

**TOWN OF EAST HAVEN
PLANNING AND ZONING COMMISSION
MINUTES OF THE SPECIAL MEETING
FEBRUARY 1, 2023
IN PERSON AND
VIA ZOOM VIDEOCONFERENCING AND CONFERENCE CALL**

Acting Chair, Ms. Marlene Asid, called the regular meeting to order at 7:15 p.m.

I. Roll Call and Pledge of Allegiance

The Pledge of Allegiance.

John Tarducci
Louis Fusco
Al Shaul
Marlene Asid (via videoconference)

There was a quorum.

Attorney Coppola indicated that Mr. Bob Cubelotti was excused.

The following were in attendance:
Joseph Budrow - Zoning Enforcement Officer
Glenn Chandler - Zoning Consultant
Jonathan Bodwell - Town Engineer.
Attorney Jennifer Coppola (- Counsel to the Board
Sotonye Otunba-Payne - Clerk

II. Review and Action on Prior Meeting Minutes

1. Minutes of August 29, 2022 Special Meeting
2. Minutes of October 12, 2022 Regular Meeting
3. Minutes of January 4, 2023 Regular Meeting

Ms. Otunba-Payne read this section for the record.

Attorney Coppola indicated that these minutes were sent out.

Mr. Fusco indicated that he had not seen them. Mr. Tarducci said he reviewed the January 4th, 2023 minutes. Ms. Asid she had not seen any minutes.

Attorney Coppola indicated that the January 4, 2023 minutes were not complete. She indicated that she would resend the other two minutes.

Mr. Fusco motioned to hold off on the review of the minutes until all members of the Commission have seen them. Said motion was seconded by Mr. Tarducci. The motion passed unanimously.

III. Public Hearing

1. **Application No. 22-07 - on behalf of the East Haven Planning and Zoning Commission.** A Petition for a Text Amendment to the East Haven Zoning Regulations to complete the draft revision from 2019, proposing some changes, and proposing a new format.

Ms. Otunba-Payne read this application for the record.

Ms. Asid indicated that Mr. Budrow would speak about this. He had been working very hard on these.

Mr. Budrow indicated that the members of the Commission had a new binder filled with the draft regulations. Given that he just received them today, he would scan a document and send it to Ms. Asid. The goal for the next couple of days is for the Commission to look at this, express their comments, ask questions and/or make suggestions. There are a few editing that have to be done such as areas with too many spaces, etc. The regulations are ready for one major synopsis on March 1st, 2023. He welcomed any comments from the Commission and the public. The documents would be scanned and posted on the town's website.

Mr. Budrow further stated that there weren't a lot of changes. That was not the goal. The goal was to reformat and use this as a springboard for 2023 to lead with rezoning and some text amendment.

He reiterated that Section 10 is the major, major change from the current regulations to where the use of the table goes from a grid format to a district-by-district listings of the regulations in a very neat order. It has been streamlined. There would be notes of allowed uses at the end of Section 10.

It is noted that there were many uses not in the town's parking standards. And the parking standards is the only section that saw a lot changes. So, anyone reading can see uses added to the town's parking standards. The calculations were modified to be consistent and East Haven-friendly. What he meant was that he used parking standards from towns that he thought were similar to East Haven. He went through five towns for specific uses. He then proposed standards that were most common.

Ms. Asid called for public comments for or against this application. She also asked those online the same question.

Mr. Budrow indicated that he wanted to add to the record that last September he sent the draft to SCROG. And October 13, 2022 SCROG determined that the Zoning Regulations that had been proposed by the documents they received appeared to be finalized and do not appear to cause any negative, inter-municipal impacts to towns in the South Central Region nor did there appear to be any impact to the habit or ecosystems of the Long Island Sound. So, the draft has been approved by the regional planning commission.

Ms. Asid indicated that Mr. Budrow had done a great job with these drafts. She thought everyone would be pleased with the updates.

Attorney Coppola asked whether the underlined parts meant they were revised. Mr. Budrow indicated that he just had to see what Attorney Coppola was referring to. He took out all the underlines and cross-outs from the original drafts. There should be no underlines related to the next text.

Ms. Asid called for comments from the Commission and the public.

Jack Taboni (phonetic), 270 Cosey Beach Avenue, asked if these drafts would be online for viewing the following day. Mr. Budrow replied by saying they would be online hopefully by noon on February 2, 2023.

Ms. Asid called for a motion to continue the public hearing.

Mr. Tarducci motioned to move Application No. 22-07 to the Commission's March 1st, 2023 meeting. Said motion was seconded by Mr. Fusco. The motion passed unanimously.

2. **Application No. 22-15 - Gurukrupa Investments, LLC, 85 Hemingway Avenue.** An application for a Site Plan Modification to approve the existing conditions at the property.

Ms. Otunba-Payne read this application for the record.

Mr. Budrow indicated that Attorney Timothy Lee was not present. He granted An extension for this hearing to be left open. The town's fire marshal has said he was not close to being able to sign off on his portion of the Certificate of Occupancy because the base layer for the fire access had not been installed. It has to be graveled. The word is that company who will be paving the fire access went to the supplier to get the asphalt needed to pave. So, there was really nothing for Attorney Lee to say today. If all goes well, that paving would occur within the next four or five days and the CO could be acted on. So, it would be left open.

Ms. Asid called for a motion to continue the public hearing.

Mr. Tarducci motioned to move Application No.22-15, public hearing, to March 1st, 2023. Said motion was seconded by Mr. Fusco. The motion passed unanimously.

Mr. Budrow indicated that the 71 South Shore Drive application, Application No. 23- 01, had been withdrawn as well as the associated CAM application (Application No. 23-03) due to logistical reasons which would be explained at another time. For now, those two applications are off the agenda under new applications.

Attorney Coppola indicated she did not know if anyone was here specifically for these applications. She reiterated that **Applications Nos. 23-01 and 23-03 would not be going forward tonight.**

3. **Application No. 22-16 - The Bluffs, LLC, Mark DiLungo, 31 ad 100 Sperry Lane, 161 Foxon Road.** An application for a Site Plan Review for multi-family elderly housing/assisted living facilities.

Ms. Asid read this application into the record.

Attorney Bernie Pellegrino introduced himself. He was present representing the applicant. They were present before the Commission last month and made their presentation.

He was present today with his clients as well as Mr. Darren Ovatn who is their civil engineer, Mr. Dave Sullivan who is their traffic consultant, Michael Stein who is their architect and Mr. Jerry Cox. There are three consultants present via Zoom videoconferencing in case there are any questions.

Last month they made their presentation. They received comments from staff. They received additional comments after the meeting with staff. And they have been working with the staff for the past three or four weeks to reply to comments. They have revised the plans. Revised plans had been submitted. They hope they were responsive to the questions and suggestions from staff both to become compliant regulatorily with the town's regulations and also based on some suggestions, to make the facility easier to operate and easier to traverse and to be more functional.

They appear before the Commission for more questions or comments relative to the revised plans that they had submitted and/or additional comments from staff. There were a few things they had been seeing feedback on that they had been working on relative to the affordability plan and some other issues. He was happy to answer any questions the Commission may have.

Mr. Fusco asked Attorney Pellegrino to highlight some of the changes that had been made.

Attorney Pellegrino responded by saying that they had provided responses to various comments. Those are self-explanatory, he thought. They had submitted elevation drawing and floor plans for the clubhouse. They did that since they were before the Commission. Number two, on the plans they had added internal sidewalks. They have made some adjustments to the parking layout.

There were questions about the number of spaces vis-à-vis the building and whether or not there were enough spaces. They had provided data to show that there should be. They added sidewalks to excess parking to allow people who may be parking over near the assisted-living building to get to the other buildings. They have tied the clubhouse into the sidewalk network as well because some people may be parking on in those excess spaces by the assisted-living building.

They added handicap spaces. They indicated areas where electric cars could recharge. So, they show those to be compliant with the new statute that requires certain electrical stations for charging automobiles. They added some landscaping in a few areas by the parking lots.

There were certain drawing submitted to show some of the changes such as building height, number of stories, etc. These are the major changes.

Mr. Budrow indicated that during the last meeting Attorney Pellegrino didn't talk about landscaping and lighting plans.

Attorney Pellegrino turned it over to Mr. Ovatn to speak about the landscaping plan.

Mr. Ovatn introduced himself. He is a licensed professional engineer in the State of Connecticut. So, they had provided detailed landscaping plans at a 40 scale. It's a mixture of street trees along the access roads and also along the parking lots. There are also a mix of shrubs and ornamental plantings. Their landscape architect strived to work with native plants. Sometimes some of the ornamental plants may be non-native. They would never mix in any invasive type of species. So, there is a very robust planting plan surrounding all the parking lot and the buildings.

They also have added the photometric plans where they have street lights. They are LED lights. There is some limited lightings on the buildings for safety that they have included in the photometric plan. The idea is to create enough lighting to provide for safe access and entry for vehicles and pedestrians from a safety standpoint as well as for people that may be accessing buildings at night or, as mentioned by Attorney Pellegrino, the sidewalk connection system.

They added some sidewalks to create more connectivity between all of the buildings. They all kind of follow into the clubhouse. The clubhouse is kind of the central hub. They added a few crosswalks. They've made sure that there's suitable lighting levels so those could be accessed safely at night.

Attorney Coppola indicated that everything that was submitted had been posted at the Commission's agenda page online. There are a couple of additional things that will be posted.

Ms. Asid indicated that the Commission had read the documents submitted as well as the comments by staff.

Attorney Pellegrino added that they added dumpster and dumpster pads for each one of the three residential apartments building because Mr. Ovatin explained that the other one was inside. There were a few places where they added guardrails that had been suggested based on parking proximity to some of the slopes as one comes off the back of those buildings to B and C.

Mr. Chandler indicated that they had made significant progress with the applicant. They ended up in a scenario where regulations required 150 parking spaces. At the last meeting the Commission was concerned about the distribution of the spaces because there were fewer spaces than what the regulation required by the building and more spaces up around the assisted-living facility. So, effectively the site complied.

Given the configuration of the site, it is difficult to provide more parking spaces around the buildings. They've provided information that indicates that it is very likely for a mid-rise apartment building that there is enough spaces around the facilities. They discovered more than two-thirds of the units are probably going to be occupied by one person. So, as a result, they think there would be enough parking spaces around the buildings.

They have installed a meaningful pedestrian-transportation or circulation system which would allow people to get to the other parking spaces should they need it. They had some concerns initially because it was a fair distances, a fair change in grade to get to the reserved parking spaces. They generally feel comfortable in that regard.

They are continuing to work with the applicants on the number of handicap spaces. Because it's an elderly development there are parking needs. There are certain requirements by state law. It also requires international building code related to unit types. They are still working on that with the applicants.

The state law changed with regard to the number of electrical vehicle charging stations that are required. The applicant has shown those on the drawings in terms of their location, etc. He thought there were provisions in the building code as well about the number of van accessible spaces that are required in this situation. So, they are catching up and continue to work with the applicants to get that resolved before the Commission.

Attorney Coppola indicated that Mr. Ovatin did a good job explaining the issues regarding parking. She wanted to make sure the applicant understood that if there are concerns about the number of spaces around the buildings, staff would go through that more specifically with the applicants because this is a big issue.

Ms. Asid inquired about visitor parking spaces.

Mr. Chandler replied by saying there were no designated visitor places on the plan itself. So, visitors would have to find parking spaces in the lot. There are

some parking spaces up by the clubhouse. Again, there is extra parking spaces up at the top of the hill.

Ms. Asid asked if there were no designated visitor spaces at all.

Attorney Coppola replied by saying that it was not in the plan.

Attorney Pellegrino added that the Town of East Haven's Zoning Regulations do not require visitor spaces. The regulations set forth parking ratio or criteria that is meant to include both residents and visitors. They would prefer not to designate spaces either way for many of the reasons they had just spoken about. So, they are not showing any parking as restricted one way or the other.

Ms. Asid asked about landscaping and who would maintain the plantings.

Attorney Pellegrino responded by saying that the plantings would be maintained by a company hired by the property management company that deal with landscaping, maintenance of the shrubs and trees and cutting of the lawn.

Ms. Asid asked whether the curbing and the sidewalks would be concrete.

Mr. Pellegrino indicated that they were showing all curbing adjacent to sidewalks as concrete. They are showing some curbing along the access drive as bituminous.

Mr. Chandler from Planimetrics added that Attorney Pellegrino indicated the sidewalk is concrete sidewalks. Most of them are adjacent to the curb. So, it's a concrete curb. They worked with the applicant to create a scenario where the driveway will likely be asphalt curbs. They also had conversations with the applicants about an asphalt sidewalk down to Route 80 for someone who would like to take a bus. That is not a firm solution yet. They have an agreement on that.

Attorney Coppola indicated this was something the Commission should have input.

Mr. Ovatin indicated asphalt may be an appropriate approach in that situation.

Mr. Chandler indicated that for so many parking spaces, there needs to be an island protected by a curbing. They might end up losing parking spaces at the locations that they think is most appropriate since they have a linear curb. The applicant had suggest increase landscaping material. During their discussion, they thought the Commission should weigh in on that. You can tell from the drawings themselves in front of the buildings there is a sidewalk which leads to the parking spaces. There is a rule about an island every 10 spaces. That is written in the planned elderly facility district. The plan is to look for enhanced landscaping to address that situation.

Mr. Pellegrino indicated that it was a requirement in this district. They are looking at enhancing the landscaping to address that situation./

Ms. Asid called for comments.

Mr. Chandler indicated that there was a tradeoff here. They have a tradeoff between the parking distribution and location and given that they have everything with the site, he thought the introduction of additional landscaping and trees along the access ways would provide a visual buffer, shade and all the other things that would accomplish similar purpose that the island would.

Mr. Ovatin added that on the revised plan they did add some additional street trees around the parking to make sure that they had a street tree at least every ten spaces so that they would achieve kind of the same amount of shading as having these individual islands. He thought they added about ten trees where they didn't have the full amount of coverage along the primer of the parking. So, in our opinion, we are achieving the same goal of providing the shading without having an island that's going to displace parking that's closer to the front door of the building or displace that parking space to another location at the end where we may have to clear more existing vegetation.

Those intermediate islands are also a nuisance in the winter if there is snowplowing which will lead to damage of those islands. He further commented that he thought what they had proposed is a better option and suits the development plan better.

Mr. Tarducci asked about the disposal of snow given the size of the property.

Mr. Ovatin responded by saying that the benefit of this plan is that they do not have a large, expansive parking lot. These are double set roads with a single drive aisle down the middle. So, where there are sidewalks, the sidewalks would be cleared. This would be plowed down the middle and then the spaces again would be pushed into the side and into those landscaping areas. There are also some areas behind the buildings where there are some slippery slopes where the snow could be pushed off into a wooded area if the snow storage perimeter of the parking became full. There are plenty of opportunities on the property to locate snow if we had a very heavy snowfall winter. Whether snow would need to be moved with a bucket loader and trucks or not, there's plenty of room on site for snow storage. In the average year, he thought snow would just be pushed to the side of the parking spaces with adequate storage spaces around the perimeter as necessary.

Mr. Fusco indicated that he would rather see more parking closer not islands. He has seen islands in parking lots. They are all destroyed. It is a mess.

Attorney Pellegrino responded by saying they all agree quite frankly on that. Mr. Ovatin's team did a good job enhancing the landscaping.

Mr. Tarducci asked about the length of the access roads.

Mr. Ovatin indicated that they took a look at that and it is about twelve to thirteen hundred feet till one gets up to that Building B, to the first branch-off to the parking lot, to the front of the building.

Mr. Tarducci asked if it was walkable.

Mr. Ovatin responded by saying that it was a matter of opinion. Part of that grade is eight to ten percent coming up that initial slope on the west side of Building B.

Attorney Pellegrino indicated that they had looked at it. They could put a sidewalk given the distance. There is room in the shelf to do it. They have questioned whether that sidewalk would really get used. And it's not an inexpensive sidewalk to install. There were concerns about walking to the assisted building from Building B. So, when he saw the sidewalk was thirteen hundred feet, he said to himself that is a sidewalk that would not get a whole lot of use. However, this is for the Commission to weigh in on.

Mr. Fusco said he would see if there were employees taking buses and the necessity to walk up there.

Attorney Pellegrino indicated that the Bituminous would be slightly less expensive build. It would be in keeping with the Bituminous curbing that they are shown there so they all tie in together. That is a reason they have been talking about if a sidewalk were to be required, the Commission had the right to ask for it, rather than have that long sidewalk, thirteen hundred feet of concrete, that they could use a Bituminous material as an alternative.

Ms. Asid asked about people who would use the bus to come up and would necessarily have to walk up. She wondered how snow would be removed.

Attorney Pellegrino indicated that the snow would be plowed or snow blown off just like they would at the top.

Mr. Shaul asked if there was a bus stop located in this whole area on Route 80 that people would be getting off.

Attorney Pellegrino indicated he did not know the location of the bus stop.

Mr. Chandler indicated if one looked at the Greater New Haven Transit District map for this bus line, it is the Bus No. 213 that comes to Route 80. The concern they had was that they were unsure of the amount of pedestrian activity. It could be employees working at the assisted living. It is a pretty good haul up that hill. There is no question about it. Employees might walk in the driveway. Since employees would be working day and night, they thought it was something to raise before the Commission.

Mr. Shaul asked again if there were any bus stops around here shown on a map.

Mr. Fusco indicated that there is a bus route on Route 80.

Mr. Chandler indicated he would get a map of the Greater New Haven Transit District which shows the stops along this section of Route 80. It would not come to the site. However, eventually, it might.

Mr. Budrow indicated that there is potential for the site to be a scheduled stop.

Mr. Chandler indicated that they would insert the transportation map as a part of the record.

Mr. Budrow said he was a little confused about the clubhouse because on the site plans it has a shape and outside it shows what to him looked like a lawn area. When he looked at the archliberals and the floor plans, they don't match the site plans. He asked if the floor plans were accurate renditions of the clubhouse. He further asked if installation of a swimming pool a part of the plan. It is not in the stipulation. He thought he was informed the swimming pool was off the table.

Attorney Pellegrino indicated they cannot forget about the locked storage requirement for the assisted living and the office

Mr. Stein replied by saying that there is a lot of storage in Buildings B and C for a sales office and if necessary, an off-site property manager's apartment. Their thought it so get the sales office in the first building.

Mr. Chandler agreed that a temporary sales office in the first apartment building would not be a bad idea. They would decide later if it is the best location for an office in the future. Mr. Chandler requested that the clubhouse not be the last building built. The phases are as follows: To built the access road up the hill first. Then it's either going to be the assisted living facility or the apartment building in the back, referred to in the plan as Building 4. The assisted living can be built at any time.

Attorney Pellegrino said if he didn't say it in the letter, the clubhouse and the next building would go together.

Mr. Chandler added in the Stipulated Judgment there are provisions in there related a retail store. There's no indication exactly where the sales office would be. The sales office could go into first apartment building first. It might made sense to add some space for a management office there as there would be rentals and sales into the future. This is an issue for the Commission.

Attorney Pellegrino indicated that the clubhouse would be built after the first building is completed whatever phase that is. The clubhouse would go with Building 3.

There were discussions about the different phases and which building the temporary office would be in.

Attorney Coppola indicated that the swimming pool is an optional supportive facility in the zoning regulations. Section 28-9 of the regulations was read into the record. She read the pertinent sections so that the Commission understands that it has discretion over things that would support this development.

Mr. Pellegrino asked Mr. Stein to speak about the assisted facility and what amenities it would have.

Mr. Stein indicated that the assisted-living facility is quite large. It has units that are memory care. They treat the memory care as almost a separate entity. They provide programs that are therapeutic to dementia. Of course, there's a large dining area which is the most common activity. The facility would have a pub. On the ground floor is a library space. The second floor contains what is secondary dining venue. In the big activity rooms there is the theater. There is a fitness center which has age-appropriate exercises. The spa is a beauty parlor and place to get mani-pedi and even a massage. There is a wellness clinic which is more a doctor's office. There are some staff for recordkeeping. There are many activities planned all day, clubs, cards, acting, painting. They do off-site trips to New York to the theater. There is an abundance of opportunities for cultural and enrichments events.

Attorney Pellegrino added that if they want to use the pool, they would have to be given permission to use the pool.

Attorney Coppola indicated that they should talk about traffic.

Mr. Ovatin indicated that they did provide a flare-out at the intersection where the driveway meets Fox Road. The idea of that is that if there is a car waiting, they have a 26-foot wide road so a 13-foot lane. If it's curbed, it would be difficult to get by a car that's waiting to make a left turn. So, the flare-out created the ability for somebody who wants to make a right turn which might logically happen quicker than somebody waiting for a left turn. They can move to that right of that car and not be restricted from making that right turn, and not have to wait behind a left turning vehicle. They have added that to the revised plans. He stated that Mr. Dave Sullivan was here to answer questions if he had not covered everything.

Ms. Asid indicated she did not know if she could be completely happy with access and egress. However, it is better than it was. It is also going to be monitored.

Mr. Ovatin indicated there was also a suggestion to show where the access drives come up and is relatively at grade with existing grade and very close to grade of the high school driveway. They have also dashed in the potential for an additional emergency access to be connected. There is the existing emergency access from the high school that's gated out to Sperry Lane. They are proposing to keep that. However, there is an opportunity for a second one if that was desired.

Attorney Pellegrino indicated that it was a little closer to Foxon Road, a little closer down the hill. It's shown on the latest revision, LA-1.

Mr. Chandler indicated if they looked at the access road coming up the hill, it curves to the left and shoots back to the right. There is a location along the curve where the grade of the driveway to this development is at the same grade on Wheelbarrow and it is possible to make a connection. They have discussed this with the applicant. They recognize that this is town property. If the town doesn't give permission, it wouldn't happen. But if emergency services felt that that was potentially desirable as opposed to going all the way up the hill then coming all the way back down on the Bluff property, it might be advantageous to do so.

In terms of access to the property, there are Stipulated Judgment provisions related to long-term applications to DOT to look and establish a traffic signal. They also recognize that the applicants are going to need a permit from the DOT to put the driveway in. They had some dialogue with the applicants about whether or not there was a need for turning lanes at the property. Their response has been the state DOT protocols indicate that turning lanes are not necessary or warranted at this time. Again, they have to process this through DOT. The town is very interested with this situation regarding the traffic light. Three-hundred and seventy-eight units are going to be accessing on one driveway. His sense is that the town would encourage DOT to take a look at this issue to ensure that it is safe for turning cars.

Their position at this time is that they can advocate to the state. However, it is up to DOT as to what their requirements will be.

Attorney Pellegrino indicated that they are prepared to do the lights, if they will allow it and any other work that they think may be needed as far as the intersection of that driveway and the road.

Ms. Asid indicated that they would have to wait and see what kind of traffic is generated in the future. There would be issues with the intersection. She asked if staff had made comments about additional services.

Mr. Budrow indicated that at that time the fire chief had been looking at the plans recently. They would encourage comments on the idea of an access of Wheelbarrow Lane.

Ms. Asid commented that it was a good idea.

Mr. Budrow said he believed the camp was accessed from Sperry Lane on a paved road that went straight north up the hill and it's shown on the plan under existing conditions. He asked, but what is to become of this paved road? He asked if it was going to be removed and whether that whole area would be turned to natural conditions.

Mr. Pellegrino indicated that they were looking at it. Their intention was to abandon it. There was no intention to go in there and rip it out. It's just not going to be used as it had not been used in years. So, it would be abandoned as has been. They are showing no disturbance in that area. Lots of people were concerned that they should leave it in its current state. That was their intent.

Mr. Budrow stated that apparently there is an intermittent watercourse from the pond. It goes down to Sperry Lane. It's been addressed in front of the Inland Wetlands Commission which did approve this. He wanted an explanation as to how the intermittent watercourse would be piped into where it will end. He asked because there is a home on Sperry Lane which is accessed to the farthest west. It has a channelized intermittent stream presently next to them. So, if this stream is piped to a retention pond, there would no longer be a watercourse next to their home. Thus, their yard would no longer be an area regulated for wetlands and watercourses. He asked where the watercourse would be directed and where it would end.

Mr. Ovatin stated that on their Grading Utilities Plan, on Sheet G-1, the discharge from the stormwater basin from the pond comes into the proposed storm drain's collection system. And it comes down in front of Building B. There's a catch basin there. And there is a small diameter pipe. They proposed a six-inch pipe that would allow low flow. Anything that comes out of the pond the way it does now, there would be a six-inch pipe flow that feed into that intermittent watercourse that leads to the cross culvert under Sperry Lane. The intention in putting that small diameter pipe was to continue to allow low flows to feed that watercourse as it does now. And then the storm flows would be collected in the stormwater management system and then to the outlet point that's proposed down the access drive to the high school. That's how they handled it.

They worked with their wetland scientists to actually flag that watercourse. And they came to the conclusion, based her recommendations, that it was best that we had some low flows to that watercourse to try and match existing conditions. That's what they've done.

Mr. Budrow asked if that culvert under Sperry Lane would still take water. Mr. Ovatin replied yes.

Mr. Budrow said it would still be an active stream near their house. Mr. Ovatin replied in the affirmative.

Mr. Chandler indicated that in the Stipulated Judgment there are provisions in there related to a retail store. There is no indication exactly where the sales office would be. It's quite possible that a temporary sales office could go into the first building until the clubhouse is built. However, it might make sense to add some space under the clubhouse for a management office because there's going to be rentals and leasing into the future. This is an issue for the Commission. The applicants have suggested that one of the lower apartment building which has storage spaces in the basement could use one of those spaces for the leasing office. There should be a conversation about this.

Mr. Chandler added that they have a lighting plan. Another important thing is the bulb specification. He is sure they are LED, but the temperature range of the bulb is what would make a big difference in livability and particularly for sleep cycles and other things like that. He thought it is supplemental information that would be nice to have as part of the record. He apologized if it had already been indicated but he did not see it.

Mr. Pellegrino indicated that they would check on that.

Ms. Asid asked if there was anything else to add. Hearing no responses. There were supplemental information about the blasting and schedules. She asked if there were questions regarding blasting. She had read the document earlier in the day.

Mr. Pellegrino indicated he would summarize regarding blasting. They were asked about what time the blasting would occur. Last month Mr. Cox, who is present, said it would be about 100 days, give or take, of blasting dispersed over the course of the project which could be a three- to five-year project for a full build out. What they identified in their response were the two areas where blasting or mechanical removal would be most likely to occur is in the area where the assisted living building is, Building 1, and in the area where Building 4 or D, depending which plan the Commission was looking at, the one in the back, those are the areas where most of the rock will be removed. The other two or three pads, if you include the clubhouse, are going to be even or even fill areas where some of the rock would be deposited for pads for the buildings.

Right now, the plan would be to do whatever needs to be done to get the access road in which may or may not include some blasting. If the assisted-living building is going first, they do not know when that will go, it will be doing rock removal there. That is going to be a significant part of the rock removal that may require blasting. So, it would happen at the front end of the project. It's probably likely that if that building does not go first, it will still be a staging area either in whole or in part. So, they will do a good portion of that area and do the rock removal there to create the staging area for the rest.

If the next phase is going to be building, the rock removal has to be done which may require blasting there. That's the next most predominant area where the blasting would more likely occur than not. Their belief is that the majority of the rock removal or site work that will require blasting would be in the early phase of the project. There may be spot shots or areas that need blasting as they back out. This is a fair summary of their response to the questions about when blasting might occur.

Attorney Pellegrino added that there was a question about some of the houses on Branhaven and Circle Drive not being in the parameter of 500 feet. Someone asked if they could they get a pre-blast survey. There are not that many people who fall in this category. However, if there are people who want a pre-blast,

they should notify them and they would be included in the pre-blast and post-blast survey group.

Ms. Asid asked about potential for residential areas having vibrations.

Mr. Cox from J & J Blasting replied that blasting could cause vibrations. The vibrations could be felt on Foxon Road and the surrounding areas. Whistle could be heard and slight vibration.

Ms. Asid asked if anyone had question or Mr. Cox had anything to add. Mr. Cox indicated that the 100-day schedule was of a single crew, the worse-case scenario. Multiple crews could do the work.

Ms. Asid asked for questions. Mr. Fusco said they were all set. Mr. Budrow indicated that staff was all set.

Mr. Pellegrino indicated that they had trouble hearing Ms. Asid.

Ms. Asid indicated they would go to public comments.

Attorney Coppola spoke about deed restriction for the affordability units which would be an exhibit. It is on the plan. Counsel have a stipulated draft on that. Age restriction would be separately filed. Both would be filed on the land records. She was reviewing that. It is very important that the age restriction be done correctly.

As far as the affordability plan is concerned, recall when they met with respect to the affordable housing plan, there were discussions about coming up with documents in this area that would be project document going forward. She had conversations with counsel about potentially having the option to purchase the affordable units after the restricted time frame passes. That was one of the strategies that is in the draft of the affordable housing plan that is going to be presented to the town council for adoption the following week.

She was still speaking to people with regard to sort of dealing with every scenario. That is something that is in a lot of affordable plans that were adopted, but it's not something that one sees in a standard plan. They will have that for the Commission.

Ms. Asid and Mr. Fusco called for public comments.

Cathleen Bowery of 12 Arthur Road, East Haven, Connecticut stated as follows: This is the largest housing development to be constructed in the last 27 years. The largest complex that was built in 1996 was on Mill Street for 212 units. We sat here and we listened to the presentation. And to put it mildly, many of the neighboring residents are terrified. They are terrified for their home. They are on the edge of town where they have lived in peace for over 50 years. Five days a week, eight hours a day for up to 100 days close to six months is not minimal; total 960 hours of blasting.

The concerns of residents in this area are unbelievably high. They are very worried about their homes. They are worried about the wells for the people that live up on Sperry Lane.

At the last meeting there was some discussion about the amount and the duration of blasting being presented at a previous meeting, but it was not because this last meeting in January was the first time that the public was presented the applicant's plan.

We were also noted at Inland Wetlands that we were not to discuss or ask questions about the specifics of the blasting because it falls under Planning and Zoning. And, surprisingly, at the last meeting, we found out that Commission sought no alternative. This Commission sought no alternative to the blasting which is very alarming to me because 960 hours of blasting is going to be so disruptive. We heard you say that it would not disrupt the school day at the high school which is right next door or Deer Run School when we know that when this school, the high school was built, the teachers at Deer Run, some of them, even asked for hard hats because it was so disruptive to their classrooms.

Traffic study. It's a very dangerous road now. The traffic study that was done in January, you know, it had average speeds of up to 49 miles an hour. You can ask my mother. She's coming up, taking left out of Branhaven Drive now. She actually takes a right, comes all the way down to Wheelbarrow Lane, uses the light to go in the -- turns around and uses the light to go in the opposite direction. She's elderly. You know, it's not an easy road. It's a dangerous road with the curvatures and the average speeds being high.

You know finally today after the last meeting, you said, oh, the blasting, it's going to be spread out. Well, the blaster said in the last meeting that it's going to be in the beginning stages. It's kind of going to all be at once. So, six months of houses rocking 40 hours a week. You know, it's unimaginable to the people that live here that this is happening to us. And, you know, there's no recourse. There's nothing.

It's an unfortunate situation for us. It's exacerbated by the mayors unresponsiveness to the residents that called town hall to speak to him. I know, myself, I haven't been given five minutes of his time in five years. It's a stark contrast from the word he gave us that his door would always be open, that he would always be open to help us. And I can assure you that it's a hands off approach to this project that, by the way, helped him get elected. It's noticed by many of the people in Foxon where he currently lives which is the sad part.

And I think that you really need to have further discussion on the blasting. You know, we are lucky that some of the houses aren't going to fall down. It's just so disconcerting. And it's so upsetting to so many people because truly they are terrified. You know, I mean that's the stage that people are at. They're terrified. Thank you.

Attorney Coppola indicated that the Commission was calling for more public comment on Zoom or in the meeting room.

Lorena Venega, 23 George Street, wanted clarification based on last month's analysis about DEEP process that needs to be public here. She wondered about FEMA requests. She wondered what would happen to people on Sperry Lane and that water in the area has to go somewhere. She is worried about water and how it would be impacted.

Mr. Ovatin responded by saying that as part of the existing analysis of the site, there is a flood plan associated with Farm River. There are no FEMA-regulated flood plan that extends onto this property. It's all on the other side of the Foxon Road. So, nothing that extends north of Foxon Road based on their review. And as part of their design for stormwater management, they designed to provide detention to offset the potential increases from the additional water so that is why they see the stormwater management basins on the site. They have shown, based on their analysis, that they have provided enough storage to have no increase in peak rates or runoffs from the site. As they know, they do this analysis because the peak rates are what mostly affects flooding and floodplain issues. So, it's understood that as long as they can match or reduce the existing peaks on site, then they are not having an adverse impact to any floodplains down the stream.

They have a control discharge from the site where the peak flows will be discharged and actually all of those from the site for the stormwater collection system go out to the pipe system that's in the high school driveway. There are a couple of pipes that would be upgraded as part of the project that extends across the intersection of Wheelbarrow Road and Foxon Road down to River Road. And there is a large discharge pipe by the bridge where it goes into the Farm River. So, it's all controlled discharge analysis which has been reviewed by the town engineer showing that they have no increases in peak flows. So, there should be no impact.

They have noted on the plans that this project to construction would require a filing of a DEEP construction stormwater management application permit. That's a filing on their Easy File website. That will be required. This is a locally-approved project. It's a 60-day review. So, that construction stormwater permit should be filed at least 60 days prior to starting construction. So, it's a relatively simple process that they review the stormwater management both for the design, the maintenance of it and then also the erosion controls during construction to ensure that they have complied with the local and state regulations. That permit would be in place for as long the project is under construction. Once the project is complete, all the surface are currently stabilized with either pavement, concrete or vegetation, then the notice of termination could be filed pending that permit. So, that permit would be valid throughout construction.

Ms. Venegas asked about how much wetlands are in the Sperry Lane property

right then. She also inquired about the amount of cubic yards of fill that would be brought in.

Attorney Pellegrino indicated that there are wetlands on the project. Application had been submitted to the Inland Wetlands Commission and they have approved the application.

Mr. Ovatin responded to the question about fill coming in. His understanding was that there would be no fill coming in. The only imported material would be construction material such as asphalt. They expect that the rock on site would be processed to use for the raised base. It would just be the asphalt, concrete and other construction materials. They don't expect to have to import any kind of fill for the project.

Ms. Asid asked if there were responses to the blasting comments.

Mr. Cox indicated they are very sensitive to the neighbors. The last thing they want to do is cause any problems or harm the neighbors. He thought the blasting could be done a lot quicker than the 100 days as crews are working eight hours a day. As all know, if they are blasting twice a day that's two sets a day of actual blasting. It's not eight hours a day of blasting.

The settlement agreement is a very robust agreement that help protect the neighbors. And the pre-blasting inspections for 508 is far more than other states or most towns would require.

Ms. Asid indicated that the high school was built about 20 years ago. She did not know if the impact would be felt today as much as they were felt 20 years ago.

Mr. Cox replied that there is technology. The drilling equipment is much better and clearer. To Ms. Asid's point about vibration and protection of neighbors from the actual blast vibrations, there is better technology regarding millisecond delays and whatnot that are used in the blast design. There has been some advancement which is much better for blast designs. They have a great protection here with a pre-blast inspections. The town has a good fire marshal who is on top of it and would work with whoever the blasting contractor is on a daily basis to protect the surroundings.

Ms. Asid commented that she did not know if this would alleviate all of the fears.

Attorney Pellegrino commented that he was impressed last month with the fire marshal's familiarity and his experience dealing with blasting contractors. His comments last month were relevant and helpful, quite frankly, to address the issues of blasting.

Attorney Coppola did reach out to members of the Commission about their availabilities this month. February 15th, 2023 would be fine for the members, two weeks from tonight. She proposed that the public hearing be kept open and

continued through February 15th, 2023. The Commission should ask staff and the consultant and herself to draft a proposed motion for the Commission's review which contain recommended conditions of approval. They will continue to communicate with the applicant's counsel with regard to the particulars of that.

Everybody recognizes this is a very complex development proposal. They will make sure that they will give the applicant the best support possible in terms of whether there is a decision on it.

Mr. Fusco motioned that Application 22-16 be continued to February 15, 2023, the public hearing should be open, and for recommendation from staff. Said motion was seconded by Mr. Tarducci. The motion passed unanimously.

Ms. Coppola recommended that Application 23-02 be taken out of order so he would not have to sit through the next agenda item.

Mr. Fusco motioned that rearrange the agenda so that Application No. 23-02 be moved up to the next agenda item. Said motion was seconded by Mr. Tarducci. The motion passed unanimously.

IV. New Application

- 1 **Application No. 23-01 - On behalf of the Vigliotti Construction Co., 72 South Shore Drive.** An application for a Special Exception to construct a 4-story apartment building containing 72 apartments and site improvement [To be scheduled for Public Hearing.]
- 2 **Application No. 23-02 - On behalf of Silver Lining Development, LLC/ Karl Muller, 495 Short Beach Road.** An application for a Site Plan Review to construct a 4-story self-storage facility with site improvements.

Ms. Otunba-Payne read this application into the record.

Attorney Pellegrino indicated he was representing the applicant. Mr. Muller was present with him. This is a self-storage facility. The original approval was in 2011. The approval has now expired. They are back seeking reapproval. They brought plans this week. They put it on for the acceptance of the application tonight.

Mr. Budrow added that Mr. Archer Tracey went to the ZBA and got a couple of variances for a building to be four stories. There was another variance as part of that. The Commission will know more about this at the next meeting. The approval was approved. He is sure the variance is on the land records. The Planning and Zoning Commission did go through the process and approved it.

He was sure the approval was conditioned that the applicant further works with the town engineer and other agencies to get the property into compliance. He did not know if that ever happened. There was an approval and there was an extension. It expired. It was proposed as elevated with earth materials coming in, six to eight feet, then the building would be on top of that. DEEP was involved as well as the Army Corp., and definitely the town engineer. There may have been another agency. It's a big project. He would like the Commission to look at the town's regulations and think about potentially this being a public hearing. It's a big project.

Also, the town engineer did get the plans today. So, he will do his assessment and get back to the applicant. He believed the first application process involved a Coastal Management Site Plan request. That would be a secondary application to go concurrently with this one.

Mr. Tarducci asked if at this point the Commission was ready to accept the application.

Mr. Budrow said that the Commission had the discretion to schedule a public hearing.

Attorney Coppola indicated that if the Commission would like to schedule a public hearing, they should use a specific date in the motion made. She recommended that they use March 1, 2023 for publications.

Mr. Pellegrino indicated that is a self-storage facility and a generates low traffic. He did not understand the thinking that a public hearing is needed. It is a nice economic development project for the town.

Mr. Tarducci indicated that it is property immediately adjacent to Dunkin' Donuts. It had had some drainage problems in the past.

Mr. Muller commented that there were drainage problems all in that area. Mr. Tarducci responded by saying, that's true. Mr. Muller added that whatever they have to do, they have to bring up the elevation.

Mr. Pellegrino commented that he was not arguing that technical review and the need to design appropriately, and build it appropriately with review of staff and consultants to get it right was necessary. However, he did not see public interest being significant. It is up to the Commission.

Mr. Fusco indicated he did not see the need for a public hearing.

Ms. Asid said that on the advice of counsel, a public hearing is recommended.

Mr. Fusco said there was no need for a public hearing as this is a commercial area. He didn't see anybody interested in opposing a project of this nature. It is a positive for the town. There are million things backed up for public hearings. This is just an opinion. He would go either way if others chime in.

Mr. Tarducci stated that he thought it should be thoroughly reviewed by staff. They have public hearings on a lot of things and no one shows up.

Attorney Coppola responded by saying that that was not part of the decision.

Mr. Fusco replied that they understood.

Attorney Coppola indicated that was of no consequence. It is in the regulations that the Commission has a right to hold public hearing on every site plan.

Ms. Asid asked if Attorney Pellegrino was seeking approval that evening. Mr. Fusco and Mr. Tarducci simultaneously said no. Ms. Asid asked if it was to waive the traffic study.

Mr. Fusco said all they were asking is to move it along without a public hearing. Mr. Fusco said March 1, 2023.

Mr. Tarducci asked if any permits were needed from the state because it is a state road.

Mr. Pellegrino indicated state permits would be needed. He did not see the public interest to hold a public hearing. They are ready for March 1st, 2023 either way.

They have asked for a traffic study.

Ms. Asid asked if the property was parceled. Attorney Pellegrino responded by saying that his client now owns the property.

Mr. Budrow indicated the town engineer received the application that day and would review it for what's required of the applicant after his review.

Mr. Tarducci reiterated that there was no need for a public hearing at this time. Mr. Shaul indicated he did not know anything about the whole process about this issue.. Either way he is fine.

Ms. Asid said this could be moved to March 1st. If they do not see the need for public hearing, so be it.

Mr. Fusco motioned on Application 23-02 - On behalf of Silver Lining Development to move this application to March 1st, 2023. They are

accepting the application. It would be heard without a public hearing on March 1st, 2003 with input from staff. Said motion was seconded by Mr. Shaul. The motion passed unanimously.

- 3 **Application No. 23-03** - On behalf of the Vigliotti Construction Co., 72 South Shore Drive. An application for a Coastal Area Management Site Plan Review to construct a 4-story apartment building containing 72 apartments and site improvements on a property within the Coastal Area [To be scheduled for Pubic Hearing.]

PUBLIC HEARINGS CONTINUED

4. **Application No. 22-18** - A Petition for a Text Amendment to the East Haven Zoning Regulations on behalf of the Planning and Zoning Commission to adopt a new zoning district. "Adult Use Cannabis Retail District," as Section 11.9 of the Regulations for retail and hybrid retail cannabis establishments.

Ms. Otunba-Payne read this application into the record.

Attorney Coppola indicated documents were given to the Commission. She went over the document. The definitions are based on the statutes. She indicated that Mr. Budrow did give her comments which she incorporated into the document. Again, it is a floating zone. It may be that multiple parcels could be put together to meet the average requirement.

They had discussed a larger separation distance from schools and daycare which has an education component to it. She did come up with 700 feet. They do not want to have so great of a separation of distance that is so restrictive.

Mr. Tarducci asked for the distance as it related to alcoholic beverages. Attorney Coppola replied by saying 500 feet.

They talked about 750 at some point. Again, she did have that concern of a 1,000 feet. Fifteen hundred feet was discussed at one point.

As far as 200 feet from single-family dwellings, she thought it was important to make that reduction and have it not be 500 feet so as not to be so restrictive. Two hundred feet has been used by most municipalities as far as separation distance from residential use. It makes the most sense. Most commercial districts do abut residential properties. To go any larger, again, would be so prohibitive.

Mr. Tarducci thought it should be more. Within 200 feet of a single-family dwelling or two-family dwelling is what's written. He asked if this could be near an apartment building. He wondered if it could include multi-family dwellings.

Attorney Coppola indicated it would be single-family dwellings or multi-family dwellings then. Mr. Fusco agreed and commented that it made sense.

Mr. Budrow indicated they would look at proximities.

She spoke about the application procedure. There needs to be a zone change. She read the pertinent section into the record.

Proposed hours of business would be asked of each applicant. She thought they should listen to each applicant.

Ms. Asid indicated she needed two minutes.

Mr. Fusco motioned to recess. Said motion was second by Mr. Tarducci. The motion passed unanimously.

(The Commission recess from 9:40 p.m. to 9:44 p.m.)

Mr. Tarducci motioned to resume the meeting. Said motion was second by Mr. Fusco. The motion passed unanimously.

Attorney Coppola added that security plan was part of the process.

Attorney Coppola said that there were changes in the law with regard to advertising. She indicated she would provide the Commission a summary of this law so they have an understanding of what the law requires.

Attorney Coppola added that she included that the applicants would have to obtain permits issued by the Connecticut Department of Consumer Protection, licenses within six months of the conditional approval at which time the conditional approval will expire unless an extension is granted by the Commission. She indicated a member of the public wanted to speak.

Attorney Rod Farrell of Cohen & Acampora indicated that he was representing a potential applicant. He would like to be sure that this covers the eventuality where the proposed site is part of a common interest community so it's not actually severed parcels of land. They considered the possibility that the location would be in one big shopping center so it part of piece of real estate. This was his only comment.

Attorney Coppola called for comments from those online. There was no response.

Mr. Budrow indicated he saw an inconsistency with the regulations as it related to proximity and measurement. "Proximity" says not land or building of premises. "Land" starts at a property line. But the measurement says it is different. They have to clean that up. They may have to take "land" out.

Mr. Fusco motioned that Application 22-18 be extended to the February 15th meeting, and to leave public hearing portion open, and they will get some clarification on a few points from staff. They will continue at that point Said motion was seconded by Mr. Shaul seconded. The motion passed unanimously.

V. Deliberation Session.

1. Discussion and possible decision on **Application No. 22-07 - On behalf of the East Haven Planning and Zoning Commission (Zoning Regulations).**
2. Discussion and possible decision on **Application No. 22-15 - Gurukrupa Investments, LLC, 85 Hemingway Avenue.**
3. Discussion and possible decision on **Application No. 22-16 - The Bluffs, LLC, Mark DiLungo, 31 ad 100 Sperry Lane, 161 Foxon Road.**
4. Discussion and possible decision on **Application No. 22-18 - On behalf of the East Haven Planning and Zoning Commission (Adult Use Cannabis Retail District).**
5. Discussion and possible decision on **Application No. 23-02 - On behalf of the Silver Lining Development, LLC/Karl Muller, 495 Short Beach Road.**

VI. Other Business

1. Discussion of potential zoning regulations for accessory apartments/accessory unit use.

Attorney Coppola indicated that this continues to be a hot topic. She has something partially for the Commission. This is part of the larger strategies in terms of affordable housing plans. There is no motion required on this topic.

2. Discuss the status of the pending litigation and proposal Stipulation for Judgment in Autumn view LLC, et al. v. Town of East Haven Planning and Zoning Commission (Docket No. NNH-CV16--6061972-S), concerning the real property located at 92, 100, 110, 118, 126, 189 and 242 Strong Street, East Haven, Connecticut.
3. Consider whether to convene in executive session to discuss the status of pending litigation and proposed Stipulation for Judgment in Autumn View LLC et al. v. Town of East Haven Planning and Zoning (Docket No. NNH-CV16--6061972-S).

Attorney Coppola stated that this it was not necessary to do this in executive session. They have gone through an extensive process to get to a stipulated

judgment. The applicant has come back to them again. They can anticipate a revised draft stipulated judgment for the Commission. They will put it down for February 15, 2023. That way they could proceed with that. There were a few issues they had disagreements on. The plan approved by the Board was 98 units. The proposed settlement plan is 69 units. They will see the draft soon which is fairly completed. They will give it a once-over look.

VII. Adjournment

Mr. Fusco motioned to adjourn. Said motion was seconded by Ms. Asid. The motion passed unanimously.

Mr. Budrow indicated that the 71 South Shore Drive application, Application No. 23- 01, had been withdrawn as well as the associated CAM application (Application No. 23-03) due to logistical reasons which would be explained at another time. For now, those two applications are off the agenda under new applications.

The next Special Meeting is on February 15, 2023.

The next Regular Meeting is on March 1, 2023'

The Commission adjourned at 10:09 p.m.

Respectfully submitted,

Sotonye Otunba-Payne