

**MINUTES FOR THREE (3) PUBLIC HEARINGS
BY THE PLANNING AND ZONING BOARD
HELD TUESDAY, JULY 16, 2013; AT 7:30 P.M.
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET**

The July 16, 2013 meeting of the Planning and Zoning Board was called to order at 7:30 p.m. by Chairman Mark Bender.

A. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

B. ROLL CALL

Members Present: Ward Willis, Jeanne Cervin, Benjamin Gettinger, John Grant, Edward Mead (Vice Chair); Michael Casey, Joseph DellaMonica, Tom Nichol, Mark Bender, Chairman.

Not Present: Dan Rindos

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

C. CGS 8-24 APPROVALS

1. **204 MELBA STREET (Fire Station Number 6)** - Sale by the City of Milford
2. **128 KINGS HIGHWAY (Fire Station Number 5)** - To be conveyed by the City of Milford to the Borough of Woodmont for use as the Borough Hall.

Mr. Sulkis: The Fire Commission voted on June 26, 2013 to abandon both fire houses. The City would like to dispose of them, so they are brought before the Board for the 8-24 process.

Chairman Bender: Noted that the Board of Aldermen would take action on these two items after the Planning and Zoning Board makes their decision.

Mr. Mead: Asked if the City was going to convey the fire station to the Borough of Woodmont at no charge?

Mr. Sulkis: Had no information or details on the matter.

Ms. Cervin: As this came with a recommendation from the Fire Commission she made a motion to approve the City of Milford selling 204 Melba Street, Fire Station Number 6.

Mr. Nichol: Second.

All members voted in favor.

Mr. Mead: Made a motion to approve 128 Kings Highway, Fire Station Number 5, to be conveyed by the City of Milford to the Borough of Woodmont for use as the Borough Hall.

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Mr. Casey: Second.

All members voted in favor.

3. **ABANDONMENT OF PARK LANE** – In accordance with the request made by Robert Evans to the City of Milford for abandonment of subject parcel identified on a map entitled “Milford Downs”, dated 1929.

Mr. Sulkis: The Board has a memo, but no map was received, although one was requested. The vote to abandon was in the Minutes of 1929 and it was never acted upon.

Mr. Willis: Thought it best that the Board request a map of the property.

Ms. Cervin: Asked why is this property being abandoned.

Mr. Sulkis: The Minutes of the 1943 meeting report that Park Lane had been ordered closed by a vote of the town meeting representatives, and for whatever reason, it was never followed through on.

Ms. Cervin: Thought this was unusual. Would like to know more about it. Would like a map and more information.

Mr. Mead: The request was made by a Mr. Robert Evans. Asked if anyone knew of him so he could answer the question. There is a general description where the area could be in the 1943 minutes.

Mr. Sulkis: The reference to the map is in the Town Clerk’s office. It has not been provided to the Board. The request came through the Mayor’s office. The Board can table the item with a request to the Mayor or City Attorney’s office to provide a map to the Board and can be discussed at the next meeting.

Mr. Willis: Made a motion to table the Abandonment of Park Lane in accordance with the request made by Robert Evans to the City of Milford for abandonment of the subject parcel identified on a map entitled “Milford Downs” dated 1929. The reason for tabling the item is to request a map of the property in question.

Mr. Grant: Second.

All members voted to table the CGS 8-24 request.

D. PUBLIC HEARINGS – Close by 8/21/2013; expires on 10/25/2013

4. **258 & 266 BOSTON POST ROAD (ZONE CDD-1)** Petition of Benjamin Proto, Esq. for Special Permit and Site Plan Review approval to construct a Cumberland Farms Gas Station and Convenience Store on Map 53, Block 305A, Parcels 1 and 3, of which TVJL, LLC is the owner.

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Benjamin Proto, Esq. Stratford CT, representing Cumberland Farms and First Hartford Realty, the property developer. Also attending are Lucien DiStefano, Project Engineer from Bohler Engineering; Steve Savaria, Fuss & O'Neill, Traffic Engineers. Chuck Meeks, First Hartford Realty, and Augie Volkens from Cumberland Farms.

Requesting Site Plan and Special Permit approval. The property is located at the intersections of West Clark Street, Plains Road and the Boston Post Road. There is a traffic signal at Plains Road and one at West Clark Street.

The triangular piece of property that is now vacant and had one time housed Gloria's Farm Market and a small manufacturing facility. The property is on two separate lots and if approval is received the lots will be merged to create one lot. The property owner has agreed to that.

Cumberland Farms is proposing to construct a gasoline and convenience store. There is another Cumberland Farms on a triangular piece of property at Cherry Street and the Boston Post Road. The proposed Cumberland Farms would have five dispensers with ten dispensing stations and a retail store of approximately 4300 SF. The property would have curb cuts on West Clark Street and Plains Road. There would be two curb cuts on each street and one on the Boston Post Road.

He explained the curb cuts on West Clark and Plains Road closest to the Post Road would be for customer use. There will be another curb cut further north on both streets behind the building and that would be a dedicated area for deliveries and for trash. Customers would not use that area. There would also be employee parking back there. They are trying to separate the operational aspects of the ingress and egress and the customer access to the property.

The applicant believes that the plan more than meets the requirements set forth in the regulations for Special Permit and Site Plan approval. The property is zoned for this use. Believe there will be minimal traffic impact because this type of operation is more of a pass by operation as opposed to a generator. They usually stop on their way to or from work.

One variance is required for this property. The Zoning Board of Appeals granted the variance at its February 2013 meeting. The variance is for the 300 foot distance from a residential zone. There is a residential zone behind the Dunkin Donuts, which is across the Street on the Boston Post Road. The applicant's property is approximately 285 feet from the residential zone line to the property line.

Lucien DiStefano, Bohler Engineering Turnpike Road, Southborough, MA.

This is a proposed development of a new Cumberland Farms gasoline facility and convenience store at the intersection of West Clark Street, Plains Road and the Boston Post Road. If approved, Cumberland Farms is seeking to construct a 4,513 SF convenience store basically in the center of the property, as shown on the site display.

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The convenience store would have 26 parking spaces. There would be 16 immediately in front of the convenience store. There would be another 10 at the multi-product dispensers located out between the store and Boston Post Road. Each gas pump has the ability to fuel on either side. It was determined that parking at the dispensers could be utilized to help meet the requirement of 23 spaces under the zoning regulations. The site would be serviced by a series of curb cuts. The curb cut at Boston Post Road would be a full enter curb cut but a right exit only. There would be two full movement curb cuts. One on Plains; one on West Clark and another delivery curb cut at the back of the property

immediately to the rear or to the north of the convenience store. If approved, there would be ten fueling positions which would be serviced by two 20,000 gallon underground storage tanks. There would be a total of 24,000 gallons of regular fuel; 8,000 gallons of diesel and 8,000 gallons of premium fuel.

Significant improvements to landscaping are proposed. There are a total of 15 new shade trees proposed around the perimeter of the property. The buffers will be significantly enhanced. A large green space at the rear of the property is proposed where Plains and West Clark Street intersect. There will also be decorative and low lying shrubs to help improve the overall appearance of the property. There will also be all brand new utilities to the facility. All utilities will be underground. These include electric, telephone, water, natural gas and sanitary sewer. There will be no disturbance of the Boston Post Road for these utilities. The only disturbance would be the natural gas line onto West Clark Street.

He discussed the improvement to storm water quality and storm water quantity. He described the present manner in which water flows onto and out of the property. They are proposing to collect and treat all storm water runoff prior to discharge back into the pond. He described the use of catch basins, storm water quality unit; treatment of storm runoff and a small detention pond where roof runoff will be collected and partially recharged back in the ground water.

Steve Savaria, Sr. Project Manager, Fuss & O'Neill, Traffic Engineers, Manchester CT. They were retained by First Hartford Realty to prepare a traffic impact study in accordance with standard engineering practice and the requirements of the Site Plan and Special Permit process for the subject reuse of the existing commercial site on the Boston Post Road.

The report that has been distributed to the Board is a summary of his analysis and evaluation of traffic conditions in the vicinity of the site existing in the future, with and without the proposed project. It contains a summary of the data collection that was conducted; traffic counts, peak hour traffic data which was collected at the intersection surrounding the site which consisted of the two signal light intersections on the Boston Post Road, West Clark Street and Boston Post Road. Also an analysis of the operation of the proposed site access points. One each on West Clark Street and Plains Road and the main site access point at Boston Post Road. It also accounts for the projection of traffic conditions to the year of full occupancy and operation of the site which will be

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this year. The data was collected last year. It includes growth rates accepted by CT DOT accounting for future plan development and other roadway improvements in the vicinity. It accounts for the estimation of the amount of traffic that would be generated by the proposed site. This was based on counts that were conducted at the existing Cumberland Farms facility on the Boston Post Road/Cherry Street, and adjusted for the different proposed site conditions. In this case the proposed site will have more fuelling positions than the other site and so the actual count data that was collected for that facility has been increased to reflect the proposed site.

Safety conditions in the vicinity of the site; the amount of visibility available at each of the site driveways; the accident history at the intersections of the Boston Post Road and an analysis of the operational conditions with and without the proposed site.

The conclusions are that the proposed site access points will operate safely and efficiently. There will not be any additional congestion as a result of the proposed use and there is one recommendation for a minor traffic signal timing improvement at the West Clark Street intersection to account for the increase in the side street volumes related to the site. This would get the intersection operating a bit more efficiently; better than it does now.

This report was reviewed by City staff. No comments have been received regarding the report and its conclusions. In addition to City approvals, this project is also subject to an encroachment permit from the CT DOT. DOT has reviewed the traffic study and the site plan. They made one recommendation on alteration to the site plan which is reflected in the plans the Board members have received. Originally there were going to be two driveways on the Boston Post Road; right turn in and right turn out, typical of a convenience store/gas station setup. The DOT suggested that these be combined into a single two-way driveway for entering and exiting traffic but the exiting traffic would still be restricted to right turns only southbound on Boston Post Road, but entering traffic would be allowed to enter from both directions turning right and left. The left turning traffic in the northbound direction would be able to use the existing left turn lane that approaches the signalized intersection at Plains Road. DOT deemed this to be the safest and most efficient way to access the site from Boston Post Road. That has been incorporated in the current plan.

Mr. Proto: Staff and the City administration has requested there be a Welcome to Milford sign at the point of the triangle, which they are happy to do. Will work with staff and the administration as to its design.

He noted there are photos on display as to the condition of the current site and the rendering showing the exact view once the project is completed. This project will enhance the entrance into the City of Milford and it will be an enhancement to the area.

Mr. Sulkis: The only condition from any City department was from the Sewer Commission for the installation of a 1000 gallon underground grease trap. This is a definite improvement to the area. It is a well thought out and comprehensive plan for that site.

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Mr. Proto: The 1000 gallon grease trap has been incorporated into the plan.

Chairman Bender: Asked how the car traffic would flow. Would cars come in any way they want, or will there be a recommended flow through the gas station pumps?

Mr. Savaria: The pumps are set perpendicular to the direction of travel on the Boston Post Road, but the pumps will be accessed from either direction and from either side. With that type of configuration there is less confusion and queuing in interior movement because people have the ability to enter the site, see where they want to fuel; where there are open areas and make their way around the site and into the dispenser they want.

Chairman Bender: Noted on Table 4, where the Level of Service grading shows F is the worst and A is the best, he noticed that at least half of them are "C" or worse. Asked for an explanation of the way the information was presented on this table. There seem to be more C, D and E's rather than A and Bs.

Mr. Savaria: The level of service grade designations are intended to establish the experience of drivers using the site in terms of factors such as congestion and delay. The LOS grade ranges refer to different ranges of stop-delay at the intersections. A grading of A refers to free flowing, unconstrained operation and F being the worst, indicating congested conditions.

This table also shows volume to capacity ratio (V/C/R). That is an indication of how close to actual capacity these individual intersections are. Even with the worst level of service associated with a certain amount of delay, they are well below capacity at these intersections. Level of service D is an acceptable operational condition. Background refers to the future condition without the site; combined is the future condition with the site added in. From this at the West Clark Street intersection in the afternoon peak hour comparing the background and combined there is a impact of reduction of level of service D and E. That is why improvements to the timing of the traffic signal operation were recommended to mitigate that impact. That will result in an improvement to a level of service C.

Chairman Bender: Asked what the experience has been in getting those recommendations approved by the State DOT.

Mr. Savaria: The actual physical improvement that needs to be made is an adjustment to the timing that is programmed into the controller. It is very easy to do but it is totally up to CT DOT. It would take a few seconds of green time off the Boston Post Road phase and putting it onto the side street phase. It should not be a problem.

Chairman Bender: Asked for confirmation that a left hand turn could be made into the site from the Boston Post Road.

Mr. Savaria: Confirmed that.

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Mr. Mead: Referred to Appendix B, there are three entrance sites with a percentage of 20, 20 and 25 which is only 65% going in and 100% going out.

Mr. Savaria: Explained the missing 35% is the left-hand turn coming from the Boston Post Road.

Mr. Nichol: Asked about the fueling process to the pumps and the safety measures taken for this procedure.

Mr. DiStefano: Explained the fuel trucks would enter from Plains Road onto the site between the fuel dispensing area and the building to the West Clark Street side of the property where the underground storage tanks are located; fuel up and exit onto West Clark Street and onto the Boston Post Road. This is laid out so there are no additional queueing movements on the property. There is no backup or other movements involved. Fuel deliveries are done in a way that they do not have a major conflict between the fuel delivery vehicle and patrons looking to use the facility.

Mr. Grant: Asked if there were any traffic studies done if there was no entrance from the Boston Post Road.

Mr. Savaria: That would impact the signalized intersections on either side. The site was analyzed as it was designed and as it is proposed.

Ms. Cervin: With regard to parking spaces, it is required that there are 23 with the patio and the convenience. It is said that 26 are provided, however, 10 of those spaces are counted at the gas pumps. Does that mean that someone can park at the gas pump and go to the store or the patio?

Mr. DiStefano: It is a common occurrence for people to park at the pump after fueling and go into the store. The patio is not designed to have people stay long term. In many communities parking is discounted at the dispensers. Twenty-six spaces, even with the ten at the dispensers is typical. In most instances the majority of the parking spaces will be unused, given the nature of the business.

Ms. Cervin: Asked Staff if past history has calculated the dispensers as parking spaces.

Mr. Sulkis: Yes.

Mr. Willis: Noted the Cumberland Farms at Cherry Street can be difficult getting into and out of and it is very congested. Parking is limited. How will drop off work for deliveries to the convenience store?

Mr. DiStefano: This site is unique. All deliveries with the exception of fuel will be done at the rear of the building. That is why there is the separate dedicated driveway behind the building, so that any delivery vehicle can pull in and park in the back and have no impact on the operation of the facility or traffic. That is where the trash pickup will take place as well.

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Mr. Mead: It was said that the employees will park in the back of the building but there are no parking spaces in the back.

Mr. DiStefano: It was originally thought to add parking in the back, but because the parking could be used at the dispensers, it was not necessary to find additional space for employee parking. There will be three employees who will park out front in the general parking spaces, which is included in the calculations for parking.

Mr. Mead: Asked if there could be a remote filler pipe going to the back delivery area for the tanker to still come in from Plains Road and exit West Clark Street, as an added safety factor?

Mr. DiStefano: Given the building location and the limited space between the building and the West Clark Street right-of-way it would be difficult to get a remote fuel fill in there.

Chairman Bender: It appears to be dark in the back where there is a green area, and dumpsters. Possibility to have issues back there.

Mr. DiStefano: There will be lighting all over in compliance with the town standards.

The Chair opened the meeting to the public. He explained the public hearing procedure. Asked if anyone wished to speak in favor of the application? (No response) Asked if anyone wished to speak in opposition to the application?

Javaid Chaudray. Owns the Mobil station on Plains Road for eight years. He is there at least eight hours a day dispensing fuel. He watches the traffic. Does not think there will be minimum traffic on that one block. He watches the traffic from 95. The traffic from Dunkin Donuts in the morning crossing to go northbound it is very difficult. Exiting Dunkin Donuts southbound it is very risky with traffic going southbound. If this facility comes in he thinks it will be disastrous going from one light to another. He does not think the road is wide enough.

He sees when I-95 gets blocked and traffic leaves and goes to the Boston Post Road via Plains Road and they want to make a left turn or right turn on Clark Street. Left turn would be Dunkin Donuts and Cumberland Farms going in and out and the traffic block from 95 wanting to turn will make a big clog up and a disaster for the Town of Milford.

Also, there is a Cumberland Farms nearby. What products will they be selling that the others don't have. Why are they so greedy? From Cumberland Farms there are many other gas stations, including Stop and Shop. Citgo has been there for 30 years and there are other gas stations as well serving the community for many years. When people come by for help with their cars they are sent to other service stations that can help them. He believes Cumberland Farms is not appropriate for that place. The road is not wide enough and there will be congestion.

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John Puglisi, 60 Jennifer Lane. Too dense for the area. The Cherry Street operation is very tight. Since Dunkin Donuts came to West Clark Street there has been gridlock in the morning with people trying to turn left going southbound going into that facility. If there is another entrance to get into Cumberland Farms there will be total gridlock on that corner. Also, if someone tries to turn left out of that facility onto the Post Road going northbound, they will never do it. Also, the side streets are very narrow there. How will they maneuver a 40-50 foot tank truck making a left or right hand turn onto those residential streets? There is not what should be going there. It is too dense. There is no direction and there will be total confusion. Four or five parking spaces have been lost to employees and there will be more lost to delivery trucks and anything else that goes onto that facility. It should not go there.

William McCarthy, 249 Plains Road. Since Dunkin Donuts went in there, he has to go through that intersection in the morning and it has made a complete hash of that intersection. Adding this gas station to that where people are going to want to literally pull out of Dunkin Donuts; go directly across the street to Cumberland Farms to buy gasoline is going to make an entire mess of the intersection. When there are accidents on I-95, people bail off at Exit 36 to get to the Post Road. With people trying to get in and out of this station it will make it very difficult. Everybody who lives on the side street off Plains Road, Baily Lane, cuts across the old Gloria's property to access it from West Clark Street when they are coming off the highway. They will not be able to do that anymore and so they will have to drive all the way around that block to get to Baily Lane which will cause more traffic at that intersection.

Len Wisniewski, 9-11 River Street – He is here for a different matter, but common sense tells him exactly what the other gentlemen said. If you try to go down the road where Dunkin Donuts is, you cannot get in or out or get by in the morning. He could not think of anything worse to put in there than a gas station. It will just cause gridlock. Makes no sense.

Diane Phillips, 259 Plains Road. For those who live on the other side of I-95 and you call for an ambulance, the direct route to Milford Hospital is exactly where this gas station is going. Unfortunately she has had the experience of trying to get to the hospital and now talking about a gas station...

Mr. Chaudray: When gas deliveries are made, they reverse their truck in order to drop their load into the tanks. When coming from Clark Street how will they come back into the front of the Cumberland Farms to drop their load? It will be a disaster. If they come from Clark Street and want to make a wide turn to make the delivery he does not see how that will happen.

Rebuttal by Applicant:

Mr. Proto: The two engineers can address the issues that were raised. With regard to the deliveries, the engineer had explained that there is no reverse or backing up of the fuel tank. It comes in Plains Road and comes out West Clark Street.

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Steve Savaria, Traffic Engineer: There have been a lot of comparisons to Dunkin Donuts. Wants to reiterate that there will be no left turns out of this site onto the Boston Post Road. Left turns will be restricted. There will be Right Turn – Exit Only. That is a restriction that CT DOT has placed on this site. Traffic at the intersections and traffic going to and from I-95, has been accounted for in their analysis which is documented in the Traffic Study. No significant impact on the operation of those intersections other than what will be mitigated by the recommend improvements.

Mr. DiStefano: All deliveries, except for the fuel deliveries, will be made separated from the general use of the facility, so there will not be the typical types of conflicts between delivery vehicles and patrons using the facility. He cannot speak to the Cumberland Farms at Cherry Street and Boston Post Road, but this layout will be better than most because there is the room and they are able to make the separation between dispensers, parking, and the building. There is also the dedicated delivery lane behind the building and there is a direct single turning route for the fuel delivery vehicle.

Mr. Proto: This piece is 1.3 ac. Cherry Street is close to a half acre. There is much more room on this parcel.

Rebuttal:

John Puglisi: There will be more pumps at this station. They are taking advantage of the space by adding more pumps. The Cherry Street place is very congested. The point about Dunkin Donuts is that many more cars will come off 95 to get fuel or other cars coming from the other side of Milford because it is a Cumberland Farms. Asked if the traffic study considered this. He has a retail store on that corner and he sees accidents there all the time. Because Dunkin Donuts is the short distance from the corner to their driveway with people trying to get in and out will just add to the congestion. He does not agree with the traffic study and does not agree with the entrance on the Boston Post Road nor the size of the property for the project.

Mr. Proto: Thanked the Commission for their time and consideration. All City Departments have approved this plan and they believe it will be an improvement to the area.

Chairman Bender: Asked for any further Board comments.

Mr. Willis: Has not heard anything about signage except for the Welcome to Milford sign. Will there be a high obnoxious sign that could be seen from I-95?

Mr. Proto: No. The same sign that is on Cherry St. will be at this location. It is not an LED sign, but a scroll sign.

The Chair closed the public hearing.

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5. **21 DANIEL STREET (ZONE MCDD)** Petition of John Wicko, Architect, for Special Permit and Site Plan Review approval to construct a full service restaurant with outdoor dining and three residential apartments on Map 54, Block 397, Parcel 1, of which Richard Ciardiello is the owner.

John Wicko, Architect, 50 Broad Street., representing the owner of the property, Rick Ciardello and explain the reuse of the building that has recently been purchased by the Eli's group. The building has gone through a bunch of owners recently. Rick had an interest in Milford. He had looked at different areas within downtown and in the Orange/Milford Post Road area. He thinks this is a good location for his business. The most recent use of the building which has been there since the early 1900's has had many different uses, but most recently as a restaurant on the first floor with storage on the second floor. That was short-lived. The most longstanding use was 21 Daniel Street, which was a club with live entertainment, bar and no kitchen facility, which he was involved in for approval. That previous approval was for a restaurant with 82 seats and included a second floor theater which had 315 occupants. That was in 2005. A two-story addition was proposed with an 857 SF footprint. The theater also had 100 seats that were moveable. As a result of the parking a waiver was granted for that use which was more intense than what is being presented.

The proposed use will be a first floor restaurant again, consisting of 52 seats and stools. An 876 SF kitchen addition to the left side of the building is being proposed with a basement for storage and coolers underneath. The second floor is proposed for three dwelling units; one two bedroom and two one-bedroom units. The kitchen addition is in the same footprint as the previous application that was approved with a pass through easement to maintain access to the rear of the properties at 9-11 River Street, 13 River Street, and 15-23 River Street. This is consistent with the same rationale and also provides access to those properties.

The previous kitchen size was 23.4 feet x 51 feet. This kitchen will be 22.3 feet x 55 feet.. This was done to try to gain as much area in the driveway as possible and to make that the projection did not go into the easement.

Mr. Wicko reviewed the plans on display. The two story building will remain as is with the uses previously described. The proposed addition is the hatched area to the left, which also includes brick dumpster enclosures and two parking spaces at the far end of the site. Also proposing an asphalt driveway which is now a dirt and gravel driveway.

They would also like to reinstate a patio of which a portion is on the City property, which upon approval from the Planning and Zoning Board would go to the Board of Aldermen for their approval. After this process, if favorable, it would be the applicant's intention to enter into a lease agreement, similar to the lease that Café Atlantique has with that parkette that was there. This is resurrecting that concept when this building was previously approved in 2005.

He showed a chart that describes all the pertinent zoning regulations, mixed use building, which is permitted. The dwelling units meet the minimum size for the number of bedrooms, lot sizes conform, setbacks conform. The present building is existing

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nonconforming. Floor Area Ratio is in compliance. Parking requirement for the proposed use is 7 spaces for dwelling and 69 spaces for the restaurant, which includes the first floor and the basement areas. So that would be 77 spaces. There are two on site, so a waiver or an acceptance for the City to support 75 spaces, which is consistent with the Daniel Street operation that was there previously. There are a few more spaces; seven for the dwelling units and the kitchen is relatively small to the rest of the building. The previous application for the restaurant/theater was 115 spaces and the acceptance of the City to support that was 115, which is 40 more than what is presently being requested.

Landscaping: The existing landscaping will remain. A paved brick walkway at the west side of the property with a planting area adjacent to the building is proposed. As part of the parkette improvement the landscaping has been enhanced which is comparable to the level of landscaping that is existing further west on the City piece of land. The refuse containers will be roll-out size and enclosed. The soil and erosion control plan showed the drainage and is already installed as part of the improvements. The roof storm waters will be maintained, as well as the underground leaching devices.

There will also be some lighting improvements that will be residential in character. At the apartment exits there will be recessed down lights. There will be a wall pac security light which is full cut off at the kitchen door. On the parkette side of the building there are some decorative sconces which are used for lighting that patio in the evening. There are existing window cornice lights and canopy lights at the main entrance which will remain.

The sheet showing the patio in the parkette describes the landscaping and is consistent with the other side of the parkette of which there were photographs to show the consistency.

Mr. Wicko noted the remaining sheets that included the architecture of the building; large scale drawings of the patio showing seating and landscaping and the basement storage showing coolers, freezer and storage areas. The kitchen addition with the existing restaurant in its current location with delivery area and stairway for egress for the residences above.

The second floor shows the improvements to what is currently a storage area to the three residential units, using the existing stair exits on Daniel Street and showing the new exit stair which is part of the addition. Elevations were shown with the materials that will be used on the building and the addition. He discussed the improvements that will be made to the existing restaurant with a new bar location; existing bathrooms and prep room to remain with seating and waiting area vestibule and the proposed kitchen.

He stated his overview was what the building was and what they hope it to will be with a similar but less intense use than the more active night club with live music.

Mr. Sulkis: Mr. Wicko accurately outlined what the applicant is looking for, which is to construct a full service restaurant with outdoor dining and three residential apartments.

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Mr. Casey: The Statement of Use says the area that the applicant is trying to lease from the City was previously leased from a property owner. What does that mean?

Mr. Wicko: The lease was granted but the former owner never went through with the improvements, so it lapsed. It was a five year lease that was executed but never

followed through on. This would be the same area with the improvements of a fence and landscaping and a concrete patio.

Chairman Bender: It appears the refuse containers are right next to the residential entrance.

Mr. Wicko: Yes. They are small so they will be emptied frequently. They will be maintained and kept clean.

Chairman Bender: Parking for residents. Two spaces for 3 residents? First come first served?

Mr. Wicko: He thinks they will be assigned to the residences above. Typically 25-30% of the residences actually have cars from his experience of the downtown. Of the two parkings spaces for three tenants, one tenant will most likely not have a car.

Chairman Bender: It looks as though two cars in the back will block the refuse enclosure.

Mr. Wicko: The dumpsters are like the rolling recycling containers. They're not big.

Chairman Bender: Deliveries would be in that area?

Mr. Wicko: They will back into the driveway and unload into the kitchen area.

Mr. Mead: If the apartments are upstairs, will the flooring be soundproofed?

Mr. Wicko: There is an STC rating which can be achieved through various construction methods. Other restaurants in the area have the same situation.

Chairman Bender: Noted the retaining wall on the left. Asked what it retains.

Mr. Wicko: It is an 18" concrete to keep the driveway from encroaching on the clear access for the door exit. It is not tall. It is to make sure the kitchen door is flat.

Ms. Cervin: Will the lease from the City have to go through the 8-24 process?

Mr. Sulkis: It is not clear because this board previously approved the lease for that property. The applicant is asking the Board to approve the use as part of the application. If the Board approves the application and it comes time to execute the lease, if the City Attorney feels an 8-24 is required it will come back to the Board.

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Ms. Cervin: It will have been signed by different people.

Mr. Sulkis: It does not matter. Contracts that the Board has ruled on in the past it is like a variance, the parties can change but the actual use, the disposition of City land is the same.

Chairman Bender: It will have to be discussed to make sure. He had an issue with the words used, "not executed", "not utilized" and it has been years. If the Board were to move forward on approval there should be some wording to make sure they are covered on that.

Mr. Mead: If a third tenant decides to have a car or has a car ----

Mr. Wicko: They could not lease the space. The owner has full control over who is going into the apartments.

The Chair opened the meeting to the public. He described the procedure. He asked if there was anyone to speak in favor of the application (No response). Asked if there was anyone to speak against the application.

Richard Jagoe, 1 Morningside Drive, Milford. Representing his family who owns 13 River Street. As owners of this property his family has the legal right of way on the land records that extends from his property, across the application property to Daniel Street. He has a copy of the deed and a copy of the right-of-way. He read the description of the right-of-way from the deed. It runs from the south limit of the applicant's present building, known as 21-23 Daniel Street. It is an unlimited right-of-way. He does not believe that the Planning and Zoning Board has the power or authority to grant any construction or alteration that will impede this legal right of way. He is not opposed to a restaurant at this facility but believe it should be constructed within the existing footprint. There have been conversations about a former approval.

Mr. Jagoe spoke about his conversations with the former property owner of 21 Daniel Street who had plans to build an addition in this area and dropped the plans when Mr. Jagoe stated he was against it. He asked to submit the deed and copy of the right-of-way to the Board.

Chairman Bender: Stated he would accept the documents, but this is a dispute between two land owners and not in the jurisdiction of the Planning and Zoning Board.

Mr. Jagoe: Said he wanted to point out that the Board did not have the right to override the legal right of way.

Peter Stark, Esq., 183 North Broad Street. He represents Leonard S. Wisniewski, Grantor Annuity Trust, which represents 9-11 River Street. He has most of the same concerns as Mr. Jagoe. The easement (right-of-way) has been there since 1941. He believes you cannot construct in a right-of-way. A Jersey barrier has been put back there blocking the right-of-way. His client is looking at ways to get rid of that right now.

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He had documents of the property deeds and right-of-way from 1941, which he asked to submit to the Board. He expressed Mr. Wisniewski's concern about the trash collection given the small trash receptacles. How often would they be emptied and will that create problems. Also the lack of parking spaces with two spaces for three apartments.

Bill Bevan, 23 Merlin Circle. In favor of the restaurant. Not in favor of putting the deck onto a City park. Part of the area in question is a small section of land and if you put on an addition as a deck, it still leaves a good part of the park that could be used by another restaurant if they want to add a deck onto the back of their restaurant. That would do away with the actual park area.

Tina Roberts, owner of Café Atlantique, the property adjacent to the proposed patio. She is opposed because it will impact her business. She has not seen the plans nor met the property owner. It is the first she has heard about this.

Ms. Roberts listed her concerns: 1. Demographics vs. their proposed use of the property. Couples with children sit on her patio have a glass of wine or beer and the children play in the grass. If there is another patio adjacent to hers, her customers may be limited. 2. Use of Space: Right now they are saying outside dining. Her concern is if it is approved and in place, they can easily change that to the smoking section of the smoking section of the restaurant. Nothing is stated about where people will state. The prior owners wanted to put a patio in that area as well and it was for a smoking section.

She is concerned that the use of the patio, once it is in place, the use will change and it will definitely will impact her business. If this business is approved and there is another change in ownership and they put in another club, there will be a patio that has the potential to have a club atmosphere. Concern about the greenspace: It is right alongside her business. Milford residents enjoy the space; bike riders come. Other people purchase food downtown and sit in the greenspace and eat. She has a lease. Her patio is Milford City property. If the prior owners did have a lease and they say it is all prior and it should continue, the lease was not active, it was broken. She cannot imagine that just because a prior person had a lease, that it would necessarily mean to the next people could.

Her concerns are mostly about the use of the space and how it will impact her business. Ms. Roberts submitted her paperwork for the record.

June Vidart, 15 River Street. She opposes this application because she feels downtown Milford is drowning in alcohol. There are many bars. She thinks one more will not benefit the downtown at all. It is moving away from a town that is oriented toward families and pedestrians and is turning into a bar-oriented town. From Thursday to Sunday it is very difficult to drive or walk down there because of the amount of cars and the traffic. Daniel Street always requires extra police because of the drunkenness and the traffic. She does not see how Milford will benefit from this. When she bought 15-23 River Street, Mr. Conine had Daniel Street as being a repertoire dining facility. Once she bought the building he told her it was turning into a nightclub. In the Planning and Zoning file it was put down as a repertoire theater and there was no such statement

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as nightclub. When she learned this she was shocked and angry and shocked that the Planning and Zoning Board did nothing about that. They say it will be a restaurant but it will turn into the same thing that Daniel Street did. She asked the Board to do the right thing.

David Fernandez, 15 River Street. He has the same deed and map as his neighbors on River Street. The four properties have to work together as they have in the past. It cannot be done one against the other. There is no problem with liquor served inside. He does not think the Board should get involved. He said he spoke with Mr. Sulkis a few years ago and he [Mr. Sulkis] said they stated many uses on Daniel Street for the nightclub and that is one of them, using live bands. He [Mr. Fernandez] told the then mayor and to Mr. Sulkis at the time there is a vending machine in the town hall, but that does not make it a restaurant, but it is a listed use. He thinks the matter should be referred to the City Attorney.

He thinks it is very binding that the new owners can present a patio on the side of City property and make it as if it has already happened. It is not because it happened once that it should happen a second time. Two wrongs do not make it right.

If the Board recommends the patio it has to understand the consequences and cannot hide from it. For the six weeks left in the summer the Board cannot risk turning the corner to turn the little cityspace into a "Baharria", because the chances are if that area becomes a bar then Café Atlantic will become a bar and then he can also do a bar there from his restaurant. The mayor at that time told Tina and him that an application would not be considered if two adjacent property owners are not in agreement. It also has to be in accord with the destination of the town. Mr. Fernandez stated he thinks it is wise because you could have three bartenders, three bar owners and three nightclubs being in agreement and it does not matter for the rest of the town.

He said there is a lot of hypocrisy in the way the town is trying to portray itself. There is a plan of development. Most of the things said edited and when it is printed the photos are taken of Bistro Basque and the four boutiques. He came to the two different meetings. What he said is not in the report.

His conclusion: He has nothing against them. He believes they are the third incarnation of a project that has the vision of turning Daniel Street into a pedestrian drinking area and the Board has the step to take on that.

Marty Reid, 5 River Street. Owner of the Canvas Patch. A long time ago she was before the Board protesting the tearing down of some dilapidated buildings because she thought it would look like a missing tooth. Those buildings were where the little park is now. It is a lovely little park that is enjoyed by the public: children, adults, their dogs. Anyone can sit there and eat, drink or talk. To take up some of that space would be a crime. It would be like putting more monuments on the Green. Less is more. Keep the open space.

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Applicant Response:

Stephen Ciardello, Attorney for applicant., 21-23 Daniel Street LLC. He will speak to the legal issues that have been brought up about this access right. He stated this is not an issue for the Planning and Zoning Board to consider. The access rights exist. They are in the land records. He assumes that the submitted copies by the speakers are the deeds that go back in the change of title, which the owners of the property saw at the time of purchase. The access area is described as the open space between buildings. It is a relatively common practice in that time. It is relatively inartful, but the access rights are not delineated and marked or identified or placed on the ground. It says that there is a right to access to and from Daniel Street to the rear of the adjoining buildings over that big piece of land. It is not a development restriction. It is not a prohibition on building. It is a simple right to get back and forth by animal or vehicle to the back of the properties. The project was designed and developed based upon allowing the three properties that were common ownership when this property was severed back in the 40's to get them their access. It's there. The Jersey barrier that was mentioned is already in place. He has driven past the Jersey barrier with a relatively large SUV. The opening is at least 16 feet wide. Access rights are routinely 12 feet and are acknowledged and allowed. There is 16 feet from where the Jersey barrier is which is effectively where the addition will be at its widest point. They can get deliveries in and out of there now and they get pedestrian traffic in and out of there now. The simple issue is that it is no incumbent upon the Board to determine the nature, the scope or the location of this right-of-way. The unfortunate part of the process that his client has to deal with is they have three neighbors who are obviously not happy with some aspects of the application and some other neighbors who are unhappy with others. His client will speak with all of them to try and resolve this. However, if there is a dispute or a problem with the scope of the addition as approved, there are ways to enforce easements. That is what the courts are for, not the Board. From what he has heard there is nothing about the application itself that does not meet with the Board's guidelines. If his interpretation of the easement is incorrect then there is a way to remedy that. If his interpretation of the easement is accurate then the proposal is within what the applicant feels is a reasonable grant of continued access. No access is being taken away. Looking at the proposal it can be seen that reasonable access has been maintained throughout the proposal.

He asked the Board to deal with the merit of the application; deal with its merit within the scope of the Board's regulations and if it meets with those, to approve the application.

John Wicko: Wanted to respond to the abutters who are referring to Eli's as a bar or a watering hole. Rick's other establishments are restaurants and are run very well. He is spending a lot of money and a lot of time to provide the necessary equipment for a restaurant to operate to its fullest capacity. He asked that this application not be confused with the nightclub that it was.

Chairman Bender: One of the things that has been going back and forth is this right of way issue. Staff asked the City Attorney to weigh in on this because it was thought this would come up this evening. The Assistant City Attorney wrote a letter dated July 15, 2013 which will be date stamped into the record. It is public record, so a copy can be

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obtained at the Planning and Zoning office. "...Based upon the case law cited, the Board may hear the subject application for the Special Permit and any action taken shall not take into consideration any private deed restriction, nor any potential civil action which may result between the private parties as a result." As far as the Board is concerned, the right of way is not part of its discussion. The record will indicate what was said by the property owners on Daniel Street and the abutting property owners and how they felt. According to the City Attorney's office it is a legal matter and is not part of this board's jurisdiction.

The remaining comments must be specific to the application, the restaurant and anything that has just been stated by Mr. Wicko.

The Chair asked if anyone who has spoken would like to refute what Mr. Wicko said about the restaurant.

Tina Roberts: Asked if the Board could ask what the hours of operation of the restaurant would be.

Chairman Bender: It is indicated in the Statement of Use.

Mr. Mead: Read: "Eli's hours of operation are anticipated to be Sunday through Thursday 11:00 a.m. to 1:00 a.m. Friday and Saturday from 11:00 a.m. to 2:00 a.m.

Ms. Roberts: When would the kitchen close.

Rick Ciardello, Guilford. His restaurants typically stay open until closing.

Ms. Roberts: Typically? Do they or don't they?

Mr. Ciardello: If it's a Monday night and the restaurant closes earlier than the stated hours, they have that right. If there are people in the building, the kitchen is open.

Attorney Stark: Mr. Wisniewski has expressed another concern and it does not deal with the right-of-way.

Chairman Bender: It has to be specific to what has already been said.

Attorney Stark: Is 16-feet access enough to get a fire truck in there? It was stated that the Jersey barrier provided about 16 feet of access to get in there and that is approximately where the kitchen addition is going to come to. Is 16 feet access enough area for a fire truck to back into, if necessary?

Mr. Wicko: The fire department reviewed the application and thought the site is fit for fire personnel and fire apparatus.

Mr. Fernandez: They do not have a defacto lease. It was not exercised the proper way. The other facilities have DJs and those kind of things.

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Chairman Bender: New ideas cannot be brought up. Must be regarding the opening and restaurant plans.

Mr. Fernandez: Reminded that Mr. Conine had a restaurant and it was nightclub. If they have a DJ they will probably use the DJ for something other than people listening to the music while they are eating. It will probably be for drinking and dancing. There is a history there and that is part of why these people came this way to buy the building. If they do it the right way there will be no problem.

Final Rebuttal by Applicant:

Mr. Wicko: Thanked the Board for their attention to the application.

Mr. Mead: Will there be live music in the restaurant or after dinner hours?

Mr. Wicko: There will be no music during dinner, after dinner. It is a restaurant, not a nightclub or dance club.

Mr. DellaMonica: If the application was to go through would the applicant proceed without the addition of the outside patio?

Mr. Wicko: The position is that it is part of the application and they will let it go through and be decided on. If the City Attorney feels it is something that is not desirable, then they will listen to his opinion or the Board's. They are not in a position to withdraw the patio. Would like to have it discussed and voted on.

The Chair closed the public hearing.

There was a ten minute recess from 9:30 p.m. to 9:40 p.m.

6. **1052 BOSTON POST ROAD (ZONE ICD)** Petition of Larry Yergeau for Special Permit and Site Plan Review approval to construct a new hotel and conduct earth removal operations for further future development on Map 77, Block 832, Parcels 2 and 2A, of which Turnpike Lodge, Inc. is the owner.

Christopher Smith, Esq. Shipman & Goodman, Hartford, CT, representing Turnpike Lodge, Inc. who is the owner-applicant. Also present, Larry Yergeau, President and Phil Craft, Principal, and David Bjorklund, Engineer, Spath-Bjorklund, Associates. The proposal is to take down the existing 89-room hotel and replace it with a high end extended stay 95 room hotel. Attorney Smith distributed a 12-tab packet in support of the application which was entered into the record. He reviewed the contents of the 12-tab booklet. He read the Statement of Use for the proposed project.

The property is located off I-95 at Exit 39 and comprises approximately 7.21 acres located within the Interchange Commercial Zone District. It is currently utilized as an 89 room hotel. There were four outbuildings on the property until recently. The four buildings have been demolished and removed from the site. Historically the property

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had a 165 room hotel that dates back to the mid-1950s. That hotel was reduced from 165 rooms to the 89 rooms in 2006.

The proposal is to replace the current 89 room hotel with a Hilton Homewood Suites extended stay hotel. There are 300 of these facilities in the United States. This is a permitted use subject to Special Permit and approval by the Board. This hotel use is permitted in the ICD zone and is consistent with the ICD which is stated to accommodate uses that complement the property's access to I-95 with limited impact upon local street traffic. The property is served by public water and sewer. The intent of the development will be done in two phases: The first phase will involve excavation activity on the property to create a site that will accommodate the proposed new hotel and to permit future development on the remaining portion of the property. He referred to Exhibit D that shows where the extended stay hotel will go and Exhibit C is the ultimate build out of the subject property. The extended stay hotel use is located on the easterly side with other buildings and a common space and a commercial pad of approximately 20,000 SF out front. That is consistent with the POCD. All City departments have approved the application. Attorney Smith read from the Zoning Regulations concerning allowed uses in the ICD, Section 3.22 under Special Permit. Tab J refers to Section 5.7 regarding earth filling and removal regulations. Typically if there is excavation, a Special Permit must be acquired. However, Sec. 5.7.4 provides for an exemption from this requirement to have a separate Special Permit application for excavation uses. That exception is when the excavation is associated as an integral part of a Special Permit for a particular use, then the applicant does not have to file a second Special Permit application. When the excavation activity is an integral part of the site preparation for the extended stay, it is incorporated into the Special Permit for the hotel use.

Working with Mr. Sulkis it was determined that the applicant would come in with one application for the use that would include the excavation activity.

One of the components of the excavation activities would be a rock crusher that would enhance the use and help move through the excavation activities a lot quicker than if that component is not permitted. He cited Section 5.7.6.10 which deals with rock crushers. Rock crushers are prohibited in Milford unless it is utilized in a zone that had been historically zoned M-2 heavy industrial or unless the Board finds that it is an integral part of a Special Permit or Special Permit use application. That is what is involved here. Within this section there are a number of requirements if a rock crusher is going to be approved as part of a Special Permit application. This application will comply with all those requirements. Under that section the crusher is allowed to be on the property for up to three years. It is anticipated that depending upon market conditions, the crusher will be doing excavation activities for 18 months and the longest would be 24 months. As part of the Special Permit, the specific use that is before the Board is for the extended stay hotel. Messrs. Craft and Yergeau have a long-term vision for the development of the property. He referred the Board to Tab K in their packet wherein information from the Plan of Conservation and Development sited the intersection of the subject property location was the gateway to downtown Milford and was cited to be improved through building design, landscaping and mixed use which this application attempts to achieve.

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David Bjorklund, PE, President, Spath-Bjorklund Associates, Monroe, CT – This site contains 7.21 acres. It has frontage and access to the Post Road. It also has frontage on the I-95 exit ramp but it has no access to the ramp.

The site development includes two phases: One is an earth removal phase and the other is the construction of the new hotel. He addressed the areas of earth removal, site drainage, both during construction of the hotel and during earth removal; erosion control; landscape and lighting plans. This is a difficult site. It has rapid change in grades. It fronts on the Post Road and climbs up a very steep driveway up to where the old motel site had been previously. It makes the site difficult to work with, considering the proposed new building is 300 feet long. He showed the area that will be lowered from 20-25 feet in order to level it. The project will be done all at once, not piecemeal. They want to get the excavation done; get the material off the site and construct the hotel and then develop the remainder of the property in a mixed use fashion.

He showed via the display the area where the excavation will take place. He described how the runoff from the site would be contained via grading. Once the excavation is completed 41 inches of rainfall will be able to be stored in that area, which is enormous relative to the average annual rainfall in southern Connecticut. The goal is to not impact the existing drainage on I-95 or the Post Road. He described the excavation, rock removal and rock crushing procedure. For the blasting plan there will be a pre-blast survey of all the adjacent properties and probably beyond. It will include monitoring during blasting; warnings will be given prior to blasting. There will be no storage of explosives on the site. There will be permits, site safety, seismic monitoring and other safety measures associated with blasting.

[Mr. DellaMonica left the meeting at 10:10 pm]

Mr. Bjorklund stated the plan calls for the removal of approximately 147,000 cubic yards of material. It is estimated at 25 trucks per day, which is three trips per hour, the excavation will be completed in 18 months. This is driven to some degree by market conditions and season of the year. It is anticipated the time frame will be 18-24 months. They are willing to commit to a condition of no more than 50 trucks per day. The modern rock crushers all have self-contained dust control systems which require that water is sprayed into the areas of the crushers. That type of system will be incorporated on the crushers. The site will be swept and watered on a regular basis to control dust.

Once the site is to grade, the hotel construction can begin. The excavation on the remainder of the property may be ongoing, but the foundation of the hotel can begin. After the hotel and parking lot is completed there will be approximately 4.5 acres available for additional development. The hotel will utilize the existing curb cut as it ties into the Post Road at this time. The traffic levels should be the same as no rooms are being added to the property.

Via the site plan he showed the hotel will be approximately 25 feet below the residences that are located in the area, which will give a nice topographic break. There will be a

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30-foot buffer in that area and a 6' high chain link fence, which are all required by the zoning regulations.

The landscape plan calls for the planting of about 70 6-8 foot high Douglas firs or Colorado spruces to provide a dense buffer in that area (near the exit ramp of I-95). He pointed to the detailed landscape plan for the hotel and parking lot located immediately around the building. All drainage from the site will drain to I-95 or ultimately to the Post Road. All the drainage conforms to the DEEP requirements with regard to water quality and quantity. The Erosion Control Plan conforms to State standards.

The Lighting Plan details the lighting fixtures and the light spill-off over the site. There is a photograph of the graphic simulation of the light of the parking lot as it is proposed.

Attorney Smith: He noted staff comments contained in the packet he distributed. Those comments have been incorporated into the plans. Plans were modified in accordance with the comments and requests by the Fire Department. A memo from Assistant Fire Chief Healey confirms this. The presentation of the application was concluded at this point.

Mr. Sulkis: Mr. Smith accurately represented the application. There are a lot of moving parts to this project, but they have been forthcoming in expressing what will be taking place with their plan and in addressing staff concerns. The applicant has agreed to initiate the easements per Section 5.17 of the regulations. In that manner, once the first two phases have been accomplished some minor access issues at that site can be addressed. These have to do with Friendly's and the diner, which has been agreed to.

Chairman Bender: Asked about blasting. First time this has ever come up since he has been on the Board. He is concerned about times of blasting, the residential areas that will be affected and other questions.

Mr. Sulkis: That is part of the zoning regulations. When it comes time for them to do that it is supervised by the Fire Department.

Attorney Smith: Spoke about his experience with such situations and the enforcement and jurisdiction that takes place. It is regulated by the State through the local fire marshal's office and there are minimum requirements for doing pre-blast surveys and monitoring and then doing reports. As a condition of approval he would make it clear that the applicant will comply with all applicable federal, state and local ordinances governing this.

Chairman Bender: Concerned about the rock crushing and the condos adjacent, as well as the 8:00 a.m. start time. How will that be monitored?

Attorney Smith: Typically the zoning enforcement officer would get involved. If there are recurring problems, one of the remedies would be to revoke the permit. Sometimes the Police Department gets involved. It can be done. Everything is much better than it was 10-15 years ago. Crushers spray on a regular basis, they are not as loud as they used to be.

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Larry Yergeau, Turnpike Lodge: With regard to the time, during the demolition which was a three and a half to four month project for the four buildings, the hours with the contractor were set from 8:00 a.m. to 5:00 p.m. There were two instances where the contractors started a little early. The condominiums at Forest Park called him; he stopped them and they went back to work at 8:00. He would anticipate that they would do the same thing again if that happens.

Attorney Smith: Again stated a condition of approval would be accepted to have a designated person be available to call in the event of such a situation.

Chairman Bender: What delineates the 200 foot line from the property that they cannot encroach upon for rock crushing?

Attorney Smith: The area could be staked and photographs taken for drive bys to make sure it is being adhered to. That is the way wetlands are handled as well.

Mr. Nichol: Have the residents on both sides of I-95 and US-1 been notified about the blasting? Properties with a well could be affected. Has this been addressed in some form?

Attorney Smith: There are no wells in that area, however, the State requires a minimum distance relative to the pre-blast survey. He could not recall exactly, but it is a good distance away from the residential property.

Mr. Nichol: Asked if the surrounding area is notified of the blasting.

Attorney Smith: The State regulates the distance where you have to contact the landowners and offer to do the survey ahead of time. That has to be offered and there is a monitoring process and reports have to be generated during that time period. At the time I-95 was being constructed he believes the techniques were far different than what is used today.

Chairman Bender: Opened the hearing to the public. Anyone in favor of the application (No response). Anyone in opposition (No response).

The public hearing was closed

E. NEW BUSINESS

6. **20 BAYSHORE DRIVE (ZONE R-5)** Petition of Thomas Lynch, Esq. for Coastal Area Management Site Plan Review approval to construct a single family residence on Map 29, Block 595, Parcel 6, of which Gina and Anne Badalamenti are the owners.

Thomas Lynch, Esq., 63 Cherry Street, Milford. He noted he appeared before the ZBA last September for a renovation project on the property due to the extensive damage brought about by Tropical Storm Irene. The variance obtained involved moving the house which was a nonconforming structure, closer to one of the side yards so that

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it could be positioned in the middle of the property. It also involved raising and some changes to the shed to turn that into a garage. In October Super Storm Sandy hit and that wiped the house out. At this time 20 Bayshore Drive is an empty lot. The house has been demolished and the plan before the Board is to build a new house on the site. The property is located and the improvements will be in the VE zone so that with a 13-foot elevation, the proposed house is to be constructed at elevation 15. The prior residence that was constructed in 1925 was a two-family residence and the third structure on the property was a cottage. What was on site prior to this application was a two-family residence and a cottage in a single family R-5 zone. What is proposed is a single family which wipes out three residential uses on the property by constructing one house.

The new house will be 2,520 SF. It is 200 SF smaller than the prior structure. This house meets the flood elevations and setbacks. The CAM Report has been reviewed and signed off by all the City departments. DEEP has reviewed and approved it. The shore portion of the property with the beach grass will not be disturbed. The previously existing concrete driveway will be replaced with impervious pavers.

Ms. Harrigan: The new design, including the garage is flood compliant with the new flood regulation standards that went into effect July 8th. There is a request to have stair access to the attic and the property owners will sign the stair access agreement to be filed on the land records.

Mr. Nichol: Saw a steel fence on the site. Did the town put that in?

Mr. Lynch: There had been a split rail fence that was ordered which was damaged and found to be in violation and was removed. The steel fence is the City fence that was Installed by Public Works.

Ms. Cervin: Everything seems in order. She made a motion to approve the petition of Thomas Lynch, Esq. for Coastal Area Management Site Plan Review approval to construct a single family residence on Map 29, Block 595, Parcel 6, of which Gina and Anne Badalamenti are the owners.

Mr. Casey: Second.

All members voted in favor of approval.

F. OLD BUSINESS

PUBLIC HEARINGS – Closed 7/2/2013; expires on 10/10/2013

7. **106 MERWIN AVENUE (ZONE R-7.5)** Petition of Susan Lussier for Special Exception and Coastal Area Management Site Plan Review approval to raise a pre-existing three family house out of the flood zone with regrading, on Map 59, Block 737, Parcel 13A, of which Nash Street, LLC is the owner.

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Chairman Bender: Advised the applicant that 8 out of 10 members were present. She was given the option to have the Board vote on the application tonight or wait until the next meeting.

Suzanne Lussier, Principal Owner: Asked that the Board vote on the application tonight.

Chairman Bender: Has been a long time resident of the area and lived in the Surf Village Condominiums. He is familiar with the property and believes the house will be an improvement. He understands the concern of his former neighbor at Surf Village, but the improvement outweighs the negative aspect presented.

Mr. Mead: By raising the building they will remove the encroachment onto the condominium's property next door. At each end of the building they will be making the yard area for the residents. The Board has been discussing whether to give two and three family houses the right to raise their properties, but the last applicant had three families on one property and made it a one family. There will be give and take on these types of applications. He is in favor of the application.

Chairman Bender: Noted the basement door is encroached, but Surf Village has a wall and a fence about 10 or 15 feet away, so that property is not being utilized at all.

Mr. Casey: Agreed with both members' comments. It is not perfect but it makes it safer and he is also in favor.

Ms. Cervin: Asked about the post in the parking area that was in question.

Chairman Bender: They agreed to stripe the middle post that he had concerns about.

Mr. Mead: Made a motion to approve to approve the petition of Susan Lussier for Special Exception and Coastal Area Management Site Plan Review approval to raise a pre-existing three family house out of the flood zone with regrading, on Map 59, Block 737, Parcel 13A, of which Nash Street, LLC is the owner, with the stipulation that safety striping will be painted on the support posts.

Mr. Casey: Second.

All members voted in favor of approval

8. **1613 NEW HAVEN AVENUE (ZONE R-12.5)** Petition of Thomas Lynch, Esq., for approval to create a two lot subdivision on Map 82, Block 791, Parcel 7A, of which Seaview Cove, LLC is the owner.

Ms. Cervin: She is not in favor of granting the request. She has never in her history of the board seen it create non-conforming lots from one conforming lot. There are no special circumstances or conditions to grant them a waiver. More than likely the attempt is to get the most amount of money from the property as possible. It is not in

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keeping with the Plan of Conservation and Development as it is increasing density. She will not vote in favor of the application.

Mr. Willis: He is against the application. It will create more density in the neighborhood. Does not understand why one house on the property would not do.

Ms. Cervin: Made a motion to deny 1613 New Haven Avenue, the petition of Thomas Lynch, Esq., for approval to create a two lot subdivision on Map 82, Block 791, Parcel 7A, of which Seaview Cove, LLC is the owner.

Mr. Willis: Second.

Seven members voted in favor of denial. Ben Gettinger: Voted against the motion to deny.

G. REGULATION CHANGES – Update - Rear Lots

H. PROPOSED REGULATION CHANGES – Update

Chairman Bender: Ed Mead represented the Chair at the SCRCOG meeting at which the proposed regulations were accepted. A public hearing will be scheduled for the Tuesday, August 20th meeting. Awaiting Bridgeport's comments which should arrive prior to the notice dates.

I. LIAISON REPORTS - None

J. APPROVAL OF MINUTES – (7/2/2013)

Mr. Grant: Made a motion to approve.

Mr. Gettinger: Second.

All members voted in favor of approval.

K. CHAIR'S REPORT - None

L. STAFF REPORT – None.

Mr. Nichol: Made a motion to adjourn.

Mr. Gettinger: Second.

The meeting adjourned at 10:45 p.m. The next meeting will be held on Tuesday, August 6, 2013.

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