PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING
January 18, 2011

Place: Auditorium, Town Hall TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Conze, Spain, Cameron, Hutchison, Riccardo

STAFF ATTENDING: Ginsberg
RECORDER: Syat

PUBLIC HEARING

Mr. Conze read the first agenda item:

Continuation of Public Hearing regarding Affordable Housing Application Under CGS 8-30g (#1-2010), Site Plan Application #277, Land Filling & Regrading Application #247, Christopher & Margaret Stefanoni, 57 Hoyt Street. Proposing to construct 16 units of age-restricted housing (30% of which are proposed to be affordable housing under Section 8-30g of the Connecticut General Statutes) in a new building with associated parking and regrading, and to perform related site development activities. The subject property is located on the east side of Hoyt Street approximately 100 feet south of its intersection with Echo Drive, and is shown on Assessor's Map #27 as Lot #168-1, within the R-1/3 zone. *PUBLIC HEARING WAS OPENED ON NOVEMBER 2, 2010 AND CONTINUED TO NOVEMBER 23, 2010 AND DECEMBER 7, 2010 AND JANUARY 18, 2011. PUBLIC HEARING MUST CLOSE ON JANUARY 18, 2011, UNLESS AN EXTENSION OF TIME IS GRANTED BY THE APPLICANT.*

Mr. Conze listed recent documentation received by the Commission on this matter, among them the following:

- Comments from Robert Buch, Fire Marshal;
- Letter from Gary Bernhardy regarding density;
- Letter from Gary Bernhardy regarding transportation;
- Letter from Gary Bernhardy regarding snow storage;
- Letters from Friends of Goodwives River;
- Letter from Save the Sound;
- Letter from Cove Island Wildlife;
- Letter from EPC;
- A series of letters from the Darien Public Schools and PTO;
- Letter from John Sini, Member of the Darien RTM;
- Letter from Dot Kelly
- Letter from Attorney Bob Fuller; and a
- Letter from Redniss & Mead.

At about 8:10 P.M., Barry Hammons, Professional Engineer & Land Surveyor, then spoke. He explained that extra surveying work and analysis was done. He said that one big thing they surveyed was the west side of Hoyt Street. He explained that it is important to realize that the

widening is per the State D.O.T's request. He then showed on a plan the existing sidewalk. The proposal is to keep the white line where it is – and they will widen the sidewalk to five feet. There is no intention to move the stop bar or the stop sign. Mr. Hammons acknowledged that the sight lines are not adequate, but they are not making them worse. The State has asked them to widen the shoulder. He explained the trip generation cannot be modeled in a reasonable way. Sight lines on the east side of the street are fine.

Mr. Hutchison asked about whether the proposed development drove the need for the bypass lane. Mr. Hammons responded that he does not have an easy answer for that. He said that it does not make sense to him and he does not understand the reason why. This bypass lane will not relieve the queue, but maybe he can convince the State to change their mind on the requirement. Mr. Hutchison believed that the bypass area creates a safety issue and asked how the Commission should react to that. Mr. Hammons questioned whether it was a safety issue. He said that they are expanding the sidewalk and travel way. Mr. Hammons said that he did not see it particularly as a safety issue, as he thinks the bypass area increases safety.

Ms. Cameron added that she lives in the area now, and has for over 30 years. She noted that, as a homeowner on Hoyt Street, she must shovel the sidewalks on that side of the street along her street frontage, and therefore, she will get more snow to shovel than someone else on the other side of the street. Mr. Hammons replied that they have 6 inches between the sidewalk and the stone wall. Mr. Hammons explained that Brian McMahon of Redniss & Mead who represents the neighbors asked him to perform a tailwater analysis. Mr. Hammons said that Mr. Canas claimed that the Vortechnics are not properly sized. He said a lot of comments that were made deal with what can be done during construction. Mr. Hammons said that he does not want to over design the project now.

Mr. Spain then asked about the various plan revision dates. Mrs. Stefanoni responded that one plan revision date is December 23, 2010 and surveying occurred after the Planning & Zoning Commission requested such. Mr. Spain asked whether Schedule A was prepared prior to this and what plan page shows the sight lines. Mr. Hammons responded that Sheet 2 of 6 shows the sight lines to the south. Mr. Spain asked whether a sight line plan was given to D.O.T. Mr. Hammons responded that the travel way width shoulder will be expanded to be 10 feet, and that this is not a new traffic lane. Mr. Spain asked whether an average driver would understand that this is not a new traffic lane. Mr. Hammons responded that the normal transition distance has been shortened. Mr. Spain then asked where the limit of the State's right-of-way was. Mr. Hammons explained that the stone wall on the west side of the street is the common limit. Mr. Spain asked when traffic uses the bypass area, how close would they be to the sidewalk? Mr. Hammons explained that there is 10 feet between the white line and the sidewalk which is more than adequate. Mr. Spain noted that the State required this bypass area and Mr. Hammons reiterated that this area is an extension of the shoulder and not a bypass lane.

Mr. Spain asked about the position of the stop bar and the stop sign. Mr. Hammons responded that there is no change to those, as Ernie LaGoja of D.O.T. told them. Mr. Conze asked about the existing road distance between the double yellow line and the white line. Mr. Hammons responded that it is about 10 to 11 feet. Mr. Conze then noted that there is about 15 feet from the double yellow to the curb in existing conditions. Mr. Hammons confirmed that that was true. Mr. Conze

noted that under the proposed conditions, they have 4½ feet of shoulder and Mr. Hammons noted that 5 feet will become 10 feet Mr. Conze said that there is no shoulder on the proposed plan.

Mr. Hammons replied that the State would disagree that there would be 10 feet of shoulder. He explained that the bypass lane cannot be a lane because it doesn't meet D.O.T. geometry. Mr. Hammons explained that the critical question is whether they need the shoulder extension. He asked ultimately where does this come into play. The State is not requiring a bypass lane. They just want traffic to move. Mr. Hutchison then asked what the State called this area. Mrs. Stefanoni responded that the State said it is a bypass area. Mr. Conze noted that they have one foot between a car and the sidewalk in the bypass area.

At about 8:55 P.M., Mr. David Spear of DLS Consulting explained that he submitted a written response. He then summarized that response including volume, accident history, and sight distance. Mr. Spear also noted that he did a capacity analysis. He is not sure why the D.O.T. required a bypass area and said that the D.O.T. does want a continuous shoulder. He explained that they are making a dual use of the shoulder. Mr. Spear explained that a standard bypass lane is 20 feet wide, although Ernie LaGoja from D.O.T. likes them wider.

Mr. Spain asked whether a bypassing vehicle would be closer to the sidewalk in the proposed condition. Mr. Spear said that it would. Mr. Spain then asked when pedestrians were counted. Mr. Spear said that pedestrians were counted both on January 11th and January 6th. Mr. Spain noted that there would likely be fewer walkers in cold weather. Mr. Spear agreed, noting that poor weather could impact the number of walkers. Mr. Spain then asked about the curb return. Mr. Spear then showed it on the plan.

At about 9:10 P.M., Mr. Stuart Sachs explained that he is a Licensed Landscape Architect. He received the recently submitted letters regarding snow removal and the trees. In response to those letters, he explained that CU (Cornell University) structural soil will be used near the trees, which is specifically made for heavy compaction. He noted that this is a construction document detail. He then referred to a January 13, 2011 letter. This was responded with two letters from Mr. Bernhardy. Mr. Sachs explained that Mr. Bernhardy's mathematics are correct, but his conclusions are wrong. Mr. Sachs explained that they can require a maintenance company to take the snow off-site. He noted that a snow blower rather than a plow would be a requirement. He noted that some snow may go into the conservation area and mentioned that Darien will not get a lot of 24 inch snow storms.

Ms. Cameron asked whether he accounted for the north side of the building which would get less sun. Mr. Sachs responded that he did. Ms. Cameron noted that he is constrained on this site. Mr. Sachs responded that this is an urban condition in a suburban area. Mr. Spain asked whether Mr. Sachs agreed that the proposed retaining wall shown on the plans could limit some snow storage. Mr. Sachs responded that it could and that they could put snow atop of or over a retaining wall. Mr. Spain noted that Mr. Sachs purposely did not show snow storage in certain areas. Mr. Sachs agreed, noting that there will be areas where snow plows go and some areas which will be used by snow shovels and snow blowers.

Mr. Spain then asked whether the building has any active recreation space. Architect Michael Stein responded that it does not have any active recreation space – there is no common room within the building. Mr. Spain then asked whether there is any space outside for benches. Mr. Stein noted that

that was not discussed with the applicant. Mr. Stein added that the need for 1.5 parking spaces per unit precluded the ability to provide open space on the site. He added that the affordable aspect of some of the units dictated the required density. Mr. Stein noted that there is no space on the plan for a "park-like" setting. He added that various choices were the size of the units, the size of the building, and parking.

Ms. Cameron asked whether there was any storage for the residents of the building. Mr. Stein responded that there is storage provided on the ground floor, one storage unit for each building unit. That was not shown on the submitted drawing.

At about 9:35 P.M., Attorney Robert Fuller then spoke. He confirmed that the Planning & Zoning Commission cannot dictate curb cuts on a State highway. He explained that there is concurrent jurisdiction here. A second question he was asked to investigate was whether building coverage and height limits apply to this parcel. He explained that there is a distinction here between the setback lines and total coverage and building height. He believed that it is not precluded by the prior approval and the map of record. He said that adding a phrase in the deed cannot change the effect. In his opinion, the Planning & Zoning Commission can rely on the 25 foot rear yard setback and revise the application. Building coverage and building height maximums are not limited by deed or map. Mr. Fuller did not believe that this is the same situation as the adjacent Carlo property on Hoyt Street. He then submitted for the record a copy of a map from the Darien Land Records.

Mr. Michael Galante of F.P. Clark then submitted his January 17, 2011 letter which responds to the January 11, 2011 letter from David Spear of DLS. Mr. Galante explained that the applicant has responded to all of his questions. It comes down to the need for the bypass area. In his opinion, it is based upon volume and therefore no bypass area is needed. Mr. Hutchison asked Mr. Galante if the bypass area is a safety concern. Mr. Galante responded that the bypass area does follow D.O.T. standards. Most of the time, people will slow down as they are passing a vehicle. On the plan, is the shoulder line (the white line) maintained? Mr. Hammons responded that the State D.O.T. said to leave it in place. Mr. Hutchison asked Mr. Galante what drove the D.O.T.'s decision? Mr. Galante responded that he did not know. Mr. Spain asked whether the D.O.T. intended for vehicles to go around a car waiting to turn left into the proposed development. Ms. Cameron asked whether bypass areas on State roads are more common. Mr. Galante replied that they are, and any requirement is based on D.O.T. District 3's opinion. Ms. Riccardo noted that existing speeds on Hoyt Street, as well as the proposal for senior drivers here, could have impacted the D.O.T. decision. Mr. Galante said that 1.5 spaces per unit was studied for non-age restricted parking.

At about 9:55 P.M., Joe Canas, a licensed Professional Engineer of Tighe & Bond, explained that he had issued a January 18, 2011 letter with two basic comments. The first comment dealt with the area for Vortechnics units. He noted that the Model 5000 is 7' x 13'. He said that the actual drawing showing such may be a construction-level document, but it is a very tight site. The second comment concerned the retaining walls. He noted that relative to the retaining wall on the north side of the property, there should be a swale behind that wall.

Mr. Spain then asked whether it would be better practice to use above ground detention for this site. Mr. Canas replied that it would be better to put things where you can see them, which will likely result in better maintenance. One needs to match the underground storage in above-ground volume in cubic yards. To clean out an underground system might need a vacuum truck. Ms. Riccardo then

referred to the recently submitted letter from the Darien Fire Marshal and asked whether the vortechnic units will be able to withstand the weight of a fire truck. Mr. Canas responded that he believes it is acceptable for that.

In response to a question from Ms. Cameron, Mr. Ginsberg noted that any plan changes may or may not need to come back before the Commission depending on the scope of any such change.

At about 10:00 P.M., a woman from 63 Hoyt Street explained that she bought her property two years ago and she claimed that this proposal had lessened the value of her home.

Brien McMahon of Redniss & Mead explained that he had submitted a January 18, 2011 letter. His original letter had three concerns: drainage, site plan constraints, and Route 106 improvements. Mr. McMahon explained that the D.O.T. was adamant about not calling this a bypass lane. He said that the industry standard is to measure site distance from 15 feet back. He noted that pedestrian safety is a consideration. He asked whether the open space area allows for snow storage. He explained that there is bound to be salt and sand in the snow and that would then be pushed into the open space area. He explained that the proposed transformer does limit snow storage in that area.

Mr. McMahon continued by noting that they are still analyzing the connection from the system to the Hoyt Street to the Hoyt Street system. A backwater analysis should be provided. He did not believe that Mr. Hammons needs construction level drawings. However, Mr. McMahon explained that what is appropriate is the vortechnics with its bypass to show that it fits on this site. He noted that in the June 20, 2010 report, the rate is 3.45 cubic feet per second. In the second report, it is 6.59 cubic feet per second and in the third, most recent report, it is 8.92 cubic feet per second. Mr. McMahon concluded by noting that, for a variety of reasons, the off-site was not accounted for and some was attributable to the additional area not accounted for. He mentioned that the design relies more on the soil to infiltrate. Credit for infiltration has increased. It is preferable to have on-surface detention/retention. He noted, however, he would be hard pressed to put above ground drainage on this site. He is not convinced that there is enough room on-site for everything.

Mr. Spain asked whether there was room for more infiltrators. Mr. McMahon responded that there was. He noted that underground systems are maintenance intensive. Ms. Cameron asked whether Mr. LaGoja has been at D.O.T. for many years. Mr. McMahon responded that he had been.

At about 10:30 P.M., Ms. Lin Nesdale of 6 Echo Drive then spoke. She noted that the proposed building is 10 times the size of the adjacent houses and over twice the height. She believed that there is not enough parking, and that the project is clearly unsafe. She noted that the neighbors have had to hire consultants to review this application.

Mr. Mark Gregory of 23 Georgian Lane then submitted letters from the Bernardos, his wife, and Mrs. George. He learned today that Gallivant was not available today due to the weather. He also believed that, in his opinion, one cannot store snow in the reserved open space area.

Mr. Bill Golden spoke and explained that the Stefanonis do not have the capacity or intent to build this project.

Ms. Joan Carlo of Hoyt Street stated that this project should be denied. She mentioned that her deck which was approved by P&Z cannot compare to this building. She also had concern about the location of the transformer and distributed letters from both Mr. Carlo as well as one from Mr. & Mrs. Carlo.

At about 10:45 P.M., Mrs. Stefanoni said that she had two questions for Mr. Hammons. The first was whether Mr. Hammons anticipates any problems with the construction of the retaining wall. Mr. Hammons responded that he did not. Mrs. Stefanoni then asked Mr. Hammons how much time it would take to build the bypass area. Mr. Hammons responded two to three days.

Mrs. Stefanoni then summarized by noting that the need for affordable housing has been documented. A stormwater system has been proposed for the site. She mentioned that the Garden Homes project, recently approved by the Planning & Zoning Commission, has a greater density than her project. The building coverage proposed is 34.4% and a maximum allowed in Darien is 20%. She noted that there is no impervious surface limit now in Darien. They are requesting 36.4 feet in height of the building, and the maximum allowed in Darien is 30 feet. She then distributed a copy of a proposed "McMansion" which could be built as-of-right on this property.

Mr. Conze then asked how Mrs. Stefanoni would respond to the dimunition of value issue presented by a neighbor earlier this evening. Mrs. Stefanoni responded that there is uncertainty now regarding what will be built on the property, but the fear is not based in reality. Once built, this project will blend right in. Mr. Spain asked whether the Commission could take dimunition of value into consideration. Mrs. Stefanoni responded that she did not believe it would lessen the value.

Mrs. Stefanoni continued by noting that she respectfully disagrees with Mr. Fuller and, in any case, the building could be moved to comply. She did not believe Mr. Fuller was accurate. She acknowledged that snow may have to be removed from the site in certain circumstances. Mrs. Stefanoni also noted that a single family house would not require a bypass area. She added that Mr. LaGoja of D.O.T. said that pedestrians would be further away from the travel lane than they are now. Mrs. Stefanoni said that the bypass area would be used infrequently, and they are pushing the sidewalk away from the traveled way. Mrs. Stefanoni continued by noting that Mr. Adler, the traffic consultant hired by the neighbors, counted pedestrians in the area. She also counted pedestrians in the area and got different numbers. Mrs. Stefanoni then showed a map she had prepared showing the location of nearby school bus stops from a packet of materials she had submitted for the record last week. She also showed photographs of sidewalks near various Town elementary schools.

Mrs. Stefanoni re-confirmed that the development would be restricted to age 62 and over, and it would not be likely that any school children would live here. The affordable housing units would sell for $233,000 for those making between 60% and 80% of State Median Income, and $160,000 for those making below 60% of State Median Income. She noted that there needs to be an Affordable Housing Marketing Plan for this project per the State Statutes.

Mrs. Stefanoni noted that the Fire Marshal has submitted two memos regarding this project. She mentioned that the Fire Marshal may not have been aware of the open space in the rear of this property and he may not have understood the height of the proposed retaining wall. In response to his concerns, Mrs. Stefanoni contacted a Fire Safety expert who worked with AvalonBay

Communities. She agrees with Mr. Carlo regarding ladder height and with an additional 4 feet it would be okay. Five additional feet are not needed. In response to concerns, Mrs. Stefanoni would be willing to write into the deed restrictions on outdoor grills. She also suggested possibly moving any plantings to provide better fire access.

Another related issue to fire access is the 10 feet the Fire Marshal wanted around the building. She said that they do meet the 10 feet. The proposed building would be sprinklered and standpipes will be proposed. Access can be done within 10 feet. She then submitted a letter and a graphic showing a comparison with a single family house. Although she would prefer not to move the building, the Fire Marshal thinks tweaking of the plans may be doable.

Mrs. Stefanoni then asked, "Why here?" She looked at where seniors now live and showed a location of seniors who now live in the area. She believed that 1.5 parking spaces per unit would be sufficient. Ms. Cameron noted that the four unit requirement for a bypass area is from the letter submitted by Dot Kelly. Mrs. Stefanoni said that Mr. Spear said that he did not say that and believed that the bypass area is not a safety issue.

Mrs. Stefanoni said that she may rent or may sell the units--it is undetermined. Ms. Cameron asked Mrs. Stefanoni about the statement by her husband saying he is looking to put affordable housing into every Darien School District. Mrs. Stefanoni responded that that comment may have been a little "tongue in cheek", but she did believe that affordable housing should be sprinkled around Town. Ms. Cameron believed that the bypass area is not safe. Mrs. Stefanoni responded that it would be infrequently used, and they are widening the sidewalk per D.O.T. Mr. Hutchison said that he has read the case law and the legislative history, and believed that the Planning & Zoning Commission is in an untenable position.

There being no further questions from Commission members, comments from the applicant, or the general public, Mr. Hutchison made a motion to conclude the public hearing and adjourn the meeting. That motion was seconded by Mr. Spain, and approved by a vote of 5 to 0.

The meeting was then adjourned at 11:20 P.M.

Respectfully Submitted,

Jeremy B. Ginsberg
Planning & Zoning Director

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