

*Lisa Batten*  
TOWN CLERK

**TOWN OF EAST HAVEN  
PLANNING AND ZONING COMMISSION  
MINUTES OF THE REGULAR MEETING  
JANUARY 4, 2023  
IN PERSON AND  
VIA VIDEOCONFERENCING AND CONFERENCE CALL**

Acting Chair, Ms. Marlene Asid, called the regular meeting to order at 7:14 p.m.  
Ms. Asid introduced the members of the Commission and the staff.

**I. Roll Call and Pledge of Allegiance**

The Pledge of Allegiance.

Marlene Asid  
John Tarducci  
Louis Fusco  
Robert Cubelotti  
Al Shaul

There was a quorum.

The following were in attendance:

Joseph Budrow - Zoning Enforcement Officer  
Glenn Chandler - Zoning Consultant  
Jonathan Bodwell - Town Engineer.  
Charlie Miller - Fire Marshal  
Attorney Jennifer Coppola (via videoconference) - Counsel to the Board  
Sotonye Otunba-Payne (via videoconference) - Clerk

**II. Review and Action on Prior Meeting Minutes**

1. Minutes of July 27, 2022 Special Meeting
2. Minutes of August 29, 2022 Special Meeting
3. Minutes of October 3, 2022 Special Meeting
4. Minutes of October 12, 2022 Regular Meeting
5. Minutes of November 2, 2023 Regular Meeting
6. Minutes of November 30, 2023 Special Meeting
7. Minutes of December 19, 2022 Special Meeting

Ms. Asid indicated that there had been issues receiving the minutes and reviewing them. The staff have been very busy. The August 29, 2022 and October 12, 2022 minutes were

missing.

The Commission was in receipt of the following: The of July 27, 2022 minutes, the October 3, 2022 minutes; the November 2, 2022 minutes; the November 30, 2022 minutes; and the December 19, 2022 minutes.

**Mr. Fusco motioned to accept the submitted minutes today and the to get the two missing minutes to the Commission as soon as possible. Said motion was seconded by Mr. Tarducci. The motion passed unanimously.**

Mr. Budrow indicated that the October 12, 2022 minutes were in the packet that was delivered.

Ms. Asid indicated that they did not see that it in the package.

Mr. Budrow indicated that the October 12, 2022 minutes were done and he would get them to the Commission

### **III. Public Hearing**

Ms. Asid indicated those appearing remotely would have an opportunity to comment. However, the communications via the Chat feature would not be part of the record. She implored anyone wishing to speak in person or via videoconference to raise his or her hand or use the raised hand feature of the videoconferencing platform to speak on the record.

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. Asid read this application into the record.

Mr. Budrow indicated that they had public hearings during which the reformatting was explained. Article 1, Sections 1 through 9 are finished. It just needs to be proofed by Counsel because she had a list of issues which she has been writing down since she became counsel for the town. . She will look for those within the sections he had sent her. Article II was in the process of being reformatted. Once they are reformatted, they will be posted to the website for public review.

Realistically, the Commission's March meeting will be the meeting during which discussion would ensue about whether the Commission thinks the reformatting is good to go for 2023. They will then proceed with the required amendments with the Commission's blessing to go forward on those.

They would be correcting all typos, getting all the numbering squared away. They will put each section that is ready on the website for public review.

Mr. Budrow indicated that the public should be asked for comments. They will then continue this to February.

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

Mr. Budrow called for comments regarding the reformatting of the Town of East Haven Zoning Regulations.

Hearing no comments, Ms. Asid asked for a motion to continue this application to the Commission's February meeting.

**Mr. Tarducci motioned to continue Application No. 22-07 to the Commission's February, 2023 meeting. Said motion was seconded by Mr. Shaul. The motion passed unanimously.**

Ms. Asid indicated that she wanted a motion to amend the agenda so that Application No. 22-16 would become line item No. 3, and Application No. 22-15 would become line item No. 2.

**Mr. Tarducci proposed to a motion to change the order of the public hearings and to make No. 3 which is Application No. 22-15 actually move that up to No. 2, and make Application No. 22-16 No. 3 on the Public Hearings agenda so that Application 22-15 will be heard and discussed before Application No. 22-16. 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. Asid read this application into the record.

Attorney Timothy Lee indicated that he was representing the Gurukrupa Investment, L.L.C. with respect to this project. They had been before the Commission for a site plan. They had received a special permit in the recent past. As part of that special permit they were allowed to build an apartment complex and a commercial building that was approved as part of the application. He had gone through this with the Commission in November. The apartment building is completed. It's leased out. And his client have a temporary Certificate of Occupancy permit for the residential structure. They cannot get a full CO because they are not in zoning compliance because of the commercial structure.

At this point in time his client has not identified a tenant for their structure. They don't want to build a commercial building until a tenant is identified. So, at this point they want a special exception to eliminate the commercial building. By eliminating the commercial building the site would be going into

zoning compliance. They can then get a Certificate of Occupancy for the apartment complex.

It's his client's intention that once a tenant is identified for the commercial building or a use is identified as a commercial building they would have to come back before this Commission again to amend the special permit and the site plan to show the Commission the commercial building, and to describe the tenant who is going to occupy the commercial building.

So, this is kind of a unique situation as he was asking the Commission to eliminate a budling and asking for an approval.

Mr. Budrow indicated Attorney Lee was before this Commission in November, 2022 during which Attorney Lee was told the application should have been a modification to a special exception. So, they set up a public hearing. The agenda does say site plan, but they will fix that. However, it should have read modification to a special exception. The Commission conditioned and gave them approval to pave the site as shown on the site plan so that fire apparatus could come up Hemingway and then go up to the right and access the side of the building.

Fire Marshal Charlie Miller was present to inform the Commission about the paving and his opinion regarding whether he would or would not be able to approve this.

Ms. Asid asked if Attorney Coppola wanted to speak. Attorney Coppola indicated she did not.

Fire Marshal Charlie Miller introduced himself. As of that afternoon the driveway paving had not been completed. They are now concerned that quarries have been closed. So, this will not be completed. He spoke to the property manager, Mike. He spoke to the company that's supposed to be doing the work. They are going to try and get it done on Tuesday; if it cannot be done on Tuesday, they have another option to get them through the winter.

At this point in time the way the driveway is designed, it restricts the movement of the fire truck around the building. So, they cannot get to the sides or the back of the building because of the way the driveway is. So, they have to find the solution if the driveway cannot be paved. The idea of the application for that driveway was so they could get their CO, but it's not there so they cannot approve the CO.

Attorney Lee indicated that they were hoping this could be done in the next couple of days. The fire marshal is right, they cannot get their CO until that is done. The Commission, at its discretion, can approve the amendment to the special exception because that just allows them to, one, eliminate the building, and, two, complete the driveway.

Mr. Fusco indicated that it was still the same situation. They still have to get it done. The Commission gave them permission to try to get it done. It isn't done yet. So, there is nothing the Commission could act on at this point until they complete their part.

Attorney Lee indicated that he wasn't likely to mince words with the Commission. They appreciate the consideration the Commission has given this application. He thought that the Commission could approve the application for a special exception. That just means that they just have the building and have to build the road.

Fire Marshal Miller biggest issue was that his guy was trying to get the asphalt done in the next few days before they can their CO. And if they do not get the asphalt down, then the fire marshal is going to have an issue with the occupancy of the building. But that's more an occupancy issue than a Planning and Zoning issue.

Ms. Asid asked if they get the asphalt done by Tuesday, and the Commission doesn't eliminate the commercial building, then they are out of compliance.

Mr. Budrow stated that the way he saw it was that the CO is given by the building official based on approvals from other officials such as the zoning officer and the fire marshal. They were here in November to get the site plan layout approved. The Commission did give them permit to the access. That CO is not contingent on the Commission's approving the plan.

Mr. Budrow further stated that "if they get that done on Tuesday or Friday, and Marshal Miller puts his initials on the CO, then he would do so, and then Mr. Bassett can give the final CO for the building. The CO is all contingent on the pave. So, the Commission need not pressure itself thinking they have to approve this or else they do not get the CO. So, the Commission should continue this to February without feeling pressure about the CO.

Attorney Lee indicated that he was fine with the continuance and he had told his client about this.

Ms. Asid indicated that this should be heard in February as things may change on the commercial part.

Mr. Budrow indicated there should be a motion to continue this application to February 1<sup>st</sup>, 2023.

**Mr. Cubelotti motioned to continue this application to the Commission's February 1, 2023 meeting. Said motion was seconded by Mr. Fusco. The motion passed unanimously.**

3. **Application No. 22-16 - The Buffs, 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 indicated that he was representing the owner/ applicant. It's an application many are familiar with. He was here tonight either live or online with members of the design team who are here to present information to the Commission to answer questions that could arise during the course of the hearing. Present are Mr. Ovatn, who is the civil engineer. The project architect was present. Meghan Raymond is the environmental scientist, wetland consultant. She presented at the Inland Wetlands. She was online. Dave Sullivan, the traffic consultant, was here online. They are here to answer any questions. His report is part of the record. Jerry Cox from J & J Blasting was present. He had designed the blasting plans. They are all here to respond to any questions anyone may have.

Attorney Pellegrino stated he knew Attorney Coppola wasn't feeling so well. She is in attendance remotely. Part of his initial presentation would be to just go over the Stipulated Judgment that was agreed to earlier this year, and approved by the court. Typically, Attorney Coppola would present this, but her voice was not so good. He would review it, but Attorney Coppola would chime in, if need be. Their design team would present and answer questions.

So, we are here tonight seeking site plan approvals for a 260-unit age restrict apartment development, and 100 assisted living units which could be in the fourth residential building on the site. They have been working together on this project for a long time.

They entered into a Stipulated Judgment that was approved by the court. They agreed to the general parameters for the final development plan. The agreement was conditioned on getting any and all other state and local approvals that would be required including but not limited Inland Wetland Commission here in town, and to return to this Commission. This is why they were here this evening for the approval of final site development plan and for the Commission's approval that the final development plan is in accordance with the terms of the Stipulated Judgment.

When they were here for approval for the Stipulated Judgment, they went through this with a fine tooth comb. Ultimately, the Commission agreed to approve the Stipulated Judgment. He and Attorney Coppola thought it would be a good idea to refresh the Commission's recollection about what was approved back then.

The Stipulated Judgment that he had in front of him is a 14-page document. It Lays out a little bit of a history of the project and some of the prior litigation and framed the issues that were before the Commission when they were here requesting the approval of the Stipulated Judgment including two things in particular. One was the approval of the zone change for these properties to include them and as part of the PEFD zone district. By the approving the Stipulated Judgment, the Commission approved this change. The property is in

the PEFD zone. There were some amendments to that section, Section 27 of the Town of East Haven Regulation, the PEFD, elderly housing.

They also had the approval of the conceptual site that was part of the document which you'll see pretty much on the plan that Mr. Ovatina has put in front of the Commission, the four buildings plus the roadway, and other site amenities that comprise the essential development plans that was approved as part of the Stipulated Judgment.

The conceptual site plan was subject to the approval of the Inland Wetlands Commission and this Commission. The Wetland approval was received in July, 2022. The Stipulated Judgment also placed certain parameters or what could be or could not be included in the final development plan relative to the number of buildings, number of units and certain restrictions that had been placed for age and affordability. There will be four residential buildings plus the club house for a total of no more than 380 units. That is what is shown on the final plan before the Commission. Two hundred and sixty of those units will be apartments that are age restricted, and 120 of those units which are in a separate building on the northern section of the plan will be assisted living. The project is age restricted, 55 and older, and no one less than the age of 18 can live there.

There is also affordability requirement that's been placed on this project in particular on the apartment units, those 260 units. The agreement was 15 percent of those units would be affordable housing units as defined by the statutes at eight percent of the median income in the region. At the time, they calculated that to 39. They had some discussions with the town staff about the calculation and the agreement that it would not only be the total of 50 percent unit types as there are three unit types. They have eight efficiency units.

The importance is that if you do that calculation based on unit type, we count to 14. So, they have had some discussion about increasing that. They will get that ironed out before the Commission decides.

The Stipulated Judgment also reserved the right to review the architectural landscaping plans and other design features relative to the site. They didn't get into a whole lot of detail when they were talking about conceptual plans. The Commission will hear about that later on in the presentation and then again during some staff discussions that they had had which would probably lead people in this public hearing to ask questions. They had provided what was requested previously.

There were some concerns during the public hearing that they had had previously. There was a fear about the material on the site that has to be excavated, the building development and the road development. They agreed to design to balance the site so that the material excavated would be reused on the site. For instance, the quarry would be used for roadway, for building foundation, for fills that will be needed in areas where they are actually going to lay the building out with no more than 5,000 cubic yards coming off site. They

have designed in accordance with that restriction which was part of the condition of the Stipulated Judgment. There was a lot of discussion about blasting.

There were three and half pages of detailed restrictions and conditions on blasting from seven to page 11 of the stipulation about blasting, pre-blast surveys, blasting plans, notifications. The fire marshal is here. The consultant is also here to discuss that.

They tried to incorporate these issues to their design. They have done that. They looked to fulfill those obligations as they go forward.

There was a conservation easement requirement in the Stipulated Judgment. That's the northernmost area of the site shown on the development plan. And they have prepared a conservation easement with a restriction. About 10 acres of this 50 plus acres will be deed restricted to prohibit any development. So, that's why that area is reserved to exclude development.

Our site currently provides the emergency egress. The egress would benefit their site through the high school driveway. They will do some improvement to that emergency access with gates, etc., and improve the driveway section in that area. This is in the Stipulated Judgment and in the final development plan.

Finally, the Stipulated Judgment calls for them to join with the town in a request to DOT for a traffic light on state road. The state DOT control signals there. They want the site to be as safe as it can be both for the residents and for folks driving that way as well. The numbers, according to the state criteria, in the initial discussion with the state, led the state to indicate that they did not think it was warranted there. But they agreed to go hand in hand with the town and ask them for the light. They also put language in the stipulation that if initially the light was not warranted, if problems arose in the future, they would join the town and go back to the state to revisit that issue. If approval is given in the future, they would install the light.

He had highlighted the important sections of the stipulation.

Attorney Coppola indicated that she thought Attorney Pellegrino did a good job. Obviously, some things that will be discussed pertinent to the stipulation as they continue to present and they receive comments both from staff and any questions and comments from the Commission as well as the public. Given the time she does not have much to add. There were other important aspects of the stipulation to point out in some more detail because there are certain things that, yes, the Commission as well as the public are primarily interested in.

Attorney Coppola indicated to the Commission that it had received staff comments from the Planning and Zoning administrator, the ZEO. Their consultant was present. The consultant had important comments for the Commission as well. The Commission should keep in mind there are aspects of this stipulation that are clearly at its discretion. There are many things that have

been negotiated and are reflected in the settlement plan and this site plan that is before them.

There aspects of the stipulation that she thought are important to keep in mind as far as the exercise of its direction with regard to architectural matters, landscaping, lighting and such. Also, she did not want to lose sight of one of the provisions in the amendment. And Mr. Budrow attached the text amendment that was cast as part of the stipulation to his initial staff report to point out just in terms of the facilities, both the mandatory facilities and the optional facilities for the assisted living portion of the project.

She encouraged the Commission to take a look at what those facilities and the regulation are because, again, that's an area where she thought there is some discretion. Obviously, they want to work cooperatively with the applicant and make this the best project that it could be for the people that will reside. there. She may interject some specific comments related to the content of the stipulation as necessary as the hearing proceeds.

Ms. Asid indicate that the presentation should proceed.

Mr. Pellegrino indicated they had received some comments, reports, and supplemental reports. They received from Attorney Coppola a letter with some questions from Ms. Bowery. They planned to comment on all of those comments. The Wetland approval was helpful. The presentation would be based on the site plan submitted.

Mr. Ovatin introduced himself. He is a licensed engineer in the State of Connecticut. He is the principal design engineer on the project. He would be brief. He would go over some of the existing conditions and the proposed design.

The first plan he had up was regarding the existing condition and area. There are wetlands and watercourses on the site. They got permits for the activities. He went over the area. The topography is described as rolling, several pipelines. There are some valleys in between, They have a watercourse. The pipe drains in a southerly direction. This is kind of an intermittent watercourse. It's broken up. The pond itself has no outlet.

The plans show overlay which show the impact area for the project, the location of the four buildings. It shows the proximity of the ponds. All they are proposing is 378 total dwelling units, 120 of them are in the assisted living building. There are three apartment buildings. There are 258 elderly apartments within three three-story building. There are 18 efficiency units, 150 one-bedroom units, and nine two-bedroom units and are all disturbed equally throughout the three buildings. The architect would explain in more details.

The building height in relation to the setback, the setback distance are tied to the height of the building. The only building that's really close to the property line

is Building Three. That's located 60 feet from the property line. And the height of that building is 55 feet. So, they meet all the setback requirements.

They have also provided service parking, some garage spaces in two of the buildings, Buildings Two and Three. Some of the units will have garage spaces associated with them. They have provided 561 total spaces including the garage spaces and some at the clubhouse. The clubhouse is at the south end of the pond. There's parking associated with the clubhouse. Based on their calculations there will be 537 spaces to park according to the zoning regulation. And those are broken down on their title sheet based on whether it's as two-bedroom unit requiring two and a half per unit, one-bedroom unit requiring one and a half spaces, and the same thing with efficiency unit, one and a half spaces. If you look at the distribution of the parking around the buildings, I think the minimum of parking they have is around Building Three which they believe meets the requirement of the parking demands. They believe that 126 parking spaces is needed around each building.

They have had some comments regarding the distribution. They do believe that the assisted space is a little bit heavy on parking with 127 spaces. The regulations only require 60. They had discussed this with the architect and believe that only 89 spaces are needed there. They understand that they are overrated over there. They do not believe that any of the apartment buildings are under parked. They are willing to consider some changes to redistribute some parking if others feel that would be more appropriate.

For the layout they have a new private access drive coming through that property that comes on Foxon Road. It comes up into the site and there's no parking associated with the access drive.

They will maintain all rights of access the existing residents on Sperry Lane. The residents to the north will actually have the ability to utilize the new access drive and an extension of their access that exists now will come off of that access drive. There is also an existing emergency access that comes next to the Sperry Lane from the high school. They are proposing to maintain that as well as part of the project. The proposed roadway will be 24-foot wide which is wider than what is existing for Sperry Lane now.

They will provide accessible parking spaces. The architect will explain some of the accessibility that's built into the buildings. There are 88 accessible units that are proposed. We've looked at that with the architect and received some comments relative to the number of accessible spaces that they provided. And based on the new building code, they believe that they need to add some accessible spaces. So, as part of their revisions they will be adding some accessible spaces to the plan.

There is an area of conservation restriction. About nine and a half acres will be protected by the conservation restriction. They are maintaining the buffer of trees along the eastern border and the southern border except for where they have the access drive obviously.

So, the design is consistent with zoning regulations and the settlement that was part of the agreement. It's going to be served by public water and sewer. They have contacted the Regional Water Authority and they have noted that they do have capacity. They had submitted to the Greater New Haven WPCA for the sewer connection for this project which was approved.

Blasting being an issue related to the project, they did prepare a detailed analyses of the earthwork on the project. They broke it up into the four quadrants related to the four buildings. And essentially the largest area of the earthwork and anticipated rock blasting was associated with the assisted living building. That accounts for about 50 percent of the rock that they anticipate blasting on the site. The other buildings are balanced as far as earthwork and the rock anticipated. Overall, it is a relatively balanced site. He thought they were off by about 7,000 cubic yards which they believe can be accommodated by placing them on other areas on the site or according to the Stipulated Judgment, they have the ability to truck off 5,000 cubic yards off the site. He does not know if it is necessary but it is part of the provisions.

They did prepare an engineering report, a full storm water analysis. It does include watershed. They wanted to balance and not shift stormwater from one watershed to another. So, they simply matched the existing drainage patterns. The one difference is that they took some of the surface water from the site over the high school drain systems. They have taken some of the watershed that drains down to here, here and tied it into the drainage system for that same location but it is more controlled.

They have reviewed all the design with the town engineer. He won't speak for Mr. Bodwell, but he believed that Mr. Bodwell had generally accept it as part of review that they did with Inland Wetlands.

Ms. Asid commented that Mr. Ovatn spoke about cubic yard for quarrying and that 5,00 cubic yards could be trucked out. And then Mr. Ovatn mentioned blasting, 5,000 cubic yards. Her understanding was that is was only 5,000 cubic yards for everything and not 10,000 cubic yards.

Attorney Pellegrino indicated it is not five plus five. The total earth will be 5,000 cubic yards.

The Commission asked questions.

Attorney Coppola indicated that all should make use of the microphone. She implored those online to mute themselves. She indicated also that the recordings would be posted on the Planning and Zoning website.

Ms. Asid indicated she was confused about the number of units and the number of one-bedroom units, etc.

Attorney Pellegrino indicated that he said 260. The stipulation says no more than 260. We are only proposing 258. Of the 258 18 are efficiency units, 150 are one bedroom and nine are two bedrooms.

Ms. Asid asked about the drainage issues and the water running off. She asked if Mr. Bodwell had any comments about these.

Mr. Bodwell said they had gone over this stuff very heavily during the Wetlands process and the plan.

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Mr. Michael Stein, a registered professional architect and principal at Stein & Troost. Their office is located Norwalk, Connecticut. From where he sat he could not see the screen so he does not know what images were being shown. Hopefully, they are starting with the assisted living rendering. His firm has been very fortunate to have a diverse portfolio but have a specialty in assisted living and memory care. They have designed over 10 facilities in Connecticut and Massachusetts over time.

So, Building 1 or A is the assisted living building. And the rendering that's being shown is what they call a shingle style design. Shingles mixed with vertical board and batten and thin-stone veneer base, fiberglass roofing shingles. The design has two large courtyards which are a very important element of their approach to assisted living design providing safe outdoor space for the residents and also minimizing the amount of walking that residents have to do within the facility.

So, this building is a two-story structure. It's 112,800 square feet. There are 120 units of which 90 are assisted living and 30 are memory care. There is a subtle difference in the service package between those two. There will be more staffing for the memory care. The design of the units are slightly different. There are no kitchens in the memory care units. Generally, they are smaller. And there's a larger percent of studio apartments in memory. And this has to do with the nature of the clientele as much as anything else.

So, in total there are 10 two-bedroom apartments that are 970 square feet. There are 54 one-bedroom apartments that are 550 square feet. And there are 56 studio apartments which are 380 square feet.

The next page, the first-floor plan, there are two large courtyards. To the right is the memory care wing, 30 units. Memory care has its own large dining room, a library, an activity space and a living room that all focus in on what will be a very interesting landscaped courtyard. On the left hand of the floor plan is the main assisted living floor. There are 28 units there. A very large two-story dining space, timber frame living room with fireplace, a pub, another library structure, and back of house mechanical, electrical. Note that kitchen which is the large 1500 square foot commercial kitchen serves both the main dining and the memory care dining.

On the second floor there are 52 assisted living units. Again, another dining venue. There's another living room there, a theater for entertaining and dances,

a fitness room, a wellness clinic which is kind of like a doctor's office, and a spa which is a very fancy barbershop. Again, at the either ends of the wings are some other common lounge areas.

In terms of the accessibility issues, in designing assisted living and memory care, the building code treats those two uses slightly differently, and applies different standards to them. But in general, when they design these facilities, every unit is accessible. Every bathroom is oversized, not only to handle people's mobility difficulties, but also situations where an aide or an assistant would have to bathe them. So while it complies with the requirement of the four percent of the assisted living being fully accessible which would be 40 units, and 10 percent of the memory care which would be three. In fact, every unit is friendly to mobility issues.

So, the other three buildings, onto the next rendering, are the elderly apartments. This design is more of a kind of transitional design. It's a rusticated based fiber-cements panels, fiber cement-shingle, and what little roof areas exposed will also have the fiber shingles.

These buildings are two-stories tall. Two of them have walk-out basements which accommodate 16 garage parking spaces in each of those two buildings, B and C, and some storage area also in those basements. So, these 86-unit buildings, B and C, are 113,000 square feet each. And they each have 32 bedrooms at a 1,050 square feet; 51 bedrooms at 850 square feet, and six studios at 660 square feet. Building 4 is similar but it just doesn't have the walk-out basement. So, in total he confirmed that they have 258 units. There's about 322,000 square feet of building, 92 bedrooms, 151 bedrooms and 18 studios as Mr. Pellegrino had stated previously.

So, in terms of the accessibility requirements for the elderly, generally speaking, every unit in these buildings is required to be what's called a Type B accessible unit. And 10 percent of them are to be a higher level of accommodation and are called Type A units. They will, of course, comply with that.

Finally, both building will be fully sprinklered. And they would obviously comply with the newest building codes which he's happy to say require highly insulated, highly efficient buildings. They will be all electric, heating and ventilating and air conditioning. And the assisted living building will have emergency columns. He would be happy to answer any questions.

Mr. Fusco asked about a second kitchen on the second floor. Mr. Stein indicated that affords the residents a choice of where to eat as there are slightly different menus.

Mr. Fusco asked about the truck access, the delivery.

Mr. Stein responded by saying that if the Commission looked at the ground floor plan, the back center where the mechanical room is located, there's a delivery area there that has some storage, laundry facility, housekeeping and etherical and

mechanical rooms. And opposite that on the site plan there's a service yard which holds a large cooling tower, the generator and dumpster. Those would all be well screened with fencing and landscape.

Mr. Fusco asked how many dumpsters the facility would have. Mr. Stein indicated that there would be one large garbage dumpster and one recycling dumpster. He thought that would be twice a week.

Mr. Fusco asked if there were additional dumpsters on the rest of the property. Mr. Stein replied by saying, there should be.

Mr. Ovatn interjected by saying that it was an oversight on their part from the latest plan and that he believes there should be dumpsters in the site plan. There should be a refuse facility for each of the building. They did not show one. They will add one in there. They did work with Mr. Stein on the assisted living.

Mr. Fusco asked about walk-ins. Mr. Stein indicated that the kitchen would be a fully functional commercial kitchen which would include a walk-in cooler, a walk-in freezer, etc.

Mr. Cubelotti asked about parking for assisted living. Mr. Stein stated that, generally speaking, their experience with parking for assisted living and memory care is that a .7 factor is usually about right. So, for this building 80 to 90 parking spaces should be plenty. The largest shift for employees would be 35 people. If five of the residents have cars, that's a lot. Unfortunately, there's minimal visitation most days of the year. Three, four days a year there would be a large group of people visiting for Mother's Day, certain holidays. So, generally speaking, assisted living parking lots are half full 350 days a year. The parking lot gets full on those special days.

Mr. Cubelotti indicated that he noticed the other three buildings were deficient in some parking spaces. He asked if there was room to have more parking spaces and the number of spaces for handicap parking.

Mr. Ovatn stated that he would not say that they deficient in parking. They do meet the parking requirements. With respect to the zoning regulations they seem to have reasonable parking. There are shared parking for three buildings which meet the zoning regulation requirement. Could they add more parking around the buildings themselves? Yes, they are willing to consider that. They will work with the town's consultant to distribute more parking around the apartment buildings. Mr. Ovatn talked about considering a sidewalk system especially in light of the consideration for more parking along the building.

As far as the handicap accessibility, the ADA standards based on the numbers that are parking spaces, they need 12 parking spaces on the site. For some reason they only showed nine. He had no understanding of how that happened. Due to the recent building code changes they now need to go above and beyond for this type of development in providing accessible spaces more than the ADA code requires. He spoke with Mr. Stein about this earlier and they believe they need nine per building for the apartments. He thought it was more like seven or

eight for the assisted living. They will accommodate more accessible parking spaces in the revisions.

Ms. Asid asked about parking for visitors. Mr. Ovatin responded by saying that most of the parking are for residents and 10 percent would be for visitors. That was factored.

Ms. Asid indicated that she wouldn't want the number of visitor spaces to take away from the spaces that they already have which are regular residential spaces.

Mr. Ovatin indicated it is 1.5 spaces per unit which is a reasonable number to accommodate the parking, if necessary.

Mr. Tarducci asked if the parking for the residents would have designated parking spaces or whether the parking for the community center would be within the lots that are there. They did consider that. He thought there were about 16 for 17 parking spaces that would accommodate the clubhouse.

Mr. Budrow indicated that current regulations do not list assisted living facilities in parking standards. So, the June, 2021 text amendment, Section 27, did state for each assisted living unit .5 spaces. Imagine if we did have assisted living facility parking requirements, it would require extra spaces for employees and staff and a few extra for visitors. So, getting that surplus over near the assisted living facility is kind of a lucky bonus because common sense, a lot of those spaces are going to be used for the assisted living facility. So, they are saying they are going to have residents and they can walk to their apartment, he did not see them having a lot of spaces available over there.

Mr. Budrow added that they could look at their regulations for parking there. Parking and reserve can be proposed. But those are not established parking. They are just location where parking could be established in the future. If we wanted to have a common sense approach, based on say Mr. Stein putting in writing what is the standard development has as far as requirements for parking, they say most of the time it's always half full, maybe put that in writing and give us examples of where this is happening. But they looking at parking in reserve also.

Mr. Stein responded by saying that he thought this was a very good idea. He'd be happy to write a memo regarding their experience of what they thought is appropriate parking levels. But the idea of allowing the developer to put in reserve spaces to be built later if the demand requires, makes a lot of sense. Just editorializing, elderly housing does not generate as much parking as non-age restricted housing. So, his opinion on the parking was that the site, if anything, it's overparked.

Mr. Tarducci said he had a question about the walkway system here. He asked, if it would be a continuous sidewalk system so that a resident could walk from one building to the next or would they be little islands, the sidewalk.

Mr. Ovatin indicated that what they have now is sidewalk connections from the parking lots in each building into each other. They don't necessarily have a sidewalk system connecting the buildings together. They are going to look at putting sidewalks on all side of the road and putting some crosswalks and provide that connectivity in addition to walkway to clubhouse. There are several areas of walking trails. He mentioned there are existing trails that were part of the original camp. They expect to maintain those. They are still in decent shape out there. They expect to maintain passive recreation on the pond. There's a bridge crossing. There is an old bridge that goes across there as part of the Wetlands application to restore that bridge; rebuild it because the trail system ties in there.

Attorney Pellegrino indicated its being requested by them that they provide an elevation on the floor plan for the clubhouse. It will be included at next month's meeting. There was a memo about parking. They would include supplemental plans for it.

Jerry Cox from J & J Blasting Corporation. He has been a blasting contractor for too long, 38 years. He had submitted a blast plan for Attorney Pellegrino for this site back in June that took into account all the state and federal regulations that blasters must follow, and settlement agreement regarding this particular application. He asked if the Commission had had the opportunity to see the plan. The Commission responded in the affirmative. He could answer any questions the Commission had about it.

Ms. Asid said there were concerns that had been sent to the Commission that will get addressed this evening. She asked if there were technical changes in the means of blasting that were not as distractive or loud or area-wide as they were in the past.

Mr. Cox responded by saying that over time as the technology had gotten better. It's easier for blasters to design a good blasting shot to create good rock fragmentation and low vibration. There had been technological advances over the decades.

Mr. Fusco asked, how this would affect the high school. When the blasting occurs, will the teacher and students start shaking, would they hear a loud whistle first? He asked how this would affect the quarry.

Mr. Cox responded by saying that he didn't think it would have any adverse effect on the people in the classroom. He believed they are were six or 800 feet away from probably the closest blasting area on site. Blasting does create vibration. Remember, this was done maybe 30 years ago, a lot of blasting was done here. If you are in this building, you might not even hear the whistle each time. That's how sound this building is. You may feel a slight vibration. At that distance he thought it would be very, very low. Honestly, there would be no disruption in the classroom. The noise would not be heard in here at all. If they hear blasting, it would be simply very muffled sound when the blast is shot.

Mr. Fusco asked about discharge such as gas or dust. Mr. Cox replied by saying that there was no gas discharge. The explosives vaporize in the blast. However, dust is always a concern on construction sites, and more typically with the drilling to prepare for the blasting. The machines used for blasting are a lot better than they were from 38 years ago to control dust.

Ms. Asid inquired about the houses in the area with regard to the blasting and dust. Mr. Cox said there should no problem if it is done properly. Like everything, it has to be done properly, proper blast design. The blasters are licensed through the state and permitted by the local fire marshal. So, that is addressed in this blast. With regard to pre-blasting specs, there are notifications that have to be done to those homeowners by the contractor both through regular mail and certified mail offering a pre- and post-blasting inspections. The Stipulated Agreement is pretty robust on this. However, blasting does create some vibration. There is no question about it. It's kind of a nuisance business in that regard. You are next to it. You are going to feel it to some extent. The key is proper shot designing, keep those vibration reading low which would be recorded.

Mr. Cubelotti asked if they would notify the homeowners first and then it would be up to the homeowner to call the blasting company saying they want their homes inspected. He wondered how this would happen.

Mr. Cox indicated that they have to follow the rules. They do a lot of pre-blast inspections generally. In this particular case it is even more robust as part of the settlement agreement.

To answer the question, this paragraph, pre-blast notifications and inspections for this site is approved. All of the owners of neighboring properties that are within 500 feet of the Bluffs' property lines will be notified by certified mail and by first-class mail at least 21 days prior to any lasting. They will be informed in these mailings of the name of the property owner of the blast site, the address and description of the property to be blasted, and the name of the blasting contractor, the anticipated blasting start date and anticipated completion date, the author of a pre-blast inspection of their property and the author of a post-blasting inspection where previous inspections were done, the name and contact information of the company that will schedule the inspections and that they have 15 days from the date of this mailing to schedule an inspection and whom to contact after blasting in case they feel blasting, they have damaged property. A copy of the mailings would be provided to the Fire Marshal's office once mailed with certified mail receipts and the names. The addresses of all property owners who requested the pre- and post- blasting inspections shall be submitted to the Fire Marshal's office at least seven day in advance of blast. This is a just one paragraph that he didn't create this as it is part of the Stipulated Agreement.

Mr. Cubelotti asked how many times a day they would be blasting and what the earliest blasting time would be. Mr. Cox responded by saying that holes would need to be drilled and prepared the night before for the morning. They are probably looking at blasting from as early as 8:30 in the morning with an eight

o'clock start. They will decide how to get the blasting done. There may be one blast a day.

Mr. Tarducci asked what days of the week blasting would occur. Mr. Cox indicated that it would be Monday through Friday.

Mr. Fusco asked if any of the adjoining properties have well water as well as city sewer. Mr. Cox responded by saying that was a good question

Attorney Pellegrino indicated that most of the neighboring properties are on city water. There are a few properties to the north that are on wells.

Mr. Fusco said that's something that has to be tested before and after.

Mr. Budrow asked Mr. Cox if he was before the Madison Wetlands Commission within the last two years for a residential project across from the Audubon Shop. Mr. Cox indicated he was not. He knows the gentleman who was.

Mr. Budrow indicated that that gentleman who appeared before that Commission was very experienced and gave a very detailed blasting process. Mr. Cox has been on this property and seen the exposed ledge. He asked Mr. Cox to describe what he was looking at, what kind of rock it was, and how hard or easy is it to blast it. He further inquired, "with blasting will there be on-site crushing and hammering?"

Mr. Cox indicated that he had walked the site. He had not seen a full geological report yet of the site, but he knew the rock in the area. There can be the red rock sand stone in this area. There can be basalt. So, he was under the impression that even by coming up the road to the high school you can see the basalt, but there will be hard basalt trap rock there. It's great blasting rock for rock breakage for excavators, for crushing, etc. It's very dense rock. The same safety has to be used in doing that as any rock that they might deal with.

Mr. Budrow asked if Mr. Cox or any part of the Attorney Pellegrino's team anticipate on-site rock crushing and rock hammering?

Mr. Pellegrino replied by saying, they thought there will be on-site reuse of the rock that's part of the plan to reduce off-site transportation of the material. So, it is anticipated that some the material would be crushed and reused in the process.

Fire Marshal Miller indicated he was the Fire Marshal for the Town of East Haven. Mr. Cox had read the paragraph about some of the basics. He just wanted to inform the Commission that the blasting company is required to have signs posted 48 hours before the initial blast and up to 24 hours after the blast. Any pre-and post-surveys will be turned over to the town so they can be stored in a file. He request of anybody blasting to have other facility blasting here in the town. They request shock placement maps. They request timing maps. They request other maps. They request videotaping of it. They would make sure they used the proper maps and everything else. They are then submitted to him

after every blast so he has it on file. Since they have been doing that with the other group, they have had very good luck with very few complaints.

Mr. Miller also indicated that blasting would be 8:00 to 5:00. Usually when they have blasting, the morning of the chop he is called with the time. The time does then goes to the local dispatch center so they know in case people feel the whistle or hear the blast. If he is called, the caller would be reassured that it's nothing crazy, that it is blasting that's going on. The time would be recorded. Occasionally, the blasting company ask for him or other staff to visit the blasting site during the blast to observe how it is being done. So, they have seen it. There are no issues with that.

Mr. Tarducci indicated that Mr. Miller just laid out a specific plan. He asked Attorney Pellegrino if they were willing to follow those steps that he just mentioned.

Mr. Pellegrino responded by saying absolutely. The detail and the design would be been submitted prior. The Stipulated Agreement is very specific regarding blasting. So, everybody knows what the expectations are. And they will not get that permit to do this work unless they submit everything.

Fire Marshal Miller asked if they read the second page of J & J Blasting's report. It does have a section where it indicates he spoke with Fire Marshal Charlie Miller and asked if there was anything else. The company had contacted him. So, they know what the town is looking for. In that little paragraph, one thing he did mention, blasting permits have to be pulled at 30-day times. All; they get is 30 days after which they have to reapply for the permit. When they apply for that permit, they have to supply with the name of the blaster, the name of the company, the materials and stuff along those lines. They have to sign it. It says, follow all state regulations, use size and graphs, etc. They are to provide him all the materials the Fire Marshal needs and they sign for it. The company that's doing the trap rock does it all the time.

Ms. Asid asked about the timeline for all of this. All blasting would not be done at once but over the course of the building project, they may have to blast where the assisted living is going to be because there may be a need it for fill or some of the other areas and such. Overall, what is the timeline for this building and blasting.? Is it going to be a year, two years from the time they start?

Attorney Pellegrino indicated that it could be broken up into a couple of sequencing phases. It would be good to get all the blasting done at one time as soon as possible. It looks like this site lends itself to two phases for blasting. The entire project is probably a three-year project.

Mr. Cox added by saying that assuming there is approximately 110, 00 cubic yards of mass rock with the four building sites, and working five days a week, no weekends, he thought they were looking at, for a 110,000 cubic yards, five to six months of blasting, 20 days a month with one crew. Now, if multiple crews can work and two different pad areas can be done, the number could be reduced.

Ms. Asid reiterated that it would be six months of blasting at the rate of 20 days a month. She asked if this would be for the life of the three years.

Mr. Pellegrino said it would be 100 days of blasting.

Ms. Asid asked if that was out of the three years of building. Mr. Pellegrino said yes. Probably, those would be divided into two time periods.

Mr. Cox indicated that the worst-case scenario for 110,000 cubic yards of rock, he would assume that the job would be done with multiple crews even in the one-building section. So, there will be the assisted living building section. They can put multiple blast crews on there working together which would reduce the time frame.

Mr. Tarducci asked whether the five or six months would not be like the Fourth of July fireworks and whether they would be spread that out over the three-year period.

Mr. Pellegrino indicated that it would be 100 days of blasting.

Mr. Cubelotti asked whether the weather could affect blasting.

Mr. Cox replied by saying, just only when it snows, but no problem other than that.

Attorney Coppola stated that the stipulation in this area is very detailed. In terms of the requirements of the daily reports, she wanted to emphasize that is Subsection I of the blasting section on page 9. In terms of the gathering of information about the blasting, she thought that is an important piece in that anybody who is concerned about the blasting should review that and familiarize themselves with it. Again, the stipulation has been posted a number of times on the town website. They will post it again. She also wanted to mention that the presentation by Mr. Ovatini and the renderings that were used when Mr. Stein was presenting would be posed as well so folks could take a look at those.

Ms. Asid asked about the traffic study. Mr. Pellegrino indicated that Mr. Sullivan was present and asked him to give an overview of his studies.

Mr. Dave Sullivan, Manager of the Traffic and Transportation Planning Group, stated that he is a professional engineer in Connecticut employed by SLR. They updated the traffic study and the existing conditions. What's entailed there was new traffic counts, not only at key intersections in the area to evaluate the traffic impact, but they also did counts on Route 80 during a 24-hour period to get all-day traffic data and look at traffic but also to get travel speed data. So, they looked at that information. The data collected was from 2021 which was DOT data. They reviewed the subsequent data that they collected which was in January of 2022. They reviewed that data in addition with the DOT Bureau of Policy and Planning. The reason they go through this process is since the pandemic, the traffic volumes has come back to what the DOT considers a

normalized period. So, DOT looks at all the data compared to earlier counts and give this information on any adjustments they need to make. In this case, DOT told them to grow the traffic at one percent a year to their design year which was a couple of years out. They updated the traffic volumes.

They then looked at the proposal in particular. One of the most important things they looked at were the sight lines. And as they collected the data on Foxon Road, the sight lines are directly related to how fast the cars were going. So, the faster the car is going, the farther away you need to see them approaching you. In this particular case, traveling westbound, the traffic is traveling 85<sup>th</sup> percentile speed which is 49 miles per hour and just over 52 miles per hour in the eastbound direction.

Eighty-fifth percentile speed is the speed that 85 percent of the traffic is travelling at or below. And that's the data point that DOT wants them to use to determine adequacy of sight distances. So, taking that information and relating that to the guidelines that DOT provides, they needed a requirement of 580 feet and 540 feet to 545 feet looking at the eastbound and westbound traffic respectively. So, when you are sitting in the driveway, you need to see 580 feet to the west and you need 545 to the east. They measured the sight lines and could see in excess of 600 feet in both directions. So, the driveway location passes the sight line safety test.

The next thing they do is estimate the amount of traffic. They were conservative in this particular manner. They looked at traffic for non-age restricted multi-family, mid-level apartments which typically would have higher trip generation rates than elderly or age-restricted. As a matter of fact, in their report they do a little comparison to show that but using the more conservative higher numbers. They then put that traffic on top of the existing traffic. They do a series of analyses to determine what the level of service are. The levels of service are basically letters from A through F. Like school letters, A is very good, C is average and F would be failed. So, the levels of service should be kept as good as possible and to impact them as little as possible. What they found is that for the most part all the level of services with and without this traffic from this development would be level of service C or better. There are a couple of small locations where there are levels of service D during peak hours and that's not concerning for a short amount of time. And it relates to a very small increase in average delay. They also indicate that they could, but don't see the need for any changes to traffic times out there. So, the timing are quite efficient in their opinion.

So, the long and short of it, we are going to DOT, the Office of Traffic Administration, with this application. It will need to be certified at least through the administrative decision process. So, that's the next step. That's the summary.

Ms. Asid indicated that she did look at the report and was sure she didn't understand all of it. She asked if they were going to have a stop sign at the entrance on the new road for the people to exit and coming in since there would

be no lights. They had asked for a blinking type of light for when somebody is trying to get out or in. She did not see that his report addressed the ability for people that are going to be going east and would need to make a left turn to go north on Sperry Lane would face difficulty, in addition to people coming south exiting the facility and needing to make a left turn onto Route 80 to go east. So, that seems to be what they are having issue with here. An extra lane, maybe a turn lane heading east on Route 80 for the entranceway or they are looking for that blinking light coming out.

Mr. Sullivan stated that in terms of the turn lane, what's out there now for the geometries is a bypass. And a bypass allows you to go around the vehicle that's in the turn lane. That's the treatment up and down Route 80 for the most part. Not until you get to some of the traffic lights do you see the formalized left-turn lanes or further up when you get into New Haven you see the turn lanes at mid-block locations or driveway locations that are not signalized. But in this particular case, the preferred treatment by DOT is to have the bypass. And the advantage of the bypass is that when there's not somebody turning, the vehicles are not shifting in and out. So, if there's a left-turn lane, for example, if they were to add one here, if you are driving and coming from New Haven to Branford and there's a turn lane, whether there's a car in that turn lane or not, you have to transition to the right and then pass the driveway and then transition back to the left. So, that's a maneuver that has to be made. If there is a bypass, the only time you have to do that is when there is a car there to turn. So, that's why on a lower volume turning, which this is, that's the preferred treatment. So, there is a left-turn treatment. It's just not your prototypical left-turn lane. Regarding the signal, they did look at that. They looked at it against this time, but they did a more detailed look at it back two or three years ago because it did come up in the public hearing. And that time it just was not the volume traffic to warrant a signal.

So, if the Commission wants DOT to allow you to install a traffic light, DOT has to be given evidence of what the traffic volumes are for a number of hours at a driveway on Route 80, and you go through what is called a signal-warrant analysis. This did not meet the signal warrants that the state would look at. He understood that the judgment wants a less statistical request of DOT with the town to see if the DOT would consider it. His understanding was that they would do that but they would not have the statistical backup at this point. If the volumes were high enough, there probably would have been a recommendation right off the bat. When you think of number of units here, it may feel like an inundating amount of traffic, while statistically it's not as much as one might think. The levels of service for vehicles taking the left turn in or the vehicles existing onto Route 90 are really not terrible. They are levels of service B and C, if you look at this statistically. DOT is very stingy in handing these things out.

Ms. Asid asked if Mr. Sullivan's projection included deliveries. Mr. Sullivan responded by saying that it included that. The data used which is referred to as the Trip Generation Data from the Institute of Transportation Engineers, they are actual real counts. He went to explain how the data is generated.

Ms. Asid indicated that according to the Stipulated Judgment, they would continue to revisit that.

Mr. Tarducci asked how many trips per day was projected for this site. Mr. Sullivan replied by saying he could give the Commission an estimate or report back at the next meeting. There is no analytical value because the data is done on an hourly basis. Typically, the peak hour is about 10 percent of the all day. A little less than 1,500 vehicles per day that's in and out so maybe 750 roundtrips.

Glenn Chandler, the consultant for the town, asked whether there was any analysis for age-related traffic behavior here. If they have a normal sight line for normal drivers, that gives them x seconds of speed, but the reaction time and perception is not always good for an older population. He asked if that was being considered.

Mr. Sullivan replied by saying that sight line calculation uses a reaction time which is reflective of the full universe of drivers. So, it's not reflecting the slowest reaction nor the fastest reaction, but the typical reaction which includes elderly drivers. So, there is known factor of increasing reaction time for a particular driver.

Mr. Chandler asked if they could get some sort of analysis of this particular issue that deals with giving an older driver more time. They need more sight line or whatever. It is actually a traffic hazard that's of concern. Mr. Sullivan indicated he would provide the information he had. They do not make a separate recommendation for that particular factor. It's built into the factors they used. He will get some information and provide it to the Commission next time.

Mr. Chandler indicated that the Commission did not need actual data because it does not reflect what is being built here. Mr. Sullivan stated that the actual data would have descriptions of what their action time represents.

Mr. Cubelotti indicated they could deal with the issues of lighting and landscape next time given the time constraints. Mr. Pellegrino concurred.

Ms. Asid indicated that the presentation would have to continue till next month.

Ms. Kathleen Bowery indicated that she would save her comments for next month.

Ms. Coppola indicated that the consultant and staff had submitted their comments. She just wanted to make sure that those are heard before they go to the public just so that they are noting from their perspective what still is outstanding because they did have remote meeting last week to go over some of those comments. She wanted to make sure the applicant had an understanding what remains outstanding on the planning side.

Mr. Chandler indicated that they met with the applicant's team. They shared their comments with them. They had indicated earlier that they would address these within the plans for the next meeting. The nature of some of the comments had to do with actual specifics of what's called the Affordability Plan which is how the affordability will be managed. And so they are going to be making some corrections to that. They will be taking a close look at the revised affordability plan. They spoke to the team about the parking calculations and the parking distribution. Part of this relates to the fact that in an age-restricted development that if there is a shortage of parking around the units, the other available parking spaces are by the assisted living facility which is about 40 feet higher. So, they will be revisiting the sidewalk plan to make it a wholistic approach in terms of the sidewalks, etc.

They have asked for detailed information in terms of the actual parking utilization so that it may turn out that one and a half spaces per unit is what is really needed which is 120 spaces for everybody. They also talked about the number of handicap spaces, the possibility in this type of parking situations for some short-term parking spaces near the door so that people can offload groceries. They don't have to carry it from the assisted living facility. The state statutes have changed. There is requirement for electric vehicle parking spaces.

There had been good discussion here tonight about the blasting plan, the architectural plans, calculating the setbacks and things are like that that are involved. There are other comments about disposable refuse and some other issues. They discussed all of these with the applicant.

Mr. Budrow talked about the staff reports sent to the Commission earlier. He did highlight the conservation easement. The site plans do say it's going to be in favor of the Town of East Haven. And there would be walking trails to be maintained, and he does not know who would maintain them. It sounds like an interesting thing where the residents could have like a trail maintenance team. This is something that could be organized in the clubhouse and they go out and maintain the trails.

Mr. Chandler had a lot of great points. Snow removal is not mentioned in the plans regarding where the snow would go. So, they will be answering that question next month. The supplemental report was more site plan related. So, when you enter the site on the left, there is an underground retention system to catch water as it comes off the site. He did not see any symbology of it being protected from cars going in and out. So, he recommends that bollards be surrounding this if it's a quality technique to protect this retention system from being driven over.

There are some symbology on the plan that says 'stat' e-mails, which he thought should read 'state.' Additional comments, some units do not have the garage layout. The floor plans for the garages look a little funky. He thought the applicant should give better plans of what these garages look like. The dimensions seem a little off.

They had already spoken about the assisting living facility have a lot of parking and insufficient parking in the other buildings. The applicant will be revisiting that next month.

Mr. Budrow further indicated that Mr. Miller would not be in attendance at the February meeting to answer any questions about blasting. If anyone in the audience wished to address this issue, the fire marshal is available to answer them.

Attorney Coppola indicated that Mr. Amendola was a property owner who wanted to speak.

Ms. Asid opened the public hearing for public comments. She implored all that commented to be precise and succinct. If the comments and questions become repetitive, they would stop and move on.

Mr. Jerry Amendola, 7 Branhaven Drive, said there were comments made about sending mailings regarding pre- and post-blasting surveys. He does not get any water in his cellar. Yes, there is one crack in the foundation. He asked, how he would prove that when they get done with this unwanted project up there, that the water was caused by them and not them coming around and saying, oh, no, you already had it crack so you get water so we are not responsible and then the Bluffs, LLC dissolves and then he would be a stuck with a problem that he has to pay out of his own pocket as with the boundary line problem which looks like it will go that way also.

Fire Marshal Miller responded by saying that his office would not be the ones conducting the pre- and post-blast surveys. It will be done by the blasting company itself. So, the question is better directed at Mr. Cox to answer that.

Mr. Cox indicated that the importance of that pre-blast inspection and then down the line after the construction a post-blast inspection which as the fire marshal said is not done by their office or the blasting contractor. It will be done by an inspection company hired just for that purpose to determine after the construction is done that everything is still in the same condition.

Mr. Amendola indicated it did not answer the question. He knows it will not go 30 feet in the air. What they are going to do is they are going to fracture this blue stone that's here so the excavators can dig it up. So, they are going to cause a lot of cracks in the surrounding ground. Because the stone is so hard those cracks will travel. His concern is they are getting water now between their properties, five and seven inches now, but they don't get anything coming into the cellar. He asked how he would he be believed when he says he's not getting any water now. He was going on the record now as this meeting was being recorded. He gets no water in his cellar for the last 50 years that he has resided there. How would he prove that the water coming into his cellar is part of this build that the applicant caused this water to come into his cellar? He wondered if there was an answer to that question.

Attorney Pellegrino replied by saying the pre-blast and post-blast surveys are conducted to gain knowledge and to collect data. He will be interviewed. He will be asked if he ever gets water in his home. He would answer no. There would be an inspection. There are photographs and videos. After the construction is complete, there is post-blast survey which is conducted. There are readings done during blasting at various levels and various locations to discern the level of vibrations that may or may not have been occurring. The data is collected in the post-blast survey at your home. Again, he would be interviewed and inspection would ensue. If there is a change in circumstances, he now gets water, there will be data available to determine whether or not it was caused by the blast. That is the purpose of the process. Someone more knowledgeable would be able to form an opinion whether there is cause and effect.

Mr. Amendola reiterated that his cellar had been dry for 50 years, and he was going on the record with that. There has been no response yes or no that they believed he does not get water in his cellar presently. The onus would be on him to prove that he had not had water in his cellar ever. He wondered how he was supposed to prove it.

Ms. Asid indicate that the attorney had said he believed him. And he was on record stating that he does not get water in the basement at this time.

Mr. Amendola stated, "okay, that's good. I like that that. I like that."

Mr. Dan McCann, 137 Mansfield Grove Road, stated that he actually sits on the Inland Wetlands Commission. So, he had seen this application before it came to this Commission. What sparked his interests were the spaces up north. It's supposed to be 9.5 acres of protected property. He believed that the Branhaven side is town property. He asked if he was correct about that?

Mr. Budrow replied, yes.

Mr. McCann asked if there had been any discussion between the town and the applicant about possibly converting that property over open space for the town and that the town land trust managing the property. This is just something to consider. He just wanted to put this on the record. He had seen the property. He realized plenty of blasting would be done. He was unaware of the amount of the blasting. He had experienced blasting for almost two weeks and it was startling. He wondered if the stipulation judgment between the applicant and the town indicated the amount of blasting allowed to be done or just a blanket stipulation about going through the process with the applicant. This is a lot of blasting.

Mr. Cox indicated that the plan before the present plan included a lot more blasting. The present one does not have the extent of blasting as the previous plan.

Mr. McCann further commented regarding the explanation that traffic generated by these new building would not be impactful. He strongly disagreed with this notion. He indicated there needs to be more study of the traffic in that area.

Attorney Pellegrino addressed the comment about using the 10 acres as open space relative to the additional town open space to the east of the project. They had discussed creating an easement in favor of the town, but not as a public open space. It would be a conservation area so as to prohibit disturbance. It is not contiguous to the town-owned land. So, it doesn't actually touch it. The property would still be owned by the property owner as it separate from the town's property. Interesting insurance issues would arise were they to create a public open space on private property. The town would benefit form the open space.

Attorney Pellegrino further stated that regarding blasting, Mr. Cox had given the Commission a frank not-to-exceed plan. They knew what the amount of rock was. The amount of blasting and the conditions of the Stipulated Judgment would be adhered to.

Traffic studies had been done that included towns. The issue is not a dead issue, however. Unlike town roads, this is beyond the control of the town and the applicant. The state dictates what happens on its roads. The town and the applicant would jointly request some sort of signalization. Perhaps non-statistical data could be more persuasive.

Ms. Asid noted that the data was collected in January.

Attorney Pellegrino indicated that state data was also used but he was unsure as to when it was. Mr. Sullivan indicated that they had accounted for all of the mentioned factors. Attorney Pellegrino indicated that Mr. Sullivan used the number but they still fell short of what the state requires.

Ms. Lorena Venegas inquired about the volume of what to be used during the blasting. She was inquiring because the water would go underneath Route 80 and would affect the homes on the opposite side of the street. She had some concerns about soil erosion. She wanted clarification on the flood zone definition for the area around Sperry Lane including the Branhaven residence in addition to the people who live south, across the street from Sperry Lane. Ms. Venegas also inquired about the stormwater system. The system is probably old. She asked who would be responsible for the storm management. If it is the town's responsibility for the system, it would be prudent to have a calculation of what the impact of cost would be for that. She also expressed concern for cracking foundations that may occur years later due to the cumulative effects of blasting for the residents of Branhaven. She comment that perhaps residents in Branhaven should have a separate agreement.

Mr. Ovatin responded by stating that volume of water used during blasting would be limited in relation to dust control only. He didn't think there would be any large volumes of water that would stay on site as part of dust control. Soil

erosion plan that had been designed in accordance with both the local and state DEEP requirements. They do have to file with DEEP Construction Stormwater General Permit. This is a mandatory submission to register with the state agency. This is not only regarding the erosion trough during construction, but regarding stormwater quality management for both short and long term. They did review the flood maps. There is no flood zone associated with the development.

Mr. Ovatin addressed the question regarding stormwater management system by saying that everything from the site does drain in the southwesterly direction. It does go into the town or state drain system. As part of this project there will be an examination. They have to apply to Office of State Traffic Authority, and its drainage division would review this project to evaluate whether it will have an impact on the state's drainage system. Regarding the town system, there are some catch basins. There are underground stormwater management systems along Frontage that does tie into the state system. They have to be careful not have an increase in the amount of runoff that goes to the state system. There is a system near Frontage that discharges into a swale and goes into the Farm River almost across from the development area. They have shown in their storm water analysis that they do not have an increase there. DOT has a specific checklist that the applicant has to follow by submitting very specific information to them. So, there is a process after this with the state that they also have to go through, a submission to DEEP and a DOT drainage review during which they would assess if they have any impact to the state drainage system.

Cathleen Bowery, 12 Arthur Road, commented by saying that they would be blasting 20 days a month for five to six months. Pre-and post-blast surveys would be done. She wondered if that was going to be at the beginning of the project and the end of the project, every day, weekly, monthly. She asked, what the frequency of the pre- and post-blast so the people have a general understanding of what these terms mean. Do they need to be home for a 100 days.

Fire Marshal Miller indicated that his office requires the pre- and post-blast surveys. Surveys will be done prior to the beginning of blasting. Then they required final surveys at the end of blasting. If in between the beginning and the end of the blasting there are any issues, his company should be called to indicate what the problem is. A team would show up to assess the situation.

Ms. Bowery asked if the blasting would be on 20 consecutive days in a month. Mr. Cox replied that it would not.

Ms. Asid indicated that if they had more than one crew working on the blasting, they could shorten the time needed to complete the blasting.

Ms. Bowery asked if there was an alternative to blasting. Twenty days a month of blasting for five to six months would be extensive and significant. This would impact the people that live around this area. Ms. Bowery indicated that she had experienced blasting in the past.

Mr. Pellegrino indicated that the data on blasting had been discussed fairly openly, he thought, over many meetings. They have always given the Commission the worst-case scenario of what would need to be blasted. There is always the alternative of removing rocks mechanically where they could. Another crew may be brought in to reduce the number of the days of blasting.

Samantha Paoletto (phonetic) ,70 Townsend Avenue, she asked whether there would be initial notifications of blasting before they begin since it is not going to be consecutive.

Fire Marshall Miller indicated that the they have to come in monthly for a permit. For example, if they blast for straight months and then they are not going to blast for six months, they have pull a permit. Per the stipulation, 21 days before that permit is pulled they have to notify everyone that they are going to start blasting again. Two days before blasting starts, signs have to go up so people have to know. In addition, 24 hours after the blasting stops, the signs will remain and then come down.

Ms. Paoletto asked if the permits are pulled throughout the whole process. Fire Marshal Miller said yes.

Mr. Budrow noted for the record that through Attorney Coppola, Ms. Bowery submitted two documents into the record that went to the Commission. He will put them into the record this evening as received. Attorney Pellegrino also submitted a document that he will put into the record that evening. Mr. Pellegrino was awaiting a report from someone at the Regional Water Authority. It had not arrived yet. The Commission will hear about that in February.

An unidentified male indicated he didn't know a lot about blasting. He had seen it done. He asked, since it is very contentious right now, if there was any kind of evaluation that can be done on the property to say for sure that there is much material that has to come out of there or some of it can be removed with heavy machine versus blasting.

Mr. Cox evaluated the site. The data collected during that evaluation was used to come up with the estimated rock excavation. That's a limited amount of data for a relatively large development area. There are other data that could be collected down the road to better understand how to design the blasting. More data would be forthcoming.

Attorney Pellegrino indicated that hope is to reduce the amount of blasting.

Attorney Coppola indicated that they had had discussions with the applicant's counsel with regard to retaining a geologist, hydrologist, hydrogeologist, she was unsure of the discipline. She had some research regarding this. As the Commission's counsel, they want to ensure that they have someone from the appropriate discipline monitoring because of the amount of blasting and activity at the site, monitoring the development as it occurs with regard to this portion of the project.

Mr. Chandler added that they shared their concerns with the applicant about the hydrogeological effects, the water and everything else. They are exploring ways that that might be addressed. They had good information here tonight. They would continue this conversation. These are something they are aware of and concerned about.

Ms. Asid indicated that the public hearing regarding this matter would be continued to February 1<sup>st</sup>, 2023.

**Mr. Cubelotti motioned to continue Case No. 22-16 to February 1<sup>st</sup>, 2023, and the public hearing also. Said motion was seconded by Mr. Fusco. The motion passed unanimously.**

## **VI. New Applications**

1. **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.

Mr. Budrow indicated that the Commission had received an application for a text amendment. At this time there would be no discussion on it. The Commission should vote to schedule the public hearing for February 1<sup>st</sup>, 2023. There will be a presentation on that night.

**Mr. Fusco motioned that 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 be scheduled for a public hearing for the Commission's next meeting, February 1<sup>st</sup>. Said motion was seconded by Mr. Shaul. The motion passed unanimously.**

Attorney Coppola indicated that there had been inquiries about draft texts. They will post that. They will post it with the Notice of Public Hearing. This will be on the agenda page.

## **VII. Deliberation Session.**

1. Discussion and possible decision on **Application No. 22-16 - The Bluffs, LLC, Mark DiLungo, 31 ad 100 Sperry Lane, 161 Foxon Road.**

Ms. Asid read this into the record. This had been continued to February 1<sup>st</sup>, 2023.

2. Discussion and possible decision on **Application No. 22-15 - Gurukrupa Investments, LLC, 85 Hemingway Avenue.**

Ms. Asid read this into the record. This also had been continued to February 1<sup>st</sup>, 2023.

## VIII. Other Business

1. **Zoning Regulations Section 51.8.4** - Discussion on a proposed use variance received by the Zoning Board of Appeals on December 15, 2022. Request is to allow an existing barber shop called “Fine and Taper” to be located within an existing commercial building at 836 Foxon Road.

Mr. Budrow indicated that due to staff shortage this applicant was not reminded about being present before the Commission tonight. He could present on their behalf. This is a commercial use in a residential property that had been approved by the town a long time ago. Three other businesses now have approved zoning. Last summer he had indicated that one business was not in compliance. Luckily, they did come in for a permit. This is a barbershop owned by a young man. He was working with the health district. In the future when Foxon Road is rezoned, it will be an allowable use in the new commercial zone.

Mr. Budrow indicated that this is a request to give a favorable review due to the fact that there will be rezoning, in addition to the fact that it is a common commercial use allowed in a sector such as Foxon Road.

Ms. Asid said, just a favorable report?

Mr. Budrow indicated that all the Commission need do is give a favorable report and he would do a write-up to be submitted to the Zoning Board of Appeals.

Ms. Coppola indicated that the Commission had to give a favorable report based on whether the subject parcel of land cannot be reasonably developed for any permitted use within the district for which it is located because of reasons peculiar to the parcel in question, and not otherwise applicable to the area as a whole; and that the use will not impair the essential existing character of the area and will not conflict with the general purpose ... of these Regulations. This is 51.8.4, Sections 1 and 2.

**Ms. Fusco stated that, Section 51.8.4, referrals, the request is to allow an existing barbershop called Fine and Taper to be located within the existing commercial building at 836 Foxon Road, a favorable review. Said motion was seconded by Mr. Tarducci. The motion passed unanimously.**

Ms. Asid and Mr. Fusco implored Mr. Budrow to write a favorable report for the Zoning Board of Appeals.

## IX. Adjournment

Mr. Cubelotti motioned to adjourn. Said motion was seconded by Mr. Fusco. The motion passed unanimously.  
The next special meeting is on February 1, 2023.  
The Commission adjourned at 10:30 p.m.  
Respectfully submitted,

Sotonye Otunba-Payne

