Chairman Mark Bender called to order the December 18, 2012 meeting of the Planning and Zoning Board at 7:30 p.m.

A. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE IN MEMORY OF THE SANDY HOOK TRAGEDY

B. ROLL CALL

MEMBERS PRESENT: Ward Willis, Jeanne Cervin, Benjamin Gettinger, John Grant, Edward Mead (Vice Chairman); Michael Casey, Joseph Della Monica, Tom Nichol, Mark Bender (Chairman)

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

C. NEW BUSINESS

1. Board approval of Allan Cegan to the Inland Wetlands Commission.

There is one position on the Inland Wetlands Commission that the Board has to approve.

Mr. Sulkis: Mr. Cegan has been on the Commission since 2004. The Board is recommending him for renewal. This is by City Ordinance. The Board is asked to make this recommendation as the City believes the Board has the technical background to make such a recommendation. The Board of Aldermen will also vote on this appointment.

Mr. Willis: Made a motion to recommend approval for Allan Cegan to the Inland Wetlands Commission.

Mr. Gettinger: Second.

All members voted in favor of approving Allan Cegan to the Inland Wetlands Commission.

D. 2. <u>8-24 APPROVAL</u> – <u>54 WILSON STREET SUBDIVISION</u> Request for Board approval to accept the donation of a deed of 15,000 SF of open space on the approved subdivision plan filed as Map AB-3444.

Mr. Sulkis: This property had been outlined as a 15,000 SF open space area to be deeded to the City, if the Board wanted it, when the subdivision application came before the Board. At that time the Board did not want the property, it wanted payment in lieu of payment space. The payment for open space was made, however, they still want to donate the land to the City. Upon approval the City would have payment for the open space as well as the property designated as open space. The property abuts City land.

Ms. Cervin: It sounds like they are asking for the Board to reduce the size of the lot so they can pay lower taxes. Asked if that is a correct interpretation.

Mr. Sulkis: On the original subdivision plan that was approved, this land was not considered part of the lot. It was always set aside as open space. Right now this stands as an open parcel since it is not open space.

Ms. Cervin: Asked if the Board did not approve this request, the land will just sit there.

Mr. Mead: Made a motion to accept the donation of a deed of 15,000 SF of open space on the approved subdivision plan filed as Map AB-3444.

Mr. Rindos: Second.

All members voted in favor of approving the parcel as open space for the City.

E. PUBLIC HEARING - CLOSES BY 1/22/2013; Expires 3/28/2013

2. <u>PLAN OF CONSERVATION AND DEVELOPMENT</u> - Public Hearing for the Planning and Zoning Board to accept the updated Plan.

Chairman Bender: Staff has been working on reviewing the document for typos, blank pages, formatting, pagination, etc. He requested the Board see the finished document before it goes to publication. Approval has been received from the Board of Aldermen as well as the two regional councils of government that were notified.

The Downtown Plan from the Chamber of Commerce has been received and is now on the City Website. It is 53 pages and the link will allow access to it. As staff starts to peruse the report it will be decided if anything needs to be added to update the POCD, which the Board can do. He reiterated that ten years is the maximum to the statute. There is no minimum.

The Chair opened the hearing to the public and outlined the public hearing procedure.

Asked if there was anyone who wished to speak on the Plan of Conservation and Development.

Richard Platt, 132 Platt Lane. Stated he was amazed that more people were not present at this hearing as this is a such an important thing. He noted he had spoken to the City Planner who said except for some minor changes, the Plan is the same as the draft that was published last summer. He said the plan that he took off the City's website is not the one that the Board is considering. There are pages that were missing and he does not know if they have been added or not. He has not seen them. He thought it was not right to have a public hearing on this if you don't have the full plan, even with the technical difficulties that can be reviewed. He was assured that Mill River National Register Historic District to River Park National Register Historic District. There are other things in there as well.

He had his notes from last summer. Apparently they are still valid. At that time he implored the Board to get Prospect Street out of the Milford Center Design District. It had no business being there to begin with and should not be there now. He asked that this be done before the Plan was finalized. It is part of the River Park National Register Historic Distric and should be protected as such. The same thing goes for Fowler Field. It should be designated as open space. There were so many people at the hearings last summer who wanted this. He does not know why the change could not be made beforehand. Emphasized that if nothing else, make those two changes.

Chairman Bender asked if Mr. Sulkis wanted to speak to this issue as he believes there were answers to these two items that were previously discussed.

Mr. Sulkis: Responded he would have to go back to the Minutes of the public hearings that were held as well the Board discussion of them. The changes that Mr. Platt would like to make can be accomplished through zone changes. They do not have to be part of the POCD. The newly formed regulation subcommittee can address this matter if they wish.

Chairman Bender: The Plan of Conservation and Development could recommend such actions, but it cannot oversee them. Fowler Field is City property.

Mr. Sulkis: It is a feel good sort of thing, because the City, by law, does not have to follow zoning, so it could be zoned anything because it is City property and the City could do as it chooses.

Chairman Bender: Noted a subcommittee has been formed to review regulations. Those meetings are open to the public. The next meeting will be held on January 15th at 6:30 p.m. It will be noticed.

Mr. Willis: Stated some of the Plan was not available on the website and if that could be looked into.

Ms. Harrigan: Due to the large size of the document, the POCD was broken down by chapter. She believed that what Mr. Platt is referring to is the separation of the large 11x 17 map graphics from Plan because it made it bulky and unwieldy. Those maps were kept as separate documents. So, when the Plan was downloaded it was absent those maps, but they were available on a separate tab. It was originally one entire document and then was separated by download by chapter. She believes the original comments that Mr. Platt had discussed were addressed.

Mr. Willis: Noted as long as it is clear where to go to get those maps, that is ok, but if it is hidden, that's not good.

Ms. Harrigan: The City's website is not the easiest to navigate. The staff has not control over the format. It is an off-the-shelf type municipal website product that is not customized.

Chairman Bender to Staff: Asked if the Board would receive one final copy before it goes to full publication and if so, what is full published?

Mr. Sulkis: Yes. A master document will be re-reviewed to make sure that everyone agrees that all the changes meet the Board's approval. It will be put into electronic form for the website and physical copies will also be made.

The Chair closed the public hearing for approval of the Plan of Conservation and Development

Mr. Mead: Made a motion to approve the POCD. The Board will review the final document before it goes to print.

Mr. Grant: Second.

All members voted in favor of approving the Plan of Conservation and Development.

3. <u>SUBSTANTIAL DAMAGE DEFINITION</u> – Addition of language to the existing definition in Article X!, Section 11.2 of the Milford Zoning Regulations.

This was approved by the SCRCG and GBRCG and the same wording will be entered into Branford's zoning regulations.

Ms. Harrigan: Explained the reason why this additional language was being recommended and why she thought it was so important.

The Chair asked if there was anyone to speak in favor or against this change. (No response)

Mr. Rindos: Asked how many properties are involved.

Ms. Harrigan: Right now there are 20 properties. 500 properties have been reviewed. Another 500 will be reviewed and there may be others.

The public hearing was closed.

Mr. Mead: Made a motion to approve the addition of language to the existing definition of Substantial Damage in Article X!, Section 11.2 of the Milford Zoning Regulations.

Ms. Cervin: Second.

All members voted in favor of approval. The effective date will be January 4, 2013.

It was discussed that the Milford Mirror, the publication that now publishes the Board's legal notices comes out weekly and the effective date of the change could not take place until January 14th. Mr. Sulkis determined that the legal notice be placed in the New Haven Register on Thursday, December 20th so that the effective date of the regulation change could be January 4, 2013.

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F. NEW BUSINESS

4. <u>**19 SMITHS POINT ROAD</u> (R-7.5)** – Petition of Richard Couch, PE, for Coastal Area Management Site Plan Review for a single family residence located on Map 3, Block 90, Parcel 4, of which Rebecca Ellsley is the owner.</u>

Richard Couch, PE, **1084 Cromwell Avenue, Rocky Hill, CT.** He presented the application for a Coastal Area Management Site Plan Review for substantial improvement on an existing property. Mr. Couch thanked the City and Planning and Zoning Office for the help and work they did in guiding them through the process in view of the intense schedule of SS Sandy.

The application is to take an existing and substantially improve it. Part of the process is to construct a replacement septic system to the rear of the property. The current septic system is also in the rear of the property. A portion of the house will be demolished to the west of the house will allow easier access for machinery to get through to the proper to install the septic tank and leach system. The main structure will be elevated above the flood level. The plans have been submitted to the departmental agencies. The comment and review has been discussed with the DEEP. Their needs have been satisfied. The other City departments have also approved the application.

Ms. Harrigan: The Board has received her memo about some of the action that had occurred for this application. The location for Smith Point's Road is somewhat unique. Public sewer is not available in this area. The applicant had to obtain a variance to allow a septic system to be installed at this location and the ZBA granted it. They worked with John Gaucher and the State Health Department to review and approve the septic system for this location.

Also, there is stair access to the attic. It would be something that the Board would have to approve. The property owner has agreed to the standard agreement that is filed on the land records that restricts the attic to be an unfinished space now and for future owners.

Chairman Bender: Questioned whether Mr. Gaucher's recommendation of select fill to the drain field would be followed through. Mr. Gaucher commented given the situation in the water quality, they discussed adding a select fill to the drain field to increase the nitrogen and pathogen treatment.

Mr. Couch: This was discussed with Mr. Gaucher and the local health department and State health department. Reviewed the various options that were available. He described the type Curtec system that is to be installed which are concrete units. It is a propriety system and it is a lengthy process to have the State approve it. They met with personnel from the State Health Department and have met all the requirements necessary to be able to have this system work properly.

Mr. Gaucher made a passing comment if there was a way to put in a select fill in this area of concern.

Chairman Bender: Noted the comment was based on an environmental concern, not a health concern. The Board rarely goes against Mr. Gaucher's recommendation. He has no knowledge of any discussions or other information other than Mr. Gaucher's recommendations.

Mr. Couch: Stated Mr. Gaucher 's comments were not that it should be performed; it should be explored. He had discussed with the State Health Department the requirements or the necessity or functionality of being able to install additional material or another method to supplement the proprietory system. The State Health Department told him that the proprietory system was adequate and met the State health code and there was no need for any supplemental treatment.

Ms. Harrigan: Stated she could contact Mr. Gaucher as she had not received any follow-up, but understood there had been further conversations on this.

Mr. Couch: Noted in applications many departments from City to State are contacted with the plans, i.e. DOT for their comments.

After discussion it was determined that John Gaucher would be contacted and his giving approval to the system in the environment.

Chairman Bender: Ms. Harrigan will get in touch with Mr. Gaucher to make sure his concern has been satisfied. As long as the information is received, he is okay with staff overseeing this issue.

Ms. Harrigan: Noted she agreed with Mr. Gaucher's comments in terms of him expressing to the local health department that he had concerns and the local health department went to the State and the State said they had no concerns about this. She did not know whether in terms of the Office of LI Sound Programs, whether they can provide specific guidance for septic design outside the purview of the State in terms of the Health Department.

Chairman Bender: He does not want to see a lot of different departments trying to figure out who is saying yes or no. He knows there is a concern here and he wants the result to be seen in writing so it will be in the file.

Chairman Bender: The stairs going to an attic is an issue which will be coming up with frequency especially as more properties are being elevated and there no living area is allowed on the first floor. Under these circumstances the attic space will house the mechanicals and there has to be access to them. This is something that can be brought up in the regulations subcommittee. Right now putting it on the land records appears to be the best way to go for now.

Mr. Couch: Asked if he could present a letter of approval from the Milford Health Department saying "approved". He asked if such a letter help clarify the matter.

Chairman Bender: Commented this information was already in the file.

Mr. Sulkis: Stated the Board is not the engineers for the septic system. They are not here for the engineering of the septic system. The Board is here for the Coastal Area Site Plan Review and its job is to weigh the evidence on the environmental issues. The Board has every right to wait for the information to weigh on the environmental issues and impacts of whatever it is that has been designed.

Chairman Bender: The Board has no questions about the septic system.

Mr. Couch: Stated the reason he is referencing the letter is to show that someone has concluded, reviewed, is satisfied and has approved the septic system.

Chairman Bender: Countered it is approval of the Health Department for the septic system. He wants something on the environmental side that says that the concerns that Mr. Gaucher are no longer concerns and this system will take care of that. If that discussion has taken place, it should not be a problem to get that in writing. The septic system is not an issue; it is around the septic system and Mr. Gaucher's statement of his concern for environmental issues being so close to the water, which is what this application is about.

Mr. Grant: With regard to stories. As soon as you take the attic space, (which is supposed to be unfinished), and you put some type of surface on top of the joists, it then becomes a floor and the definition of a story is between the floor and the rafters above. So that would take this house by putting plywood down in that attic space to get a walk up area, would add another story to it, which would take it out of the regulations of a three story to a four story.

Ms. Harrigan: Commented this was a building code question.

Mr. Grant: Stated no; it is in the zoning regulations definition of an attic.

Ms. Harrigan: If unfinished materials are used and the floor is not finished, then plywood can be at the bottom of that attic.

Chairman Bender: The issue of unfinished and finished floor has been discussed before. This might be a good item for the subcommittee to review, as to whether this regulation is specific enough.

Ms. Harrigan: As long as unfinished materials are used it is an unfinished attic space. Plywood and insulation by themselves are not considered finished materials. The Board can consider the definition that has to do with an area that is over six feet in height; wider than ten feet; accessed by stairs and does not extend more than 50% of the length of the roof area. Based on these criteria, the Board can decide as to whether it wants to approve this as an attic space and not as a habitable story.

Chairman Bender: Noted the floor plans were smaller sized than the site plans because they were not as pertinent to the CAM. He noted the benefits for taking this measure: Lower cost to the applicant; saving money in mailing costs as well as environmentally friendly.

Ms. Harrigan: Asked if there were Board members who felt strongly they should receive large size plans.

Chairman Bender: Asked if the Board members were required to receive original signed and sealed plans.

Mr. Sulkis: Previous boards have wanted everything signed and they wanted full size because depending on the application, some are easier to read and some are not.

Ms. Cervin: Asked that the conversation be deferred so the applicant could finish the presentation.

Mr. Mead: Under the electrical plan for the lighting, does that in any way determine whether the attic is finished or not? According to the plan there are 13 overhead lights in the attic and then with a plywood floor, would it be considered finished?

Ms. Harrigan asked Ms. Ellsley whether the lights indicated in the attic floor plan were for the floor below the attic.

Rebecca Ellsley, Partrick Road, Westport, CT. It is intended for the light in the attic space to have access to the equipment which will be raised.

Ms. Harrigan: There is nothing that limits the number of fixtures within an attic and does not affect the determination as to whether the space is finished or not.

Mr. Mead: Suggested the Regulations Subcommittee address attic space as a story in light of the Board's anticipation that an increased number of CAM applications with home elevations will be coming for review. He thought that going forward as these applications come up, a hard determination as to what is an attic; how stairs and other attic features play into each application be made.

Chairman Bender: Agreed. Asked if the CAM could be approved with the open item.

Mr. Sulkis: Suggested leaving the item open until confirmation is received. It is not known whether there will be confirmation by Mr. Gaucher or if he will have other issues. He would rather have the information and then let the Board decide. If Mr. Gaucher comes back and requires the fill it would be a condition of approval and the Board would not specifically know what those conditions are.

Chairman Bender: The condition would be that Mr. Gaucher's issues are addressed. If they are not, it would have to come back to the Board.

Ms. Harrigan: If the Board wishes to approve the condition should state: "To the satisfaction of the review of the Office of Long Island Sound Programs."

Mr. Mead: Made a motion to approve 19 Smiths Point Road Road, the petition of Richard Couch, PE, for Coastal Area Management Site Plan Review for a single family

residence located on Map 3, Block 90, Parcel 4, of which Rebecca Ellsley is the owner with the following conditions:

- 1. The septic system and environmental concerns have been satisfied by the Office of Long Island Sound Programs in writing.
- 2. Based on the plans approved December 18, 2012, the attic plan as presented is approved with stairs and a larger area than dictated by the attic definition. The owner will file a use restriction of the attic space on the land records

Mr. Rindos: Second.

Ms. Cervin: Feels it is necessary for the Board to look at the attic with the stairs and the increased size of the attic, just to know what the Board is doing. From her experience on the Board to approve an attic of this size with stairs leaves it wide open . Probably no one will go and check to see if that space is used or not for things other than equipment. That is one of the things that the Board has had serious discussions about in the past.

Chairman Bender: This was discussed with staff. It is agreed that more information has to get into the regulation to better define it.

Ms. Harrigan: Stated in this existing mortgage market place, she has found that appraisers and lending institutions are extremely diligent. When things are recorded on the land records, it is a good tool for enforcement.

Chairman Bender: In the interim a lot of things can be done for any house. In view of the fact that houses will have to be raised, the subcommittee should definitely look into this.

All members voted in favor of the motion.

G. REGULATION SUBCOMMITTEE -

Chairman Bender: The members received the minutes from the first subcommittee meeting. Any board member that has any concerns, recommendations, regulations for review, should get the information to Ms. Leggett by 4:30 p.m. on January 8th. They will be compiled for review at the next subcommittee meeting scheduled for January 15th.

H. PROPOSED REGULATION CHANGES - Update

- Sec 2.5.5 Lot Access and Rear Lots awaiting CA input
- Sec 9.2.3 Prohibitied Variances awaiting CA input
- Sec 5.1.4 Off-street Parking Requirements (10) Health Clubs Staff to review requirements and parking study.

Sec 2.5.5 and 9.2.3 - The Chair received a communication from the City Attorney's office who has concerns about the wording. He will set up a meeting in an effort to get the wording straightened out and have this regulation move forward.

Sec 5.1.4 Parking Requirements – The Chair asked that the regulation change be presented at the January 2^{nd} meeting. Mr. Sulkis said he would have the regulation change by the second meeting in January.

I. LIAISON REPORTS

Mr. Mead – Police Commission – The Medical Center Phase III on the Post Road which is part of the land from Downs House. They are waiting for another DOT Traffic Report for traffic coming off the Post Road.

The Police Department received public letters of thanks for their work during Storm Sandy, especially in the Silver Sands area where they were on patrol 24/7 and helped the people quite a bit. The public felt safer knowing the police were present in the area.

The Police Chief has started work on their budget for next year.

J. APPROVAL OF MINUTES – (12/4/2012)

Mr. Nichol: Motion to approve.

Mr. Willis: Second.

All members voted in favor.

K. CHAIR'S REPORT

The subject of the size of plans with stamped originals was revisited. The Chair did not feel the Board members had to receive stamped copies, as long as the office receives what it needs for processing the application upon approval. The fact that the board throws away the copies and often does not return them to the applicant was mentioned.

Mr. Sulkis: That developed in that sometimes not enough copies are received from the applicant for board distribution. This sometimes happens at the last minute. Sometimes what would be the office's file copy goes out to a board member, which then can be collected by the Board Clerk at the meeting.

In the future three stamped copies can be received ahead of time, but if an applicant is told to bring in a certain amount of copies to be distributed to the Board, if they do not bring in enough copies then the application will have to be pulled from the agenda and it will be delayed to the next meeting or someone will not get a set of plans. Obviously the Board needs to review the plans, so if the applicant does not bring in the proper number of copies then he will get booted to the following meeting. It has been a little extra work on them to get them stamped and signed, but if it's coming out of their own

offices, it is not a big deal and it allows the flexibility in case we run short to get them out to the board so they can be heard in a timely manner.

Chairman Bender: Would be fine if there is a minimum of three stamped and signed. After that they can do whatever.

Mr. Sulkis: In the past the problem has been if there is a shortage. The office always gets three stamped copies at the outset of the application. Sometimes they don't bring ten copies to the board; they bring 8, or 7, thinking we already have three copies. Now, at the 12th hour of having to send these things out to the Board, we are short three copies.

It's never been an issue. The people who are bringing in the plans have sometimes questioned it. Some places do want everything stamped and signed so there are all equal copies. It is not a big issue. The biggest issue that has come up is whether or not you want big plans or small plans. Boards in the past have gone back and forth. When there are complicated projects and there are 11 x 17 size copies, board members have said these are hard to read. When the big ones are used, then it is said they are really bulky and there is too much paper. No matter what is done it is not always a satisfactory situation. The bottom line is the Board should be able to read and understand the information that comes before it. Nothing short of full size copies in most cases does it become an issue.

For tonight's application smaller plans were okay. When you are reviewing commercial plans, especially for the Mall, you want the full size ones.

Chairman Bender: Anything under the Board's jurisdiction that makes sense, but when they show concrete breakaways and demolition plans, the Board does not need a full size set. If it's one page, that's okay, but if it is 10 pages and more it's not necessary.

Mr. Sulkis: Typically details are broken out onto a separate sheet, so you can have $8-1/2 \times 11$ or smaller that are tiled on a sheet and they are mostly engineering.

Chairman Bender: Said he could live without large size prints.

Ms. Harrigan: For the applications she processes, which are typically from homeowners, she often gets this request. For the commercial projects that David tends to process, for those to remain full size sets, but for the coastal site plan applications, for the site work plans, to be full size sets and the house plans can be reduced. Even if there was a clarification that needed to be made before the zoning permit is issued, it would be issued on a full size set in the office. Those have to be to scale. She asked if it would be adequate to have the house plans done in the reduced size and have the coastal site plans be done in the larger size.

Chairman Bender: Thought this would keep the Board away from looking at things that have nothing to do with the CAM, but the Board could if it wanted to.

Mr. Sulkis: Agreed with Ms. Harrigan's suggestion.

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Ms. Cervin: Agrees as well. Would like to leave it in the common sense discretionary hands of the City Planner.

Chairman Bender: Was fine with that. The homeowner is most interested in not having to do so much printing.

Wished everyone a great holiday.

L. STAFF REPORT – None.

Mr. Rindos: Made a motion to adjourn.

Mr. Gettinger: Second.

All members voted to adjourn the meeting at 8:55 p.m. The next meeting will be held on **Wednesday, January 2nd, 2013.**

Phyllis Leggett, Board Clerk