

RECEIVED FOR FILING  
East Haven  
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**TOWN OF EAST HAVEN  
PLANNING AND ZONING COMMISSION  
MINUTES OF THE REGULAR MEETING  
JANUARY 5, 2022  
HELD VIA ZOOM VIDEOCONFERENCE, CONFERENCE CALL  
AND IN PERSON**

Chairman William DeMayo called the regular meeting to order at 7:01 p.m.

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

The Pledge of Allegiance.

Sotonye Otunba-Payne, Clerk, called the roll for the Commission as follows:

William DeMayo - Present

Marlene Asid - Present

John Tarducci - Present

Robert Cubelotti - Present

Louis Fusco – Alternate, Present, sitting

There was a quorum.

The following were in attendance:

Mr. Jonathan Bodwell - Town Engineer

Joseph Budrow - Zoning Enforcement Officer

Attorney Jennifer Coppola - Counsel to the Board

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

1. Minutes of the November 3, 2021 Regular Meeting.

**Ms. Asid motioned to approve the November 3, 2021 Regular Meeting Minutes. Said motion was seconded by Mr. Cubelotti. The motion passed unanimously.**

2. Minutes of the December 1, 2021 Special Meeting.

**Ms. Asid motioned to approve the December 1, 2021 Special Meeting Minutes. Said motion was seconded by Mr. Tarducci. The motion passed unanimously.**

3. Minutes of the December 14, 2021 Special Meeting.

**Ms. Asid motioned to approve the December 14, 2021 Special Meeting Minutes. Said motion was seconded by Mr. Fusco. The motion passed unanimously.**

### **III. Executive Session and Public Comment and Possible Action on Proposed Stipulation for Judgment**

[The proposed Stipulation for Judgment is posted on the Town's Website at <http://www.townofeasthavenct.org/> on the 2022 Agenda page for the Planning and Zoning Commission and available for the viewing at the Town Clerks Office and Planning and Zoning Department at the East Haven Town Hall, 250 Main Street.]

1. Discuss the status for the pending litigation and proposed Stipulation for Judgment in Autumn View, LLC, et al. v. Town of East Haven Planning and Zoning Commission (Docket No. NNH-CV16-6061972-S), concerning the real property located at 92, 100, 110, 118, 126, 180, and 242 Strong Street, East Haven, Connecticut, and possible action by the Commission relating to same. Members of the public can participate and offer their comments on the Stipulation for Judgment to the Commission.
2. Consider whether to convene in executive session to discuss the status of the pending litigation and proposed Stipulation for Judgment in Autumn View, LLC, et al. v. Town of East Haven Planning and Zoning Commission (Docket No. NNH-CV16-6061972-S).

Attorney Coppola stated, as indicated in the amended agenda, this is proposed stipulated judgment. It is titled Joint Motion for Approval of Settlement and Entry of Judgment in Accordance with Stipulation in Docket No. NNH-CV16-6061972-S, Autumn View LLC, Statewide Construction Corporation and Vicki Imperato v. East Haven Planning and Zoning Commission. This matter has been pending in the New Haven Superior Court since 2016. The stipulation was posted on the Planning and Zoning Agenda page on the town website. It had been posted since December 22<sup>nd</sup> so that any interested members of the public could review the stipulation or the joint motion.

Pursuant to our rules and practice in Connecticut regarding any settlement of proposed stipulation and an administrative appeal, the public does have an

opportunity to comment on that settlement and proposed stipulation. And in terms of the process beyond this, should the Commission authorize its counsel, myself, to sign the joint motion on its behalf, then she and Attorney Hollister will file the executed joint motion with the court. Then the court will schedule the matter for a hearing. The Planning and Zoning Department will publish notice of that hearing including the date, the time and how to participate in that hearing which will likely be remotely. The court system is using Microsoft Teams, similar to Zoom, to conduct such hearings. It is called an 8-8(n) hearing making reference to the statute which governs it. There will be publication in the East Haven Courier with regard to the date, time and how to participate in the hearing. This will be heard before a judge of the New Haven Superior Court to review the joint motion and hold that 8-8(n) hearing. The judge takes comments from the public as well. So if anybody wants to address the court with regard to the joint motion, (assuming the Commission authorizes it), you will have an opportunity to as well.

The motion is quite detailed with respect to the application history of this property. The properties in question as indicated in the agenda are 92, 100, 110, 118, 126, 180 and 242 Strong Street comprising of approximately 17 acres.

Attorney Coppola asked if there were any questions and if the Commission wanted to go into Executive Session.

Mr. DeMayo indicated that they had spent a lot of time in executive session regarding this matter. They are very, very familiar as counsel had spent an enormous amount of time preparing as well as educating the Commission so that they fully understand it. It has been a joint cooperative effort between counsel and they appreciate that.

Mr. DeMayo asked, if the Commission were to approve the stipulated settlement this evening, you go to court, you have the hearing there, the judge says yea or nay, the applicant, am I correct, must come back with full plans for the Commission? This does not mean they put the shovel in the ground tomorrow?

Attorney Coppola responded by saying, absolutely. It is something that could be covered in their presentation in more detail. The Commission has read the stipulation. One of the exhibits is the text amendment which the Commission would approve. This will add a new regulation to Section 27A. It does include the details of the process that will come after which would be the submission of a Site Plan with full engineering details and so forth.

Ms. Asid asked if after the Commission heard public comments it could change the stipulated agreement. Attorney Coppola responded by saying

yes, and that it would also depend on how significant the substance is. Generally, they have the flexibility to tweak here and there.

Mr. Cubelotti expressed that he might want to go into executive session.

Mr. DeMayo indicated it would be after the public hearing.

The Commission agreed that it would reserve the right to go into executive session following public comments.

Attorney Coppola pointed out some of the very pertinent history of this particular matter. In February, 2007 the Commission did approve a Planned Elderly Facilities District for the subject property for a 51-unit, age-restricted residential development on 14 acres and that included storm water drainage designed by the applicant's engineer and reviewed and approved by the town's engineer. In December of 2012, the plaintiffs then filed an application with the Commission for a zoning amendment, rezoning of the 17 acres and a 105-unit development plan on the total 17 acres, not age restricted, but with 30 percent of the units set aside for low- and moderate-income households in compliance with the state's Affordable Housing statute, C.G.S. Section 8-30g. The 8-30g, affordable housing, applications were denied in March of 2013 and then resubmitted (as the statute does give the opportunity to amend and resubmit) with several plan revisions and a reduction from 105 to 102 units. And that revised application was denied in June of 2013 and appealed to the Superior Court.

This did go through the court process. When an affordable housing submission is denied and appealed to the Superior Court, it does get assigned to the Land Use Docket which sits in the Hartford Superior Court. So, it was assigned to the judge in charge of this docket at that time, Judge Berger. Judge Berger issued a memorandum of decision that partially sustained the applicant's appeal. He remanded the matter for further input from the Commission on storm water management.

The process that followed was that in 2015 and 2016 the plaintiffs then further revised the 2012 plan that had been again denied to approve the storm water management, and they reduced the density of the project to 90 units. Ultimately, what happened is that Judge Berger issued a decision, on the further remand proceedings that were held before the Commission, directing the Commission to approve the affordable housing applications that were related to that 90-unit plan. So, there was a text amendment which is the income housing district amendment which is where the MIHD abbreviation comes from. There was a map change related to that text amendment and the rezoning of the property. There was a plan that was approved. The approvals came in September of 2020.

There was a further appeal and the town lost. Ultimately, the court directed that the Commission had to approve those affordable housing applications for that 90-unit plan which would be 30 percent affordable.

On page 4 there is a recitation of what the vote consisted of in September of 2020. In April last year, the plaintiff filed an application with the Commission for a new text amendment. Again, there's a revised copy of that text amendment at Exhibit A to the joint motion. It is substantially what was originally submitted in April. There was a density reduction in terms of the number of units in the concept plan that was submitted with that text amendment application reducing the density from 98 units to 69 units. That concept plan is also attached too the joint motion. It is Exhibit D.

Attorney Coppola indicated that she and Attorney Hollister had copies of the exhibits if anyone was interested in taking a look at them.

Attorney Coppola read an excerpt from paragraph 23, the very top of the page. "The commencement of the public hearing on this regulation amendment in June 2021, as a new application, led to further discussions between the parties aimed at resolving questions and uncertainty among the Commission members regarding the action directed by the court, the site-specific regulations; the proposed multiple-step approval process; the relationship of the 2021 application to the 2016 conditional approval of the 2007 site plan extension; and the best way to resolve all pending matters in a single settlement."

Paragraph 24, the meat of the agreement between the parties, begins on page 5 and goes on to page 6. Paragraph 24 reads as follows: Based on the foregoing, the parties at this time move under the General Statutes § 8-8(n) and Practice Book 14-7B(j) (the gives the public the opportunity to comment on the proposed settlement) for approval of a settlement as described below, and entry of judgment in accordance with the stipulation as described below.

Paragraph 25 reads in part as follows: The Commission hereby adopts the revised zoning regulations amendment, "Planned Unit Development District," attached as Exhibit A to this motion, intending that it supersedes and replaces the former MIHD zoning of the subject property ..." So, when the Commission voted in September of 2020, it rezoned by following the court's order and approved the affordable housing text amendment that had been approved along with the 98-unit plan, the zoning of those properties was changed to MIHD.

Mr. DeMayo indicated that that was remanded by the court. Attorney Coppola concurred. It went up to the Appellate Court and was lost. There was no further right to appeal.

Attorney Coppola indicated that Paragraph 26 is a rezoning of the property. “The Commission hereby rezones the 14.75 acres, consisting of 180 and 242 Strong Street, as more particularly described in a metes and bounds description ... as Exhibit B,...” of those two properties. “... from MIHD ...” as ordered by the court approved “... to Planned Unit Development District ...,” the new zone.

It is shown on the survey map which is Exhibit C. “... A Site Layout Plan illustrating the development intended by the adoption of Exhibit A is attached hereto as Exhibits D and E.” There is the conceptual plan that was part of the text amendment.

Mr. DeMayo asked, for clarification and for the record, whether a change from MIHD to PUD or PUDD meant PUD had less intensity than MIHD. Attorney Coppola replied by saying of course, Mr. DeMayo was referring to the density. It is a 98-unit development versus a 69-unit development.

Paragraph 27 states, “The Commission hereby rezone 3+/- acres, consisting of 92, 100, 110, 118, 126 Strong Street ...” These are the five separate parcels that got rezoned to MIHD in September, 2020. They are going back to R-3.

Mr. DeMayo added that this was restrictive residential.

Mr. Budrow indicated that R-3 requires more spaces between buildings, less lot coverage than R-2 and R-1.

Paragraph 28, page 6 is very important. It reads as follows: The mutual intention of the parties is that upon the Commission’s adoption of the above-referenced regulation amendment and rezoning as shown in Exhibits A, B, C, and D and such Commission actions becoming final and unappealable through the approval of this settlement and entry of judgment ...” So, it is approval of the settlement. Then it enters as a judgment when the judge acts on it. “... the Plaintiff’s shall move under § 8-8(n) and P.B. § 14-7B(j) to withdraw this 2016 appeal; shall relinquish all claims, rights, and approvals arising from the 2007 PEFD (51 unit development plan) ...” So, the 51-unit development plan, plaintiffs are agreeing to relinquish all claims, rights and approvals arising out from that development plan. “... shall relinquish all claims, rights and approvals arising from the 98/unit/C.G.S. §8-30g development plan; ...” So, they are relinquishing all claims, rights and approvals arising out of the affordable housing approvals. “... and shall relinquish all claims, rights, and approvals arising from the Commission’s September 2, 2020 action.” Again, approval by the Commission as directed by the court.

Paragraph 29 reads in part as follows: “The parties filed the proposed regulation amendment Exhibit A, along with maps....” This has to be filed

by statute with the Town Clerk's Office. This was done by Attorney Hollister. "The Commission published notice of its consideration of this Stipulation in newspaper of the general circulation on December 23<sup>rd</sup> and 30<sup>th</sup> of 2021, advising interested members of the public that they could appear and offer public comment on same at its regular meeting held on January 5, 2022. After review and consideration and all public comment received, the Commission voted to authorize undersigned counsel for the Commission to execute the Stipulation on its behalf.

Paragraph 30 reads as follows: "The Stipulation will be recorded in the East Haven land records following entry of judgment in accordance therewith by the Court in the above-captioned action."

Attorney Coppola spoke about boiler plate language in Paragraphs 31 to 40. She indicated that it was important to put in Paragraph 34, Binding Effect. "This stipulation shall be binding upon and inure to the benefit of the parties hereto, and each and all of their heirs, personal representatives, successors, and assigns."

Attorney Coppola went through the attached Exhibit A which is the text amendment. Section 27A.6.1.1.: On-street parking on all internal roadways shall be limited to one (1) side of the roadway only and appropriate signage shall be posted providing notice of this restrictions. This is important because of concern for the entry of fire apparatus. The applicants have agreed on 25 feet wide roadway and parking on one side of the street.

There had been changes since the Commission had its last meeting. Each dwelling unit shall have a one-car or two-car garage.

Mr. DeMayo asked if this was going to be by percentage or whether it would be determined jointly since there are no numbers to work with.

Attorney Coppola indicated that she would leave that as a question for Attorney Hollister to respond to. She further stated that the applicant wanted the option of building a one- or two-car garage dwelling and nothing had been fully designed yet.

Attorney Coppola highlighted some of her previous comments. She asked if Mr. Bodwell wanted to comment about the asphalt.

Mr. Bodwell indicated that if you looked at the cross-section on the left-hand side it's calling for a bituminous concrete curb. He asked that curb be concrete.

Mr. Budrow indicated that there should be a minimum percentage regarding one- and two-car garages. He indicated that half of the houses built should at least have two-car garages.

Mr. Bodwell suggested two-car garages on the non-parking side.

Attorney Coppola indicated that she had nothing more to add.

Mr. Tim Hollister of Hinckley Allen & Snyder in Hartford. He is representing all the plaintiffs. Ms. Imperato and her husband are watching online.

Attorney Hollister thanked Attorney Coppola. He does not have much more to add as Attorney Coppola had done a thorough job. He thanked Attorney Luzzi for this help along the way. He also thanked Mr. Budrow, Mr. Bodwell and all the Commission members because they had spent a lot of time working on this.

Attorney Hollister summarized why he thought this was a good settlement understanding that the definition of a good settlement is nobody likes it but everybody accepts it. Number one, as Attorney Coppola stated, the guts of the settlement are paragraphs 26, 27 and 28. The Commission is replacing everything we've done previously with two agreements. One is the rezoning of the 14 acres to allow 69 units in a Planned Unit Development and then the Commission will rezone the three acres to R-5, R-3 lots. At the end of the day, this is what it's about.

He thought it was a good settlement because if it is approved by the Commission and the court, it ends the long history of consideration of the planned elderly district. And that's the one that dated 2007 which was the basis of the court case. In 2016, the Commission extended an approval but it had changed the drainage standards. My clients didn't like that. That's why there was a court case. So, we get rid of that. So, this is reason number one.

Number two is the agreement puts an end to the 98-unit, 30 percent affordable housing plan that was ordered by the courts. You know, he worked on that plan. It could have been a good development, but it was certainly dense by anybody's reasonable standard.

Number three is the stipulation restores five conventional R-3 lots on Strong Street. Now, people on Granniss Lake, he assumed would rather C-5, single-family houses on those lots than the multi-developments. So, this stipulations grants those concerns.

Number four is 69 single-family homes is a reasonable density with shared elements, homeowners' association. They have shared responsibilities of



maintenance which adds to the sense of community. He credited Mr. Budrow for making that suggestion.

Finally, with the help of Mr. Bodwell and Mr. Budrow, the regulation that Attorney Coppola went through has clear standards and requirements for sidewalks, garages, and roadways, and so forth. They ended up with a good mix.

Attorney Hollister stated that Mr. DeMayo was absolutely right to ask about, does this mean shoveling the ground tomorrow. No. The Commission has to approve a regulation change with a concept plan and five single-family homes that have not been designed or laid out or anything yet. But as to the 69 units, this will allow the site planning process to go forward. And he was sure Mr. Bodwell and Mr. Budrow would be involved in that, as they should be.

Attorney Hollister indicated he wanted to finish up by responding to Mr. Bodwell's suggestions. What he would ask is that they keep in mind that this regulation allows, for example, for curbs to be asphalt instead of concrete, but it does not require it. So, he would ask the Commission to approve that part of the regulation as allowing the option, but it will be decided when they get to the Site Plan stage.

Mr. DeMayo indicated that the plaintiffs wanted the option.

Attorney Hollister concurred that the plaintiffs would like the option. He emphasized that the key words regarding sidewalks is may; shall be concrete provided that the curbs may be asphalt or concrete. They are just asking for this option.

Attorney Hollister stated that the idea of 50 percent two-car garages is fine. He indicated he could speak on behalf of his clients that that would be acceptable as a change that could be made tonight.

Mr. DeMayo asked regarding where there is restricted parking on one side of the street, whether those houses would be two-car garages.

Attorney Hollister indicated that this is what he would like to reserve for the Site Plan stage because it's not quite as simple as being on the non-parking side. It's where the line is on the circle. Remember, the layout is basically in a semi-circle. As he understood it from his clients, they wanted the option because they are individuals lots. Because of where they are in the overall plan, where they are on the curve of the street, they would like an option. It would also depend on the shape of the lot as the lots are not all exactly the same. The Commission will approve the Site Plan if they commit a minimum of 50 percent two-car garages.

Mr. DeMayo said subject to the approval of the Commission. This would be for safety purposes as well.

Attorney Hollister indicated he understood. Hopefully, Mr. Bodwell would agree to that. This would be 50 percent two-car garages at a minimum. Certainly, a majority of the homes are going to have two-car garages. His clients just wanted the option. This is a good compromise. This was all he had to say.

Mr. DeMayo asked if the members of the Commission had questions; hearing none he opened the floor to public comments.

Mr. Dominic Carpa, President of Granniss Lake Homeowners Association representing 42 homeowners, stated that not once had anyone mentioned the wetlands which they feel is an important concern for them. It's a natural lake. This much change in the area will be impactful and would make a big difference. He further indicated that the water would go into the lake as there is nowhere else for the water to go. He implored the Commission to hold public hearings with public comments regarding the blasting since it is a rock hill.

Mr. DeMayo indicated that there were regulations by the town, state and the federal government regarding blasting. They are very familiar with the blasting regulations.

Mr. Carpa indicated the neighbors had many concerns.

Mr. DeMayo indicated that there were references to blasting in the Stipulation.

Mr. Carpa spoke about the drainage from the blasting. He indicated that whole area had no sidewalks. There were lots of runners in the neighborhood and walk their dogs along there. There would be a lot of homes with two-car garages with no sidewalks. He asked if there were discussions about sidewalks being required. Mr. Carpa further commented that their attorney had been in contact with Attorney Hollister several times about what they are going to do on this wood, this new development and to help keep the lake clean. They have been adamantly against it. We are talking pennies. It would require nothing out of their pockets as the Granniss Homeowners Association would take care of the lake. They did not want to hear about that.

Ms. Donna Palmieri, 87 Strong Street, Vice-President Granniss Lake Estates. She lives directly across the street from 92 Strong Street. She has many of the same concerns that the president articulated. However, she had sincere

concerns about the blasting of 70 plus homes. She is worried about the damage to her home as well as her neighbors' homes. The storm water is a huge issue. The estate has expended a lot of money taking care of this lake to prevent excess vegetation. Most of them bought their houses because of that lake. So many things could happen to the lake that would be detrimental to the neighborhood in general.

Ms. Palmieri further commented that the parcel of land was initially zoned as R-3 and then got changed a number of number of times. She would like consideration to put the whole thing back to R-3, not just the five. This would have the effect of reducing the number of houses that are eligible to be built there. If the property is rezoned go back to R-3, the density would be reduced even further which would result of less drainage into the lake, less traffic. In her opinion, if this happen, it would be a win-win for everybody.

Mr. Tarducci asked Ms. Palmeiri what they do to preserve the lake. Ms. Palmieri indicated that it is a private lake owned jointly by 42 homes which is considered Granniss Lake Homeowners Association. They pay for it out of their association fees. Whenever there is something done to the lake, the association pays for it.

Mr. Tarducci asked if this payment was via special assessment or dues. Ms. Palmieri responded by saying that it was paid by dues. At some point some grass-eating carps were brought in.

Mr. Carpa indicated that they had had grants in the past. About 10 years ago they purchased twenty-five hundred dollars' worth of sterile carp to put a grade in the cistern. The carp was brought in to keep the vegetation. With progress from development comes things such as the fertilization of lawns, which all try to not do, which runs down to the lake. They cause grasses and new growth in the lake. Hence, they brought in the carp to keep that down.

Mr. Tarducci asked how much of budget is allocated for the maintenance of the lake. Mr. Carpa indicated that the treasurer was unable to attend this evening. They recently had to increase their dues in order maintain their property. It is \$400 per home per month. They use the dues for mowing, cleaning around the lake, etc.

Ms. Palmeiri added that they insure the lake.

Mr. Carpa continued his comments by saying that they pay taxes. They own the lake.

Ms. Palmeiri indicated that the lake was downstream.

Mr. Jim Farrell indicated that he resided on Erico Drive. As a 32-year resident of East Haven, their neighborhood is very important. Granniss Lake is owned by the homeowners association. They pay to maintain it each year as was just discussed. For years they have been dealing with the uncertainty of what was going to be developed in the area known as Autumn View. The plan was originally approved for elderly development. It is clear the town has a growing elderly population so there is a need for elderly housing. The plan would have helped to alleviate and accommodate the need for the town and for those soon-to-be empty nesters who want to downsize. Now, Section 22 states 69 units with no age restriction which will have an impact on all.

Mr. Farrell indicated further that as the former business manager for the East Haven Board of Education at which time he was in the process of closing and consolidating schools due to the declining enrollment. They have to look at public interest regarding the effects of no age restriction and overcrowding at schools. This will have a ripple effect throughout the entire community and not just his area. Are we prepared to reopen schools or build new, if no longer available? Can we afford bonding to accommodate new construction? Are we going to force redistricting in the town once again? He implored the Commission to take all the public comments into consideration before acting.

Mr. DeMayo asked if the enrollment numbers were down per the Board of Education. Mr. Farrell indicated that the numbers continue to decline. He had not been involved for about four years, however. Mr. DeMayo indicated he was of the belief that they continue to decline at the present time.

Mr. Farrell went on to reiterate what the effects of young families coming into the neighborhood would mean. Mr. DeMayo pointed out that not all the homes would be families with three kids.

Ms. Patricia Puglia, 52 Erico Drive, had been a resident at Erico Drive for 23 years. They moved into the neighborhood because of the lake. It is a private lake and they maintain it. Period. Her concerns are twofold. Sediment and erosion control, she asked that this meant. There is no explanation as to what that's going to mean. If this is going to be approved, sediment and erosions has to be part of it.

Mr. DeMayo asked where that section was. Mr. Budrow replied that it was at 27A.4.2.

Ms. Puglia indicated there was no explanation or detail as to what this entails. Mr. DeMayo replied that he would venture to say it was a general statement. The Commission does not govern that. Ms. Puglia replied that that needed to be watched.

Mr. Budrow added that Section 47 of the East Haven Zoning Regulations deals with sediment and erosion control.

Ms. Puglia indicated another concern was the storm drainage management. She had been involved in property management for many years. She has seen when items are not clearly defined, the confusion and that costs that follows. The costs are that attorneys, no disrespect to those in the room, make loads of money and nothing gets resolved and everybody gets very angry because it's not what they thought they bought into or expected it to be. Mr. DeMayo replied by saying that this was one of the concerns the court had and it one of the reasons it was remanded back to the Commission.

Ms. Puglia expressed concern for the blasting as she walks around there. It is a major incline. When the blasting begins, it's not going to be one or two days. It will be weeks and probably a month. This is going to be major blasting that is going to go on here. I agree with you the curbs should be concrete. They should not be asphalt. That's a smart move. And I disagree with you, there should always be a two-car garage because you've got three bedrooms. It will be a real mess up here with the cars.

Mr. John Wobensmith, 93 Cosey Beach Avenue, Unit 4, commented about the concerns raised earlier regarding the bituminous asphalt curbing compared to the concrete curbing. Where he resides is part of Victoria Beach Condominium Association. Two years ago they had their driveway parking lot area replaced. They put in the asphalt curbing. This past year, they repaved the rest of the community and put in the concrete curbing. They did that because it was within the two years the parking lot was redone. The curbing is in such terrible shape between trash trucks, delivery trucks, snowplows, landscapers. The curbing on our building is extremely cracked and broken apart.

Mr. DeMayo asked if this was the asphalt. Mr. Wobensmith replied by saying it was the asphalt. Mr. Wobensmith further indicated that with regard to the concrete curbing that they put through the rest of the development, they were informed that it is five times the durability rating of the asphalt. It also came with a 15-year guaranty. Mr. Wobensmith opined that if there is the option to go with the concrete, they should do that. They will save money in the long run.

Mr. Fred Morro, 52 Erico Drive, commented it's a lovely and friendly street but there are problems. Fishing folks make a mess and throw stuff in the water. There are fishing lines all over. They go out there and clean it. Now, the addition of these homes would mean for work for them. When they ask the young people to leave, they get threatened. There are empty bottles left behind. If this is approved, what can the town do to prevent this from going on?

Mr. DeMayo indicated that the Commission has been told it's private property. Mr. Morro stated if they put a fence around the lake, it would mean they were denying access to the lake. It's a lose-lose situation.

Mr. DeMayo asked if on a private property there had to be public access. He indicated he did not think so. Mr. Morro indicated that that was what he was told.

Mr. Morrow further commented that there was no age restriction. He wondered what it meant. Mr. DeMayo indicated that if they can afford it, they could buy a house there. Mr. Morro indicated he would like clarification on this. Mr. DeMayo explained that the Commission could not impose age restrictions since it was not affordable housing. This is going to be privately owned by individuals. Mr. Morro indicated that it looked like cluster housing to him. Mr. DeMayo asked, what is the difference? Mr. Morro replied that he did not know. Mr. DeMayo indicated that cluster housing was more of an association type thing where they own the road, they do all that maintain which is similar to what they have at Granniss Lake where the Granniss Lake Homeowners Association maintain the lake. Cluster housing is a less expensive way to build housing, one road in and one road out. This is not considered cluster housing. Mr. Morro indicated he appreciated that response. Mr. Morro further commented that all they were asking is the Commission do the right thing by all involved.

A unidentified male asked whether the the design of the development would have more of an industrial look. Mr. DeMayo indicated they were not at the stage yet. If this Commissions passed this Stipulation of Judgment, the plaintiffs would have to come back with plans from soup to nuts. No one could answer the questions at the time. The question is a valid one. Probably, one of the biggest investment a person has is their home. So, this is understandable. The Commission is trying to look at both sides of this, as well as development, progress and safety and consideration for everyone who lives around there.

Mr. DeMayo called on those on Zoom to comment.

Ms. Angela Mattie, 210 Strong Street, indicated that her property directly abuts the property in question. She added the following points for the record: They had indicated previously that if they move forward, they would like a comprehensive environmental survey. The land was formerly a farmland which makes it more important to do this. If any issues arise, they want the applicants to immediately remediate those issues. Drainage concerns have been very well articulated by her neighbors. The next issue is the increase in traffic. She is of the understanding that there has been a

traffic study done that sits in the East Haven Police Department that with the current traffic on Strong Street and Granniss there were significant concerns. These would be exacerbated given what is the anticipated increase of 120 to 150 cars added to the area. She would like the traffic report added to tonight's record and moved to the next series of process here.

Mr. DeMayo asked how old the traffic report was?

Ms. Mattie indicated that she did not know. She tried unsuccessfully to get it. All she knows is that there were significant concerns about the amount of traffic currently on Strong Street and Granniss Street extension. Mr. DeMayo indicated that all the cars would not be in and out at the same time.

Ms. Mattie indicated that the point is to add that for consideration in the next process. Probably, 150 kids would be added to the school system. The town had decreased its budget for education. There is going to be a ripple effect to building so many units on such a small area, 14 acres. This needs to be considered. The tax would probably increase. The applicant should be required to have two-car garages for safety and fire concerns. She agreed with the other speaker about the need to require concrete versus asphalt. This changes the character of the neighborhood. The demographic is leaning toward the elderly demographic. She does not know why they continue to rewrite the zoning laws for this particular applicant. She will join the process in civil court.

Mr. Budrow indicated that no one had seen the traffic study. So, no one can comment on it. They would look for it in the future for the numbers.

Ms. Paula Maher indicated that she had lived on Leigh Drive for over 20 years now. She just wanted to comment that she was concerned about the proposed Stipulation of Judgement. Of concern is the comparison of the number of units that are being proposed to the number of acres. It would not fit in with the neighborhood as well. She was concerned about the environment as well and the possible disruption to the wildlife with the blasting.

Mr. DeMayo called for comments from those Zoom. Attorney Coppola called for comments from those online. There were none.

Mr. DeMayo thanked all for their comments. At this time he would yield the floor to Attorney Hollister to respond to some of the comments from the public.

Attorney Hollister responded by saying that all should remember what was being done here. All the Commission is doing is approving a regulation and a zone change with the Site Plan later on. A gentleman asked about the

design of the storm water basin. It's not designed yet so he could not speak to this at the present time.

He implored that the Commission's hands not be tied nor his clients' hands. He had given Attorney Coppola proposed compromise on the garages which was discussed earlier. Storm water concrete curbs, asphalt, whatever, let's just defer that to the Site Plan stage. The decision should not be made tonight. This will be putting the cart before the horse.

Attorney Hollister further commented regarding the storm water drainage that a professional engineer, Mr. McGee (phonetic), who resided at Granniss Lake Estate commented about this in 2012. So, there have been discussions about storm water for almost 10 years. The 17 acres that they are talking about tonight is three percent of the total watershed. The problems at Granniss Lake are because of the 150 acres with a lot of untreated storm water, and not because of the 17 acres. That came through very clearly. Mr. Jacobson who was your consultant signed off on the revised storm water plan in 2016. That went through the courts. It was approved. Again, the Site Plan stage is ahead of us. His clients have to comply with Section 48. Mr. Budrow had indicated that was a very detailed section. The lake will be protected because you will protect it at the Site Plan stage.

Attorney Coppola indicated that it was important to note that reference was being made with regard to the soil and erosion control section as well as the storm water management to the title. Right underneath that it indicates very specifically that the applicant is going to have to comply with your soil and erosion control reg and the storm water reg. It states the sections in the regulations. She indicated that Attorney Hollister had not commented about blasting.

Attorney Hollister indicated that there might not be any blasting.

Mr. DeMayo indicated there were other projects regarding blasting. The residents of the town have been very concerned about blasting. The Commission adheres to this 100 percent with supervision from the fire department.

Attorney Coppola indicated that blasting is within the domain of the fire marshal. Blasting would be addressed at the appropriate time.

Attorney Hollister emphasized that he did not know if there was going to be blasting. There are different ways to remove rocks.

Ms. Asid indicated that blasting would be addressed.



Mr. DeMayo closed the public hearing due to the fact no one had indicated he or she wanted to comment.

Attorney Coppola asked the Commissions what it would like to do next.

Mr. DeMayo indicated he had no problem doing all in the open.

Mr. Tarducci concurred.

Mr. DeMayo indicated if anyone wanted to go into executive session, he or she should speak up.

Mr. Cubelotti expressed wanting to go into executive session. Mr. Fusco agreed that the Commission should go into executive session. All agreed to go into executive session.

Attorney Coppola explained to the public that the Commissions was going into executive session. They will come back out of executive session and go back on the record.

**Ms. Asid motioned to go into executive session with the Commission and our staff members present, Mr. Budrow, Mr. Bodwell, and our esteemed counsel, Attorney Coppola. Said motion was seconded by Ms. Tarducci. The motion passed unanimously.**

**The Commission entered Executive Session at 9:07 p.m.**

**Mr. Fusco motioned to get out of the Executive Session. Said motion was seconded by Mr. Cubelotti. The motion passed unanimously.**

**The Commission exited Executive Session at 9:31 p.m.**

Attorney Coppola indicated that she had an opportunity to quickly meet with Attorney Hollister regarding the proposed changes that the Commission would like to make to address the further revisions that were made with regard to the surfacing of the internal roadways and entrances/exits as well as the curvature for the sidewalks, Exhibit E, and the fact that there was much discussion about the one-car versus two-car garage. Attorney Hollister does need additional time to consult with his clients. They are not available for him to have a full discussion tonight. She requested another meeting be done this month, a special meeting, to continue discussions in order to work out these particulars, after which the Commission could potentially take a vote.

Mr. DeMayo indicated that they had the executive session and modified some things. He does not know where the vote is. However, at this point, those were positions he personally agreed to. He would say it is time to vote.

Attorney Coppola indicated that the problem that they have is that this is a joint motion that is the stipulation of the parties. They do not have the plaintiffs' consent to make these changes to the stipulation as it is a joint motion. They would need to have that in order for the Commission to authorize her to execute the joint motion with those changes. Attorney Hollister needs to be given an opportunity to address these last-minute changes.

Mr. DeMayo asked if the changes were made in the original Stipulation of Judgment.

Attorney Coppola indicated that garages were originally proposed to be two. There were further discussions about the terms of the original stipulation.

Attorney Coppola indicated that the bottom line was that Attorney Hollister does not presently have the opportunity to discuss fully with his clients to determine whether or not they agree to the items that were suggested.

Mr. Cubelotti asked if the request was to give Attorney Hollister the opportunity to speak with his clients and then return sometime in the very near future do this again. Attorney Coppola replied by saying yes.

Mr. Cubelotti asked if Attorney Coppola was requesting another special meeting. Attorney Coppola replied yes, for the purpose of voting on the final version of the Stipulation of Judgment. Mr. Cubelotti asked why it could not be at the February meeting. Attorney Coppola indicated that it was the Commission's decision.

Mr. DeMayo asked why Mr. Hollister's clients were not present. Attorney Hollister indicated that they were present on Zoom. Attorney Hollister indicated that Attorney Coppola had given him three proposed changes. He did not understand one of them because he is not an engineer. The second one he knows his clients do not agree with which is the up to 100 percent two-car garages.

Mr. DeMayo asked Attorney Coppola to read where it says 100 percent. Attorney Coppola read the relevant section.

Mr. DeMayo reiterated that it said nothing about 100 percent. He went on further to comment that Attorney Hollister had referenced wanting an option regarding the one- or two-car garage due to the location of the dwellings on the semi-circle.

Mr. Cubelotti said the issues are the garages. It's just the same thing as the blasting which Attorney Hollister was unsure of.

Attorney Hollister stated that he did not have the authority to consent to the changes. He had to consult with his clients.

Mr. Tarducci asked if Mr. Hollister could reach his clients by phone. Attorney Hollister responded in the affirmative. However, he would need his engineer as well.

Ms. Asid commented that she thought that Attorney Hollister was going to speak about other proposed changes.

Attorney Hollister stated that there were issues about the road profile, garage percentages and the concrete curbing. He could not sign off on these right now.

Mr. Cubelotti commented that this could be tabled until the Commission's February meeting.

Mr. DeMayo opined that the Commission was beating this to death. He asked how binding the Stipulated Judgment is.

Attorney Coppola indicated that the plaintiffs have to comply with the regulations itself. Attorney Hollister has a real concern and has to speak with his clients.

Mr. DeMayo indicated that he could respect that. Conversely, can we reject it? Let's say we cannot agree with the stipulated settlement?

Attorney Coppola replied by saying that then the case is not settled. So, there would be no agreement.

Mr. Cubelotti indicated that Attorney Hollister should have an opportunity to speak with his client.

**Ms. Asid motioned to continue the consideration of the Stipulated Judgment approval till the Commission's next meeting in February to give all parties time to convene and determine their agreeability to the items discussed here. Said motion was seconded by Mr. Cubelotti. The motion passed unanimously.**

#### **IV. Adjournment**

**Mr. Fusco motioned to adjourn. Said motion was seconded by Mr.**

**Cubelotti. The motion passed unanimously.**

The next scheduled special meeting is on February 2, 2022.  
The Board adjourned at 9:46 p.m.

Respectfully Submitted,

Sotonye Otunba-Payne