Gregory Vetter, Sr., Vice-Chair called to order the August 16, 2011 meeting of the Planning and Zoning Board at 7:30 p.m.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

Members Present: Victor Ferrante, Edward Mead, Mark Bender, Robert Dickman, Janet Golden, KathyLynn Patterson, George Gasper, Kevin Liddy, Gregory Vetter, Vice Chair.

Not Present: Susan Shaw, Chair.

Staff: Emmeline Harrigan, Assistant City Planner; Phyllis Leggett, Board Clerk.

C. PUBLIC HEARING – Closes by 9/20/2011; Expires 11/24/2011

1. <u>EASTERN STEEL ROAD</u> (ZONE ID) - Petition of John Knuff, Esq. for a Special Exception and Site Plan Review to permit a package store selling alcoholic liquor on Map 80, Block 810, Parcel 13A, of which Wiehl Properties, Inc. is the owner.

Acting Chair Vetter: The first item on the agenda has been postponed. A letter has been received from Attorney John Knuff, requesting that the Board continue this hearing to the September 6th meeting.

D. PUBLIC HEARING - Closed 7/19/2011; Expires 9/22/2011

2. <u>ALPHA STREET HOUSING</u> (ZONE R-18) Petition of John Horton for a Special Exception and Site Plan Review to redevelop 15 existing single family residences and construct one single family residence on Map 69, Block 711, Parcel 17A, of which Milford Heights LLC is the owner.

Acting Chair Vetter: This public hearing was closed. There will be Board discussion. Asked if Staff had any follow-up or comments with regard to any open questions. The Board has a draft of the motion for review.

Mrs. Harrigan: Her only comment is that the motion just follows the direction of the Board given at the last meeting, with regard to some of the items they wanted to see written out for potential motions. With any motion presented to the Board from Staff it is up to the Board to discuss them, decide which ones they feel would be appropriate for the project and to move forward from there.

Acting Chair Vetter: From watching the tape, this seems to cover all the points that were addressed in the discussion.

Mr. Bender: Thought that at the last meeting there would be a motion with sidewalks approved and one without. Asked if that had been discussed and changed.

Mrs. Harrigan: If the Board wants it without, they can remove that item number.

Mr. Ferrante to Staff: Who decides where a bus shelter goes?

Mrs. Harrigan: Did not know under whose jurisdiction placement of the bus shelter would be.

Mr. Ferrante: Thought the north side is better so as to allow the bus to turn around.

Mr. Liddy: Noted at one time there was a sidewalk fund. It consisted of payment from applicants who did not want to build a sidewalk, so they made a contribution to the sidewalk fund. At one time there was \$250,000 in the fund and it was given to the Mayor to invest in sidewalks somewhere.

The site appears challenging to build a sidewalk. Perhaps the applicant could contribute to the sidewalk fund.

Mrs. Harrigan: Researched this in the municipal ordinance as well as followed up with the Public Works Department because the municipal ordinance references a former sidewalk fund and through conversation with the Public Works Department, they confirmed that that fund no longer exists.

Mr. Liddy: Thought this was too bad. Had another idea: Since this is a subdivision, and subdivisions require utilities to be underground, the telephone poles are in the front yards. The Board should require that the utilities go underground. It would make the properties look nicer. If the Board does not have them do sidewalks, they should definitely have them put the utilities underground.

Mrs. Patterson: Her concern on the sidewalks is if they cannot be put on both sides of the street, that maybe they could be put on one side of the street. If children live there they should not have to walk in the middle of the road, especially in winter time.

Acting Chair Vetter: Whether children or older people live there, he believes sidewalks are needed. The City Engineer was clear that he did not think it was possible because of the amount of grading. The applicant felt the same way. Staff has suggested, or it was discussed at the last meeting, that a pedestrian pathway would give the builder flexibility in the materials and the size of the pathway, so that it would not have to be a City-spec wide sidewalk built of cement. It could be cobblestones, it could even go down to mulch, as long as it would qualify as a pathway.

Mrs. Harrigan: Based on the Board's discussion and deliberation in terms of not providing a specific, clear direction, but it being clear that these were not going to be City-specification sidewalks, the applicant can be creative. For other projects, the Board wanted to see something back if they did not see what it was at the time that an application was approved. The Board can decide to do that this evening. They can decide to trust City staff and not want to see that back. This is a draft motion for the Board to review and determine whether they think it is appropriate.

Mr. Liddy to Staff: Asked for a description of a pedestrian pathway. Sidewalks must meet certain requirements. What requirements do pathways have?

Mrs. Harrigan: Believes this was intentionally left open knowing there were some site constraints and that could give the applicant some flexibility.

Mr. Vetter: It was his understanding that the Board would require that it be resubmitted for a Site Plan Review or through the office's guidance. There would have to be some way to control the quality of the pathway.

Mr. Bender: In a memo, the City Engineer agreed that there be no sidewalks. He would be okay going up Eels Hill. Asked if those were the sidewalks or the property on Alpha Street.

Mrs. Harrigan: The final comments from the City Engineer required City specification sidewalks to the end of driveway #15, so it does go up Eels Hill, turn the corner onto Alpha on both the north side and on the south side to the driveway at house #2. So, there is sidewalk that extends onto Alpha Street, but only for a very short distance.

Mr. Ferrante: Is comfortable with the motion as drafted and encompasses everything the Board discussed.

Acting Chair Vetter: Asked for comments or a motion.

Mr. Ferrante: Moved to approve the Petition of John Horton for a Special Exception and Site Plan Review to redevelop 15 existing single family residences and deny the request to construct one single family residence on Map 69, Block 711, Parcel 17A (ZONE R-18), of which Milford Heights LLC is the owner with the following conditions:

- Area proposed for House #16 shall remain as open space. Design of this area is subject to Site Plan review by the Planning & Zoning Board. Review is required prior to the issuance of any Certificates of Zoning Compliance for any of the structures or the property.
- 2) Individual mailboxes are required at each house unless otherwise required to be provided as a community mailbox by the Postmaster General.
- 3) Should a community mailbox be required this shall be provided on the north side of the street adjacent to the required open space area.
- 4) The bus shelter shall be moved to the north side of the street.
- 5) City specification sidewalks shall be provided per the City Engineer's comments.
- 6) An additional pedestrian pathway shall be provided on one-side of the street per the Police Department's recommendation and shall be resubmitted for Site Plan review by the Planning & Zoning Board.

Mrs. Patterson: Second.

Mr. Bender: Asked if the Board should be specific on conditions 5 and 6. There were a lot of comments made by the City Engineer, going back and forth. Suggested the comments include the dates in order to be specific, as well as those of the Police Department.

Mrs. Harrigan: Asked for a moment to review the file and then an amendment could be offered.

Mr. Liddy: Asked to make an amendment to the motion. Add Item Number 7 that would state all utilities be removed and placed underground and that the utility poles be removed.

Acting Chair Vetter: Asked for a second. There was no second. The motion failed.

Noted there was a discussion with regard to the mailboxes as to whether there would be a sufficient pad, or if they would be set back from the street in order to accommodate foot traffic to the mailbox. He asked if that was addressed sufficiently in the plan.

Mrs. Harrigan: Thought the Board would have to wait as to whether the individual mailboxes could be retained at each location. The Board could provide direction to staff to make sure that it is set back. Thinks that there was not going to be a pullover for automobile access at this point because it would be on the right hand side, so it does not need to meet that criteria at this point where someone can jump out of the car, grab the mail and get back in the car because it will be on the north side, which will be the passenger side. It is up to the Board as to whether they want to amend the condition.

Mrs. Patterson: Believes it is being checked through the post office, as to whether the mail could be delivered to the individual homes, especially in view of the different weather conditions in Connecticut. If they cannot be delivered to the front of the home then they would have to have them on a pad.

Mrs. Harrigan: For condition #5, the City Engineer's comments are dated July 13, 2011; No. 6, the Police Department's recommendation is dated June 2, 2011.

Mr. Ferrante: Amended his motion to add to Number 3, should a community mailbox be required, this shall be provided on the north side of the street adjacent to the required open space area and be subject to the review of number 1 above. He further moved that Number 5, the City specification sidewalks shall be provided per the City Engineer's comments of July 13, 2011. Further, amend Condition 6 that an additional pedestrian pathway shall be provided on one side of the street, per the Police Department's recommendations of June 2, 2011.

Mrs. Patterson: Seconded the amendment.

Acting Chair Vetter: Voting just on the amendment to add the dates and to add to Number 3, subject to review of the Planning and Zoning office.

All members voted in favor of the Amendment to the Motion. The Amendment passes.

Any further discussion on the original motion?

Mr. Liddy: Showed the photographs and said the Board is asking for the applicant to put the pedestrian pathways right in the area of the utility poles. If the utility poles were removed it would be easier to put in the pathways in and beautify the area by putting the utilities underground, which is a standard for the City's subdivisions. He thinks the matter should be discussed rather than dismissed.

Mrs. Patterson: The poles that are there have three lights on them. Those poles provide the only lighting on the street. There is no other lighting plan.

Mr. Mead: Burying the utility lines is a good idea, but only in new construction. On a retrofit, what is existing is adequate for the project.

A vote was taken on the motion. All members voted in favor of approval with conditions.

Mr. Ferrante: Thanked Mr. Horton for all his efforts in revitalizing this part of Milford and for doing such a good job. He hopes Mr. Horton appreciates the Board's thought process on this application.

Acting Chair Vetter: This is an historic piece of property and is definitely on the record.

E. NEW BUSINESS

2. REQUEST TO PURCHASE CITY OWNED PROPERTY - 63 JAMES STREET
Request for approval under Connecticut General Statute 8-24 by Mayor Richetelli, for the purchase of a 0.08 acre piece of City-owned property on Map 27, Block 455, Parcel 18, requested by Elizabeth Breggren.

Elizabeth Breggren, 59 James Street, Milford. Handed out information to the Board, which was stamped into the record. She is the owner of 59 James Street, the property adjacent to 63 James Street, which she would like to purchase. Her initial request was received and stamped on April 14, 2011 by the Mayor's office and sent to Susan Shaw of the Planning and Zoning Board on May 17th. She intends to add this property to her yard space. She has used this space for over 24 years. Her children have played on the property and they park on it. The lot is between her house and one other house. She and her family have assumed the responsibility for cutting the grass on it for approximately 25 years.

She is aware that the property floods. She checked with the Engineering Department and they assured her they do not need it for drainage. In reading through the files for

approval, she discovered that Connecticut General Statute 8-24, which states the failure of the Commission to report within 35 days after the date of official submission of proposal shall be taken as approval of the proposal. She respectfully requests the Board's approval for the purchase of this property and its consideration.

Mrs. Harrigan: Stated she could not speak to the statute. To summarize, the other departments had no objection to the sale of the property, meaning that they have no municipal use for the site. From a planning perspective, given the coastal review that is done, as well as the Flood Hazard Regulations that have to be instituted, as well the large number of flood zone properties that exist in the City, there are several reasons why Staff would recommend not selling the property to a private property owner at this time.

As with any sale of City property, this would go to auction and whoever the highest bidder would be would be eligible to purchase the property, with whatever kind of restrictions the City finds to impose for a property for sale. In terms of the property itself, based on the comments by the Inland Wetland officer, this is 90% tidal marshland. That means it has jurisdiction outside of the City for the most part. This is a property that would likely not be able to be filled because the State has jurisdiction and it is directly in conflict with State statute requirements in regard to the Coastal Management Act. This is part of an active tidal marshland where the jurisdictional authority is with the State Department of Energy and Environmental Protection.

The Inland Wetlands officer also thought that the Army Corps of Engineers would also have jurisdiction if they wanted to fill this property. From a construction perspective, if this went to private ownership, the City right now given its large number of flood zone properties and the large number of people who have to pay flood insurance every single year, the City has for the last four or five years participated in what is called the Community Rating System, which is a program that if the City gets a good rating could potentially allow for across the board rate reductions for flood insurance that is paid throughout the City. There is a lengthy questionnaire involved in this application and one of the questions is the acreage the City has in permanently deed restricted open space, and if the City were to sell this property, which is 90% tidal wetland, which floods on a regular basis, it would counteract with the policy directive within that application that the City is applying for. The other part of it is that this is a regular flooding parcel, so it is very difficult in terms of if it were sold the enforcement that the City would have to do in terms of being watchful of its condition over time. From a proactive perspective, it is always easier to keep it as City property in terms of having to do any kind of enforcement if it is not maintained exactly as it is today. That is the recommendation from Staff.

Acting Chair Vetter: Asked if she is saying that the City presently maintains this property?

Mrs. Harrigan: It is not maintained because it is tidal wetlands.

Mr. Bender: .08 of an acre would affect the plan Mrs. Harrigan discussed?

Mrs. Harrigan: The application that the City applies for has to be submitted every year and they check off every single point. They check whether acreage has gone up or down and any kind of decrease of acreage shows the City is selling off properties that from a policy perspective maybe it shouldn't be.

Mr. Bender: Asked if they go out to two places of a decimal when they report their acreage.

Mrs. Harrigan: The City provides mapping and a spreadsheet of all the properties that are either within State, land trust or municipal ownership.

Mr. Liddy: Why does Mrs. Breggren want to purchase the property?

Mrs. Breggren: Stated why she would like to purchase this small portion of property to add it to her yard space.

Acting Chair Vetter: Noted she mentioned that she parks on it now and maintain it. Does she want to create it as yard space with the hope to put grass down or pave it as a driveway?

Mrs. Breggren: They mow the lawn in the front closest to the street. Otherwise there would be phragmities everywhere and they do use a portion to park on that is not wetlands. They have done that for over 24 years. Eventually she would like to raise her house and go up, as the whole area is in a flood area. Having the property would allow her to have another parking space. It would also give her a buffer so that no future development could possibly go on there. That is her intention.

Mr. Ferrante: The issue is not what she can do with it because she can always sell her house. The issue is once you take it off the rolls, it is off forever. It appears that there have been a lot of mistakes made in the past and many of the houses, as she pointed out, are in this flood area. The Board cannot be inundating this any further and any marginal increments are all going to add to that. He would have to agree with Staff's assessment that this is a flood area. He does not see how taking this property and putting it in private hands helps at all because it is tidal.

Mr. Dickman: This property is already a flood area. Does not know how the sale of .08 acres changes that in any way.

Mr. Ferrante: The point is if it is her yard she can fill it and then it's not and that's the problem. That is the theory. Asked Mrs. Harrigan if that is so.

Mrs. Harrigan: Unfortunately the City has one enforcement officer for 18,000 residential properties, let alone commercial properties in the City. It is very difficult for the City to do active enforcement and to double check all the sensitive natural resources that the City has and to make sure that they are being properly managed in a way that

meets State statute and maintains the characteristics of those natural habitats. There are tidal wetlands that have been filled that have been destroyed by spreading a whole lot of gravel on it. That does not maintain the natural characteristics of what it is. This property is not only in a flood zone, but this is an active tidal marshland, meaning that this property floods based on regular tide interaction. This is not just a standard flood zone property. This has standing water regularly during the month. That is a very different parcel than a vacant parcel that is within the floor plain that does not have standing water on a regular basis.

Acting Chair Vetter: Asked if there were further comments and then asked for a motion.

Mr. Liddy: Motion to deny the request for approval under Connecticut General Statute 8-24 by Mayor Richetelli, for the purchase of a 0.08 acre piece of City-owned property on Map 27, Block 455, Parcel 18, requested by Elizabeth Breggren.

Mr. Ferrante: Second.

Mr. Mead: The applicant stated under Connecticut General Statute 8-24 under Municipal Improvements, that the failure of the Commission to report within 35 days after the date of official submission of proposal. Does that mean it is already approved by State law?

Acting Chair Vetter: This is the first time he is seeing that. He does not know when this was officially received by the office. He knows when the Mayor was sent the letter but does not know how it is determined when the Board officially receives the information. This will have to be left to the applicant, the office and maybe the City Attorney, unless Staff can clarify this statute, or when the Board actually received this.

Mrs. Harrigan: That is what she would recommend. For example, the application that was continued this evening for Eastern Steel Road. The official acceptance by the Board is after all referrals have been received, so the process, once a request is received from the Mayor's office to review by "Planning and Zoning", is that it is sent out just like any other standard referrals. It is sent to engineering, parks and recreation, community development and just like any other application to the Board, it is not an official application until the Board receives notice of it or it is on a posted agenda. Unfortunately, she will have to check with the ----- What she would say is continue with the discussion of this application item. If the Board has missed a deadline, then she is sure the City Attorney's office will tell them. If they have not, then the Board's discussion will go forward.

Mr. Vetter: The Board does not necessarily have to act on this tonight. There is a motion and a second, but if the Board feels more comfortable waiting for a decision, they could always do that.

Mr. Bender: Agreed. If the Board votes it could be a moot point. The City Attorney can come back and say it doesn't matter what the Board votes at this point. If there is a

ruling on this, and put this on the next meeting, there should be more information and can have a more educated vote.

Acting Chair Vetter: According to Mrs. Harrigan, he assumes it was posted on August 16th for this meeting. That is the first time the Board has been notified of this. Mayor Richetelli's memo was May 16th. If that is the case then all the applications the Board ever received would be approved because it takes more than 35 days to get to the Board, or any application.

Mrs. Golden: Not comfortable voting on this tonight.

Acting Chair Vetter: If the Board wants time to think about this, the City Attorney's advice can be solicited. Perhaps the motion and second should be removed.

Mr. Ferrante: He is not sure that the statute would apply to the sale of property.

Mr. Vetter: That is the point. The Board can receive anything from an applicant and then delay the Board. There is no urgency to act on this tonight unless the Board feels strongly about the application.

Mr. Liddy: Removed his motion.

Mr. Ferrante: Removed his second.

Acting Chair Vetter: There is no motion on the floor. This item will be held off until the next meeting. Will ask Staff to follow up with the City Attorney and clarify if there is any legal issues that the Board should be addressing.

Mr. Ferrante: He understands people are not comfortable with voting on this for whatever reason. However, Mrs. Harrigan has pointed out that the Board should act and whether or not it is late or not is something for the applicant to pursue, not something that the Board should consider if the time is over. He understands the Board will continue this but he does not think it has to be continued for the purpose of time to see if the Board has acted timely. The Board should act and then it is up to the applicant if in fact this statute covers the issue at all.

3. <u>314 BRIDGEPORT AVENUE – DEVONSHIRE VILLAGE</u> – Request by D.A. Black for a one-year extension to August 19, 2012, of the Special Exception approval issued by the Planning and Zoning Board on August 19, 2009, with a one year extension granted to August 19, 2011, to commence construction of their project.

Mr. Vetter: Short recess for the Board to look at the plans to refresh their memory, if necessary.

[Recess from 8:05 pm to 8:08 pm]

Mr. Bender: Asked if there was a maximum to the number of extensions.

Mrs. Harrigan: No specific time frame for extensions, so the Board can grant as many as they would like.

Mr. Liddy: Made a motion to approve the extension.

Mrs. Golden: Second.

Eight members voted in favor of the extension. Mr. Dickman: Opposed.

The motion passed.

4. REQUEST FOR BOND RETURN – 88 BRYAN HILL ROAD - Request for bond reduction in the amount of \$29,499.50, in accordance with the engineering review of July 28, 2011 and the approval of Bruce C. Kolwicz, Public Works Director, in his memo dated August 2, 2011.

Mr. Ferrante: Was confused as to the wording of the memo and how much the bond reduction was for.

Mrs. Harrigan: The bond was originally \$32,155.00. The bond reduction will be \$29,499.50. The bond balance is now \$2,655.50.

Mr. Ferrante: Made a motion that the bond be reduced by the sum of \$29,499.50, and \$2,655.50 be held as maintenance.

Mr. Bender: Second.

All members voted in favor of the bond return.

F. PROPOSED TEXT REGULATION CHANGE - Discussion

Section 2.5.5 Lot Access and Rear Lots

Mr. Vetter: This will be discussed at the next meeting.

G. BOARD MEMBERS GREEN GUIDELINE BOOK AND BY-LAWS

Mr. Vetter: Would like to hold the meeting on September 6th at 6:00. This will be followed up and confirmed to the office so that a notice can be placed.

Mr. Ferrante will not be able to attend the meeting.

H. PLAN OF CONSERVATION AND DEVELOPMENT – No report.

I. LIAISON REPORTS

Mrs. Patterson: Attended the Police Commission Meeting. They had an awards ceremony for the new officers. It was very well attended. There are some new captains and sergeants. She congratulated all the new officers.

The Traffic Reports are being done for the new applications and the Board will be receiving their response.

J. APPROVAL OF MINUTES – (8/2/2011)

Mrs. Golden: Motion to approve.

Mrs. Patterson: Second.

All members voted in favor of approving the minutes.

K. CHAIR'S REPORT

Mr. Vetter had none except to wish Mrs. Shaw a nice vacation.

Mr. Liddy: Commented that the bridge reapproved for Old Town Road near the Sears Auto Center has been built. They are working on sidewalks. The bridge looks nice architecturally, but looks very rusty. Looks like they will paint it. Have to be cautious that the paint does not go into the river. Suggested the Board members drive by and see the new bridge and make sure they like it.

Mr. Bender: It had been discussed that where they are putting the cross-walk, that the line of sight was not very good. They agreed to clear that out, but it was not cleared out.

Mrs. Harrigan: It looks like they finished installing the pedestrian bridge which required a lot of heavy equipment and it does not look like they have finished completing all the sidewalk improvements, as well as the cross-walk signalization and a lot of the cross-walk markings. She suspects they have finished their Phase I, which would be the bridge installation and now they will get to the sidewalk improvements.

L. STAFF REPORT – None

Mrs. Patterson: Made a motion to adjourn the meeting.

Mr. Liddy: Second.

All members voted in favor of adjourning the meeting at 8:16 p.m.

Phyllis Leggett, Board Clerk