he may or may not have introduced this – it's actually a map taken from when the Ben's sold/transferred the upper part of the property – the western part of the property to the Town of Cheshire – State of Connecticut to be preserved; to preserve a ridge line.

Attorney Fazzone passed out copies of the map; copies were submitted for the record.

Attorney Fazzone said what you can see is what he's labeled and circled in blue is the subdivision area; to the left it shows the 50' proposed road – reserved area and to the north it shows Cornwall Avenue Extension.

Attorney Fazzone said basically he's submitting to demonstrate to you that there is really no alternative to the development of this property without the utilization of the 50' strip of land that was left there when the Ben's subdivision was approved.

Attorney Fazzone said the reason for that is the alternate access that might come off of Cornwall Avenue Extension – he said he can represent that Cornwall Avenue Extension is about 750' long; the maximum length of a cul-de-sac in the R-20 zone in Cheshire is 1,000' so that if you had the 250' on to the end of the Cornwall Avenue Extension that will bring you into the previous exhibit you've seen into the area of the dumpsite that's going to be capped by the Ben's pursuant to their DEEP agreement which he believed has been introduced or at least discussed that that has occurred.

Attorney Fazzone said that extra 250' of road from Cornwall Avenue Extension brings it to an area which is undevelopable so the only way to come in from that direction is to exit at the 50' reserve area which is right back where we are today – he said if someone were to say well you could put a though street or come in off Cornwall Avenue – that's not a viable alternative based on the Cheshire zoning regulations and subdivision regulations.

Attorney Fazzone said that's it.

Ms. Simone asked about the map that Darin had reference – the highlighted watershed map – can we get a copy of that for the record.

Attorney Fazzone said we'll submit that.

Chairman de Jongh asked if there were any other questions from Commission members or staff – none were asked.

Chairman de Jongh said with the applicant having finished their presentation – he asked if there any questions from the audience pertaining to the issues that are before us this evening; again we are going to keep those issues to only those that we are discussing this evening.

Peter Wilcox of 415 Mountain Road asked if FEMA reviewed the watershed map that's been redrawn by Milone and MacBroom – have they approved it and decided to update their files accordingly or are they sticking with their original assessment of the area.

Dr. Dimmick provided his opinion in terms of his own problems with FEMA maps – he said it took him 3 years to update a FEMA map; he talked about the process to change the map; and he talked about issues with FEMA's mapping; he noted it's a very costly procedure to show they have errors in their mapping; and cited other issues.

Mr. Wilcox asked if that would include a map that was a year old – he said he thought the map was released last August.

Dr. Dimmick said it doesn't matter how old it is or how recent it is.

Chairman de Jongh asked that Darin comment on that as the professional.

Mr. Overton stated they are not proposing to formally apply to FEMA for a change to the map.

Mr. Overton stated they are going to accept the flood plain – they'd let it stay the way it is – the reason why we did the detailed modeling is because the engineering department and others had concerns about whether the flood plain – the flood waters would come over the roadway or there would be any other issues related to the subdivision so we did the detailed model essentially following the proper FEMA and Army Corp protocol to prove that; as it turns out the model did show that the water would not over top the road and that there were not any other issues to deal with but we are in agreement with Dr. Dimmick that the process is very cumbersome – very costly and not worth the effort since we've essentially proven that there is no issue with the model that we've done; such model which has been accepted by the town engineering staff which is his understanding the town engineer is the flood plain manager for the town so it's all been reviewed through the proper authorities in town.

Mr. Wilcox said he's listening to all the testimony at these meetings – there's been a lot of facts and spins on facts and interpretations and things – he said it seems like we're trying to put square peg in a round hole – he said he's just baffled why we're still working on this.

Mr. Wilcox said his comment did not require a response it's just food for thought.

Dr. Joan Smallwood of 469 Mountain Road said she had a couple of questions; the first one addresses the lowering of Mountain Road and she just wants to make sure that it's the developer that's going to pay for it and not tax payers.

Attorney Fazzone stated that's correct – it's the developer's responsibility and costs.

Dr. Smallwood asked about the declaration for the homeowners association – she asked if the copy handed out tonight was a new version from the one that was already in the file.

Attorney Fazzone stated yes – it's a new version.

Dr. Smallwood asked to see a copy; the reason why she asked is there's a copy in the file identical to the ones submitted last year; she said the applicant stated there would be detailed schedule of maintenance of the proposed storm water basin within the declaration and the one that was on file did not have that in it; she said that has not changed – there is no detailed schedule of maintenance for the stormwater pond (she had a copy of the new declaration).

Attorney Fazzone stated he disagreed – paragraph 16 is the schedule of maintenance that was worked out with the town engineering office for similar basins within the past couple of years; what's missing are the exact details such as the town clerk's number for the maps so until we have an approved map and site plan we would fill that in and then it talks about the cleaning and mowing and everything that the town engineer required that the town would do if the town owned it; that's paragraph 16 of the declaration (for the record – paragraph 16 of the declaration).

Dr. Smallwood said when one talks about a schedule it refers to intervals of time and paragraph 16 lists 5 separate maintenance duties that are obligated but only 1 of them identifies any particular time at which these have to be performed; the other 4 contain no reference to time at all; she went on to say maintenance of these ponds is critical to their proper function and as Mr. Root said on his report on the Deaconwood pond – maintenance is critical; if these things are not done in a reasonable amount of time the storm water pond starts to fail.

Dr. Smallwood said she wanted to read from the regulations on subdivisions – she read the definitions for certain terms – applicant – developer – builder; she said she'd like Attorney Fazzone to state for the record who is whom in all of this and what their human identities is in all of this.

Attorney Fazzone said he'll state for the record the applicant is Clearview Farm Preserve, LLC - it may not be the ultimate developer – any ultimate developer would be bound by and in respect to this Commission would have to come before the Commission for transfer of the permit.

Attorney Fazzone said for the record its Clearview Farm Preserve, LLC as is stated on the application.

Dr. Dimmick said he would also think Attorney Fazzone would state that the builder on any particular lot is a different matter entirely from the developers in some cases.

Attorney Fazzone said that can very well be true.

Chairman de Jongh asked if there were any other questions we need to discuss at this time.

Dr. Smallwood stated that she was not particularly satisfied with that answer – she said it doesn't fit with information that fit with information she's been given; she also asked for the human identities behind the name – who is Clearview Farm Preserve, LLC.

Mr. McPhee stated he's having a hard time with this – it has nothing to do with wetlands.

Chairman de Jongh said he appreciated the inquiry but that by itself is not a wetlands issue; and it's nothing that this Commission has any jurisdiction over; he said the individuals involved in the activity is not an important factor in our decision; the results of that work certainly are; commenting on what happens if there are issues; but at this point it's not an issue this Commission takes up and is interested in.

Dr. Dimmick said the State of Connecticut would have someone registered to represent a particularly LLC; he talked about the process.

Ms. Simone said in appendix b – the application form – it's does not require that the individuals of an LLC be listed – just that an applicant may be listed and a person authorized to sign on behalf of the applicant be listed; but there are no requirements with the town regulations of this Commission to require individuals be listed for the LLC; the information is publicly available in the town clerk's office.

Attorney Fazzone said before he forgets the map that Suzanne requested – he is bring up for an exhibit (submitting for the record).

Chairman de Jongh asked if there were any other questions this Commission needs to entertain; seeing none we'll allow any comments to be made.

Attorney Fazzone said he had nothing more to say.

Chairman de Jongh said we'll allow the audience to make any comments on behalf of this – he said if they are repetitive in terms of individuals saying the same thing – if you would nominate someone succinctly represent you in the interest of time.

Matthew Dell of 475 Mountain Road commented about the map we are looking at right now – that was just turned in for the record – it clearly shows and was stated that water from the development is ranges from about 20' to 14' higher than the adjacent properties along Mountain Road – is going to be flowing south and west; there are well drained soils – very deep soils that will be drained down towards the properties along Mountain Road and they identified a broad swale that sends water to the 12" RCP that then outlets on to his property.

Mr. Dell explained there will be an increase in runoff to his property because it outlets ground water above ground over – so he just wanted to make that very clear.

Mr. Dell said it flows for over 6 months out of the year – from the time snow melts to about now; he said there's a 4' wide trench that goes about 200 yards into the wetlands – so he just wanted to make that very well known.

Chairman de Jongh asked if Mr. Overton wanted to make any comments in connection with that discussion in regard to the flow on Mr. Dell's property.

Mr. Overton stated for the record that he disagrees that there's going to be an increase in flow for that 12" pipe; he said he believed they had submitted calculations that show that there will not be an increase in flow into that eastern watershed which leads to the 12" pipe.

Mr. Dell said he'd just like to ask the question – do we know what the existing flow of that drainage is and how do we know for sure that it

won't be increased – if we don't have a measurement of the existing flow.

Dr. Dimmick asked which flow are we talking about.

Mr. Dell said from the 12" RCP on to his property.

Dr. Dimmick said he didn't believe anything of the testimony of the applicant indicated there would be any more water going that way – in fact what he heard them say there would be a decrease in the amount of water going that way; he said it's going south and west – your property is to the east; he said he didn't see how you can get from that testimony that there's any more water going your way.

Mr. Dell said he understood his concern it is going south – it's going south towards his property – it's going towards the existing properties along Mountain Road and if you look on that map they identify the broad swale that spans all the properties along Mountain Road that sends water towards that 12" RCP.

Mr. Overton said just to clarify one final time – shown on the plan in green – the dashed green lines with the arrows shows the existing drainage paths – the one at the top of the page is North Roaring Brook – in blue he's highlighted what is the existing pipes or drainage collection systems that exist out there on site right now; also from Sorghum Mill there's a discharge off of Sorghum Mill - the street drainage which is just off the map flows through this low area to a cross culvert and goes into that 30" pipe; on the east side is basically a broad swale that he has mentioned that starts at the northern terminus of our watershed at a saddle point – drains down to a low point as you move south; another saddle point as you move south and then going further south from this saddle point drains – shown on the plan – down towards the existing boxed out roadway and drainage system and this blue highlighted area is where the 12" pipe discharges on to Mr. Dell's property.

Mr. Overton explained Mr. Dell's property is the property delineated – shown on the plan – so Mr. Dell is correct – the green arrow shows the discharge out of that 12" pipe; when we look at flows we look at surface runoff and what is highlighted is the yellow highlighted area is that 1.88 area of watershed that formally drains either to the east or the south that lead in this direction – portions of that area would drain across the roadway and wouldn't get into that 12" pipe but

anything that drains east and gets into that swale here would drain down to the low area where that 12" pipe exists now – that stone area that looks like a French drain that's on the smaller property – and so this area here along the entire length of the watershed we've delineated for the developed portion of the subdivision – we have removed watershed that now drains to the roadway system and to the basin.

Mr. Overton explained they've shown in the watershed analysis for watershed 20 – which is the area delineated by the existing watershed here - we have watershed 10 on the west side – 20 on the east side – so this is taking away from 20 and what's remaining here we've shown as a decrease in runoff that he mentioned in his prior presentation which all makes its way down through this channel and in some manner get across the existing boxed out partially built roadway and into the wetlands and watercourses and flood plains associated with North Roaring Brook.

Mr. Overton stated we've submitted calculations that show there's a decrease in this watershed 20 and we're leaving that 12" pipe in place – we are not changing the drainage patterns in this area – we've left that pipe and we have an inlet here so the surface water can still run in and cross the roadway and get into the drainage system – maintain the drainage patterns that exist out there now and documented a decrease in watershed flow.

Mr. Dell stated he's save the rest of his questions for planning and zoning.

Chairman de Jongh asked if there were any other comments.

Attorney Fazzone said Mr. Overton for the record is a professional engineer, licensed in the State of Connecticut.

Chairman de Jongh again asked if there were any other questions or comments from Commission members or staff.

Chairman de Jongh said he thought this Commission has received all the testimony that they had expected – the issues that were raised at this public hearing as well as the two previous ones have been received; unless there are any other compelling reasons he sees no reason to continue this public hearing.

Dr. Smallwood said she has a number of comments to make but she is going to actually file most of them in writing rather than verbally; she said she did want to comment further on that swale and that 12" pipe and everything that's being talked about and they may well not be aware of this – most of the water that goes through that is not surface runoff from the plateau where the development is proposed for – most of what goes through that is ground water that flows from the north; its ground water that comes out on the surface of the land on Matt's property; and that ground water is for many of us who live there already seasonally within a 1' within of our property ground surface; and we have a lot of flooding of basements in that area already and so the main concern is the importation of this public water that is not being taken out by sewer but goes down through the ground into the ground water and calculations show may very well elevate the ground water that's already there to make the situation even worse.

Dr. Smallwood said the other thing is the 12" pipe is silted up almost completely and so there is very little flow coming out of that compared to what it must have originally been.

Dr. Smallwood said the engineers keep talking about calculations they do – she commented about her opinion as a scientist – she said when you make calculations and make claims that are based on those calculations you have to share those – you have to explain how you got your results – what assumptions you made - she said we are never hearing any of that from the engineers.

Dr. Smallwood said in regard to discussion about sloping, grading on the property of Mr. Dell's and her property – she said it was represented they had a number of discussions with them – they did with her – she specifically asked for certain information which they never provided her with so that's why we're in this position.

Dr. Smallwood said in regard to the recalculated flood zone that they show with the blue lines – they don't show the calculations – she said she got copies of the paperwork that was submitted to the town engineer – and speaking from the point of view of a scientist the calculations were not shown in any way that could be easily reviewed by someone else; she said when she did the calculations for the stream – she found that at one point along North Roaring Brook their data shows that a large volume of water is lost from the stream; its lost at a point in the same area where the new FEMA

revised flood shows that flooding occurs; she expressed her concerns about this.

Dr. Smallwood said finally – she found when looking at the file – this year’s version of the site plan 1 shows the new FEMA official flood zone; she provide some background about the FEMA map used showing the flood zone lines; she talked about the proposal to build stormwater detention ponds in flood zones; she said what’s not been discussed is the stormwater pond looks like it’s going to be carved out of the slope – that comes down from the plateau towards the wetlands and that is in fact true for the back part of the detention pond – the north half of it; the front half of it is actually going to be built up from the current grade so that’s going to be an instructed embankment – she said at 5’ high it fills the definition of a dam for which they are going to need a permit from the State of Connecticut and that’s never been in their narrative as far as the permits that they need to get.

Dr. Smallwood continued her comments about the FEMA flood plain in effect in that area of the detention pond – retention pond – she said if that dam part is breached either by overflow on top or by a problem with the stability of the slope that flood waters instead of going through the weir into North Roaring Brook will actually come over into her yard – she said this dam is going to be built within 8 feet of her property line and this concerns her a lot; she talked about water breaching over Beachwood Court going into Mr. Dell’s property and into that stream that the 12” pipe is in and go down to the wetlands.

Dr. Smallwood continued to talk about her discoveries about the updated site plan filed last week still shows the FEMA flood plan which is official; she said she saw a map that outlined an extended flood zone that would be caused by the creation of this storm water basin that they are proposing going on to her property – on to Matt Dell’s – over Beachwood Court – it would come crashing into her house – it would flow along her house according to their maps – to do that it would have to be water at least 3’ deep – they show it going along the front of Mr. Dell’s property – in order to do that they would have to be at least 5’ deep – flowing down Beachwood Court – and then they show it kind of “magically” stopping at the edge of Mountain Road; she said they have another line showing it going over Mountain Road to the over curb next to Deaconwood Pond and stops there – which of course would flow into the Deaconwood

Pond; she said they essentially they've admitted on paper that everything she said last year was correct; they now have this recalculated plan that shows there is a flood going out of North Roaring Brook; she said they haven't mentioned any of this extended flood zone on the record – here or at Planning and Zoning through several public hearings; she said she finds this really disturbing.

Chairman de Jongh asked Mr. Overton if he wanted to make any comments concerning discussions of significant water flowing on either properties from Dr. Smallwood or Mr. Dell's property.

Mr. Overton said he'd like to start off asking Dr. Smallwood if she could identify this mysterious flood plain line that goes across Mountain Road on the plans for him.

Dr. Smallwood pointed to the plans the location of the line that – the plan is labeled SP-1 – the site plan – the main one – she said this dotted line here and here is the FEMA flood zone – and its labeled as such – the FEMA zone A 100 year flood plain limit – she talked about it going right through the middle of the detention basin – retention basin – and then goes off into the stream into the wetlands; she continued to talked about the dotted line and the direction is follows – by Mr. Dell's home and her home – continuing to Mountain Road; she showed another dotted line on the plan and followed its direction on the plan.

Mr. Overton said the line that Dr. Smallwood is referring to is the gray dashed line – it's actually the limits of field survey they conducted in order to do the redesign of the access drive of Beachwood Court where it intersection with Mountain Road; he said at one point they were allowed on the property and did field survey on both the Dell and Smallwood property and at one point we meet with Mr. Dell and Dr. Smallwood and had done a stake out initially of the previous design on the property and reviewed that in the field and with town engineering staff.

Mr. Overton explained when they moved to the redesign this is actually showing the limit of field survey for us to do that redesign so we could understand the matching points to the driveways – there's actually at one point between the initial design where we were looking at – where we were discussing with both property owners reconstruction of driveways and potential limits of grading – where we would go beyond the 50'right of way line and to show

where they were they were matching in – and that was the point where when we had rights to go on to the property and actually do that field survey; at some point those discussions broke down and it was clear we were not going to have any rights to do any work on the property and that's when we pulled back and did the design.

Mr. Overton stated that line is being misinterpreted as the flood plain line – and he agrees it similar to the dashed flood plain line.

Mr. Norback asked if tis identified as the limits you are describing.

Mr. Overton said he thought it was on the blow up plan that we did but the label is not shown on here – its shown on one of the other plans – that's the limit of field survey – it's not a flood plain line.

Chairman de Jongh said that he'd recommend that if that's the case that the map on file be somehow be delineated to correctly identify that so there's not misinterpretation.

Dr. Smallwood said if that's the case she apologized – the symbol for that line is exactly what the FEMA flood zone line is and it's exactly what you'd predict given the position of the detention pond and where the flood zone would be extended by building the detention pond.

Chairman de Jongh said that's why he thought the record on file needs to be corrected in terms of the identification.

Dr. Smallwood said she still returns to her comment about what their recalculated flood zone actually involves which is a flood coming out.

Dr. Smallwood said gain she takes exception to this portrayal that there have been discussions with us – we did not have discussions after the surveys were performed; she said she repeatedly tried to meet with them – they would not meet with her – they would not answer her questions – they would not provide information to her that she had requested so yes of course things broke down.

Mr. Overton said the final thing he'd like to add is referenced to what assumptions we have provided or considered as part of these calculations – everything that we've done follows standard methodology – the information that we submitted has been

submitted to the town engineering staff for both; our hydrology and hydraulics models as far as the surface runoff from the stormwater management design – also related to the flood plain design – those protocols of standards have been reviewed by that staff and it’s our understanding based on their letters that have been submitted that that information has been accepted as meeting standard engineering practice and has been accepted that we’ve done it correctly.

Mr. Overton stated he’s seen no evidence of anything that presented that there are errors or omissions or problems with any of the calculations that have submitted; he said we only have proof from the town engineering staff that in fact those have been determined to be acceptable.

Chairman de Jongh asked if there were any other comments from the audience.

There were no other comments made from members of the audience.

Chairman de Jongh said he thought there was nothing further that this Commission needs at this point; he said he believed they received all the information that we had requested; he said he appreciated everyone’s patience and cooperation; this is not an easy decision all around.

Chairman de Jongh said seeing there’s no further information that needs to come before this Commission he would declare this public hearing closed officially at 9:15 pm.

VI. ADJOURNMENT

The public hearing was adjourned at 9:15 pm by consensus of Commission members present.

Respectfully submitted:

**Carla Mills
Recording Secretary
Cheshire Inland Wetland and Watercourse Commission**