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**Town of Cromwell  
Planning and Zoning Commission**

*Janet Alquist*  
TOWN CLERK

**REGULAR MEETING  
7:00 P.M. TUESDAY AUGUST 15, 2017  
ROOM 224 CROMWELL TOWN HALL 41 WEST STREET  
AGENDA**

1. **Call to Order**
2. **Roll Call**
3. **Seating of Alternates**
4. **Approval of Agenda**
5. **Public Comments**
6. **Development Compliance Officer Report:**
7. **Town Planner Report:**
9. **New Business Accept and Schedule New Application:**
  - a. Application #17-32: Request for an Erosion and Control Plan for 120 County Line Drive. Arco National Construction is the Applicant and Gardner Nurseries is the Owner.
  - b. Application #17-33: Request to Operate a Minor Home-Based Business at 48 South Street. Christopher Panebianco is the Applicant and the Owner.
10. **Public Hearing:**
  - a. Application #17-22: Request for Site Plan Approval for Center Point Apartments (an Affordable Housing Application) at 186 Shunpike Road. JPG Partners, Inc. is the Applicant and the Estate of Helen M. Ewald c/o Sybil C. Martin Executrix is the Owner.
11. **Commissioner's Comments:**
12. **Approval of Minutes:**
  - a. August 1, 2017
13. **Adjourn**

# Memo

To: Planning & Zoning  
From: Fred Curtin  
Date: August 8, 2017  
Re: August 2017 Activity Report

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6 Kirby Road – Site is in compliance with the Barber Shop site plan. Buffer restored.

95 Court Street – Commercial vehicle and trailer removed.

75 Field Road – Special Permit Application sent to property owner for the Commercial Vehicle and Trailer.

95 Berlin Road – Car Wash – A Notice of Violation and Citation was issued to the property owner for failure to comply with the approved Site Plan.

<b>P &amp; Z Permits 2017</b>						
<b>Permit#</b>	<b>Name of Applicant</b>	<b>Site Location</b>	<b>Type of Activity</b>	<b>Decision Date</b>	<b>Status</b>	
17-01	Greater Hartford Comm. Foundation	One Golf Club Road	Travelers Championship	Approved with conditions 2/2/17	Event over	
17-02	Town of Cromwell		Amend Section 1.7 of the Zoning Regulations	Approved 3/7/2017		
17-03	Jonathan Gerolami	321/323 Main Street	Recreation games	Approved by ZEO 1/20/2017	Open for Business	
17-04	Sommer Nelson	547 Main Street	VCA Cromwell Animal Hospital- Dog Training classes	Approved by ZEO 1/27/2017	Open for classes	
17-05	Michael Santangelo	17 Jennerifer Lane	Oversized Garage	Approved 3/21/2017	Complete	
17-06	Town of Cromwell - Public Works Dept.	Willowbrook Rd at 372	Roadway reconstruction filling within flood hazard area	Approved 3/21/2017	No Activity	
17-07	Town of Cromwell	Willowbrook Rd. (South end)	Widening & pavement rehabilitation	Approved 3/21/2017	No Activity	
17-08	Stanley Jasiecki	33 Shadow Lane	Leanto Greenhouse	Approved with conditions 3/21/2017	Work in progress	
17-09	Edward Alnas	136 Berlin Road	Pizzapie Restaurant	Approved by ZEO 3/3/2017	Work in progress	

Permit #	Name of Applicant	Site Location	Type of Activity	Decision Date	Status
17-10	Two Men & a truck	70 County Line Drive	Proposed Building	Approved 4/18/17	No Activity
17-11	C & G Holdings II, LLC	Lots 6 & 7 Commerce Dr.	Resubdivision	Approved with conditions 6/6/17	
17-12	Lisa DiMichele	6 Kirby Road	Caffe Vernazza, Emporium	Withdrawn	
17-13	Chris Cambareri	Country Squire Drive	Military Simulation	Approved by ZEO 4/17/2017	Event over
17-14	Autumn Lake of Cromwell	385 Main Street	Install new signs	Approved 5/16/2017	Complete
17-15	Keystone Novelities	113 Berlin Road	Temp Fireworks Retail	Approved 5/2/17	Event over
17-16	Kevin Reed	town wide	Amenda reg 3.5.C.4 to add pet day care	Approved 5/16/2017	
17-17	Fire Dept. Michael Terenzio	105 Coles Road	Mother's day flower dales	Approved by ZEO 4/16/17	Event over
17-18	Lisa DiMichele	6 Kirby Road	SP Mod. To install parking spaces	Denied 7/18/2017	
17-19	Paraco Gas	Krauszers/117 Berlin Road	Propane tanks & cage	App/cond 6/6/17	No Activity
17-20	Middlesex Counseling Center	1 Willowbrook Suite 6	Family Counseling	Approved by ZEO 5/15/2017	No Activity
17-21	Town of Cromwell	Town wide	Amend sections 3.2.3 and Section 3.3.4	Approved 6/6/2017	



<b>P &amp; Z Permits 2016</b>					
<b>Permit #</b>	<b>Name of Applicant</b>	<b>Site Location</b>	<b>Type of Activity</b>	<b>Decision Date</b>	<b>Status</b>
16-01	Town of Cromwell	9 Capt. James Mann Memorial Drive	Watrous Park Splash Pad	Approved with conditions 1/5/16	Complete
16-02	Frank Acheampong	538 Main Street	Clothing Bin for Non Profit	Withdrawn	Withdrawn
16-03	Meghan Burt	199 Shunpike Road	Next Level Fitness Personal Training	Approved by ZEO 1/25/16	Open for business
16-04	Merritt Construction LLC	136 Berlin Road	Center for Vein Restoration	Approved by ZEO 1/25/16	Complete
16-05	Premier Partners Assoc.	192 Shunpike Road	Subdivision	Approved 4/19/16	
16-06	Applicant did not need to go to P&Z therefore # not used				
16-07	Town of Cromwell	9 Capt. James Mann Memorial Drive	Raymond Place area-improvements to Town Rds.		90% Complete
16-08	Use #16-13 instead				
16-09	Greater Hartford Community Foundation	100 Golf Club Road	Travelers Championship	Approved with conditions 4/19/16	Event over
16-10	Pinewood Landscaping, LLC	302 Main Street	Site Plan Modification	Approved 4/19/16	Sign Complete
16-11	Christian Plummer Plummer All Season Landscaping	224 Shunpike Road	Landscaping/Retail Sales	Approved 4/19/16	Open for Business
16-12	Michael Salonia Cromwell Fire Department	105 Coles Road	Flower sale for Mother's Day and Christmas Trees	Approved 4/19/16	Event over

Permit#	Name of Applicant	Site Location	Type of Activity	Decision Date	Status
16-13	Town of Cromwell	Raymond Place Neighborhood	Roadway and Drainage Improvements	Approved 4/19/16	90% Complete
16-14	Town of Cromwell	41 West Street	Modify Site Plan for Parking Lot Expansion	Approved 4/19/16	Complete
16-15	Luca DiMichele	6 Kirby Road	Barbershop	Approved by ZEO 4/7/16	Complete
16-16	National Sign	4 Sebethe Road	Chili Signage	Approved 5/03/16	Complete
16-17	Dana Woods	11 Applewood Road	Add fill to yard	Approved 5/9/16 by ZEO	Complete
16-18	Keystone Novelties	111-113 Berlin Road	Temporary tent for fireworks	Approved by ZEO 6/21/16	Event over
16-19	John Vignone	84 North Road	Garage & shed over 1000 square feet	Approved 6/21/16	Complete
16-20	Elias DiMichele	6 Kirby Road	Parking lot modification	Approved 7/19/16	Handicapped ramp complete
16-21	Tatiana DeJesus	45 Shunpike Road	Sale of Fireworks	Approved by ZEO 5/24/16	Event over
16-22	Paul Zigmont	138 Coles Road	Construct oversized garage	Approved 7/19/16	Complete
16-23	Paraco Gas	538 Main Street	BBQ - Exchange	Approved 6/21/16	Complete
16-24	Town of Cromwell	Prospect Hill Road	Valor Green Improvements	Approved 6/7/16	Work in progress
16-25	Town of Cromwell	85 Coles Road	Walking Trail	Approved 6/7/16	Work in progress
16-26	Paraco Gas/S. Taylor	72 West Street	Propane Exchange Program	Withdrawn 6/7/16	Withdrawn

Permit#	Name of Applicant	Site Location	Type of Activity	Decision Date	Status
16-27	Maria Ceccacci	76 Berlin Road	Advanced Auto Parts	Approved 7/19/16	No Activity
16-28	P & Z Commission	Zoning Regs.	Amend Sections 7.1A3 (1) (2) and 10.4E.2	Approved 7/19/16	
16-29	Three Sons Realty Pride Corner Farms, Inc.	600 Main Street	Millane Nurseries	Approved 7/19/16	Open for business
16-30	Three Sons Realty Pride Corner Farms, Inc.	600 Main Street	Millane Nurseries	Approved 7/19/16	Open for business
16-31	Mukesh A. Patel	164 West Street	Proposed Bldg. Conversion - Retail Store	Approved with conditions 9/20/16	Work in progress
16-32	Walmart Real Estate Trust	161 Berlin Road	Add seasonal storage trailers in parking lot	Approved with conditions 10/18/16	Event over
16-33	Victor Torza	180 Sebehe Drive	Outside Halloween Party	Approved 10/4/2016	Event over
16-34	Allan Spotts	321R Main Street	Cromwell Rep. Town Committee Headquarters	Approved by ZEO 9/9/16	Event over
16-35	Fibredust Realty LLC	30 New Lane	Site Plan Modification for outdoor storage	Denied 10/4/16	
16-36	Rodnella Realty LLC	241 and 251 Main Street	Amend zoning map	Approved 10/18/16	
16-37	Blue Rhino of New England	207 West Street	Outside storage and sale of propane tanks	Approved 10/18/16	Tanks installed
Permit #	Name of Applicant	Site Location	Type of Activity	Decision Date	Status



16-38	Julie Cranick	199 Shunpike Road	Stretch Fitness	Approved by ZEO 10/7/16	Open for Business
16-39	Sign Pro Inc.	14 Hillside Road	Site Plan Modification for installation of signs	Accepted & Approved 10/18/16	Complete
16-40	Sign Pro Inc.	1000 Corporate Row	Site Plan Modification for installation of signs	Accepted & Approved 10/18/16	Complete
16-41	Joseph Moruizzi	199 Shunpike Road	Energy Zone Fitness	Approved by staff 10/7/16	Open for business
16-42	Bishop's Automotive	140 Berlin Road	Replace signs with LED	Approved 12/6/2016	
16-43	Scovill Landscape	25 Cider Hill Road	Fill - level backyard	Approved by ZEO 11/9/2016	Complete
16-44	Tressan Gengler	588 Main Street	Oversized garage	Approved 12/6/2016	No Activity
16-45	Planning & Zoning Comm.	Industrial Zone District	Section 3.5.C.4 Permit for sale & consumption of alcoholic beverages in ID Zone	Approved 3/7/2017	
16-46	Planning & Zoning Comm.	Industrial Zone District	Section 7.5, 7.5A, 7.5B Location requirements for alcoholic beverages in ID zone	Approved 3/7/2017	
16-47	Planning & Zoning Comm.	Industrial Zone District	Section 3.5.C.4 Special Permit for sales and small engine repairs	Approved 3/21/2017	
16-48	NGA Nguyen	25 Shunpike Road	3,500sf Retail Building	Approved 1/17/17	Work in progress
16-49	NGA Nguyen	25 Shunpike Road	New Building	Approved 1/17/17	Work in progress

# Memo

**To:** Planning and Zoning Commission  
**From:** Stuart B. Popper, AICP  
Director of Planning and Development  
**Date:** August 8, 2017  
**Re:** Comments for the August 15, 2017 Meeting Agenda

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## 9. New Business Accept and Schedule New Application:

a. Application #17-32: Request for an Erosion and Control Plan for 120 County Line Drive. Arco National Construction is the Applicant and Gardner Nurseries is the Owner. *The 27.88 acre undeveloped site is located on the end of County Line Drive in the Industrial Zone District. The applicant is proposing to grade the site for future development. Staff is requesting that the Commission accept the application at the August 15, 2017 meeting and consider acting upon it that evening.*

b. Application #17-33: Request to Operate a Minor Home-Based Business at 48 South Street. Christopher Panebianco is the Applicant and the Owner. *The .40 acre site is located on the north side of South Street in the R-15 Zone District and contains an existing single family house. The applicant is requesting to operate a minor home-based business for firearm repair. Staff is requesting that the Commission accept the application at the August 15, 2017 meeting and consider acting upon it that evening.*

## 10. Public Hearing:

a. Application #17-22: Request for Site Plan Approval for Center Point Apartments (an Affordable Housing Application) at 186 Shunpike Road. JPG Partners, Inc. is the Applicant and the Estate of Helen M. Ewald c/o Sybil C. Martin Executrix is the Owner. *The 4.66 acre undeveloped site is located on the east side of Shunpike Road and the north side of Court Street in the Local Business Zone District. The Applicant has submitted an application under Section 8-30g. of the Connecticut General Statutes. The plans call for the construction of two four story buildings containing 44 residential units in each building. There will be two single story buildings containing two units each. The site will contain 138 parking spaces. Access to the site will be from Court Street and Shunpike Road. A copy of the site plan, the building elevations and Set-Aside Housing Development Affordability Plan are included in the packet. Also attached is a copy of Section 8-30g. of the Connecticut General Statutes.*

Sec. 8-30g. Affordable housing land use appeals procedure. Definitions. Affordability plan; regulations. Conceptual site plan. Maximum monthly housing cost. Percentage-of-income requirement. Appeals. Modification of application. Commission powers and remedies. Exempt municipalities. Moratorium. Model deed restrictions. (a) As used in this section:

(1) "Affordable housing development" means a proposed housing development which is (A) assisted housing, or (B) a set-aside development;

(2) "Affordable housing application" means any application made to a commission in connection with an affordable housing development by a person who proposes to develop such affordable housing;

(3) "Assisted housing" means housing which is receiving, or will receive, financial assistance under any governmental program for the construction or substantial rehabilitation of low and moderate income housing, and any housing occupied by persons receiving rental assistance under chapter 319uu or Section 1437f of Title 42 of the United States Code;

(4) "Commission" means a zoning commission, planning commission, planning and zoning commission, zoning board of appeals or municipal agency exercising zoning or planning authority;

(5) "Municipality" means any town, city or borough, whether consolidated or unconsolidated;

(6) "Set-aside development" means a development in which not less than thirty per cent of the dwelling units will be conveyed by deeds containing covenants or restrictions which shall require that, for at least forty years after the initial occupation of the proposed development, such dwelling units shall be sold or rented at, or below, prices which will preserve the units as housing for which persons and families pay thirty per cent or less of their annual income, where such income is less than or equal to eighty per cent of the median income. In a set-aside development, of the dwelling units conveyed by deeds containing covenants or restrictions, a number of dwelling units equal to not less than fifteen per cent of all dwelling units in the development shall be sold or rented to persons and families whose income is less than or equal to sixty per cent of the median income and the remainder of the dwelling units conveyed by deeds containing covenants or restrictions shall be sold or rented to persons and families whose income is less than or equal to eighty per cent of the median income;

(7) "Median income" means, after adjustments for family size, the lesser of the state median income or the area median income for the area in which the municipality containing the affordable housing development is located, as determined by the United States Department of Housing and Urban Development; and

(8) "Commissioner" means the Commissioner of Housing.

(b) (1) Any person filing an affordable housing application with a commission shall submit, as part of the application, an affordability plan which shall include at least the following: (A) Designation of the person, entity or agency that will be responsible for the duration of any affordability restrictions, for the administration of the affordability plan and its compliance with the income limits and sale price or rental restrictions of this chapter; (B) an affirmative fair housing marketing plan governing the sale or rental of

all dwelling units; (C) a sample calculation of the maximum sales prices or rents of the intended affordable dwelling units; (D) a description of the projected sequence in which, within a set-aside development, the affordable dwelling units will be built and offered for occupancy and the general location of such units within the proposed development; and (E) draft zoning regulations, conditions of approvals, deeds, restrictive covenants or lease provisions that will govern the affordable dwelling units.

(2) The commissioner shall, within available appropriations, adopt regulations pursuant to chapter 54 regarding the affordability plan. Such regulations may include additional criteria for preparing an affordability plan and shall include: (A) A formula for determining rent levels and sale prices, including establishing maximum allowable down payments to be used in the calculation of maximum allowable sales prices; (B) a clarification of the costs that are to be included when calculating maximum allowed rents and sale prices; (C) a clarification as to how family size and bedroom counts are to be equated in establishing maximum rental and sale prices for the affordable units; and (D) a listing of the c (c) Any commission, by regulation, may require that an affordable housing application seeking a change of zone shall include the submission of a conceptual site plan describing the proposed development's total number of residential units and their arrangement on the property and the proposed development's roads and traffic circulation, sewage disposal and water supply.

(d) For any affordable dwelling unit that is rented as part of a set-aside development, if the maximum monthly housing cost, as calculated in accordance with subdivision (6) of subsection (a) of this section, would exceed one hundred per cent of the Section 8 fair market rent as determined by the United States Department of Housing and Urban Development, in the case of units set aside for persons and families whose income is less than or equal to sixty per cent of median income, then such maximum monthly housing cost shall not exceed one hundred per cent of said Section 8 fair market rent. If the maximum monthly housing cost, as calculated in accordance with subdivision (6) of subsection (a) of this section, would exceed one hundred twenty per cent of the Section 8 fair market rent, as determined by the United States Department of Housing and Urban Development, in the case of units set aside for persons and families whose income is less than or equal to eighty per cent of median income, then such maximum monthly housing cost shall not exceed one hundred twenty per cent of such Section 8 fair market rent.

(e) For any affordable dwelling unit that is rented in order to comply with the requirements of a set-aside development, no person shall impose on a prospective tenant who is receiving governmental rental assistance a maximum percentage-of-income-for-housing requirement that is more restrictive than the requirement, if any, imposed by such governmental assistance program.

(f) Any person whose affordable housing application is denied, or is approved with restrictions which have a substantial adverse impact on the viability of the affordable housing development or the degree of affordability of the affordable dwelling units in a set-aside development, may appeal such decision pursuant to the procedures of this section. Such appeal shall be filed within the time period for filing appeals as set forth in section 8-8, 8-9, 8-28 or 8-30a, as applicable, and shall be made returnable to the superior court for the judicial district where the real property which is the subject of the application is located. Affordable housing appeals, including pretrial motions, shall be heard by a judge assigned by

the Chief Court Administrator to hear such appeals. To the extent practicable, efforts shall be made to assign such cases to a small number of judges, sitting in geographically diverse parts of the state, so that a consistent body of expertise can be developed. Unless otherwise ordered by the Chief Court Administrator, such appeals, including pretrial motions, shall be heard by such assigned judges in the judicial district in which such judge is sitting. Appeals taken pursuant to this subsection shall be privileged cases to be heard by the court as soon after the return day as is practicable. Except as otherwise provided in this section, appeals involving an affordable housing application shall proceed in conformance with the provisions of said section 8-8, 8-9, 8-28 or 8-30a, as applicable.

(g) Upon an appeal taken under subsection (f) of this section, the burden shall be on the commission to prove, based upon the evidence in the record compiled before such commission, that the decision from which such appeal is taken and the reasons cited for such decision are supported by sufficient evidence in the record. The commission shall also have the burden to prove, based upon the evidence in the record compiled before such commission, that (1) (A) the decision is necessary to protect substantial public interests in health, safety or other matters which the commission may legally consider; (B) such public interests clearly outweigh the need for affordable housing; and (C) such public interests cannot be protected by reasonable changes to the affordable housing development, or (2) (A) the application which was the subject of the decision from which such appeal was taken would locate affordable housing in an area which is zoned for industrial use and which does not permit residential uses; and (B) the development is not assisted housing, as defined in subsection (a) of this section. If the commission does not satisfy its burden of proof under this subsection, the court shall wholly or partly revise, modify, remand or reverse the decision from which the appeal was taken in a manner consistent with the evidence in the record before it.

(h) Following a decision by a commission to reject an affordable housing application or to approve an application with restrictions which have a substantial adverse impact on the viability of the affordable housing development or the degree of affordability of the affordable dwelling units, the applicant may, within the period for filing an appeal of such decision, submit to the commission a proposed modification of its proposal responding to some or all of the objections or restrictions articulated by the commission, which shall be treated as an amendment to the original proposal. The day of receipt of such a modification shall be determined in the same manner as the day of receipt is determined for an original application. The filing of such a proposed modification shall stay the period for filing an appeal from the decision of the commission on the original application. The commission shall hold a public hearing on the proposed modification if it held a public hearing on the original application and may hold a public hearing on the proposed modification if it did not hold a public hearing on the original application. The commission shall render a decision on the proposed modification not later than sixty-five days after the receipt of such proposed modification, provided, if, in connection with a modification submitted under this subsection, the applicant applies for a permit for an activity regulated pursuant to sections 22a-36 to 22a-45, inclusive, and the time for a decision by the commission on such modification under this subsection would lapse prior to the thirty-fifth day after a decision by an inland wetlands and watercourses agency, the time period for decision by the commission on the modification under this subsection shall be extended to thirty-five days after the decision of such agency. The commission shall

issue notice of its decision as provided by law. Failure of the commission to render a decision within said sixty-five days or subsequent extension period permitted by this subsection shall constitute a rejection of the proposed modification. Within the time period for filing an appeal on the proposed modification as set forth in section 8-8, 8-9, 8-28 or 8-30a, as applicable, the applicant may appeal the commission's decision on the original application and the proposed modification in the manner set forth in this section. Nothing in this subsection shall be construed to limit the right of an applicant to appeal the original decision of the commission in the manner set forth in this section without submitting a proposed modification or to limit the issues which may be raised in any appeal under this section.

(i) Nothing in this section shall be deemed to preclude any right of appeal under the provisions of section 8-8, 8-9, 8-28 or 8-30a.

(j) A commission or its designated authority shall have, with respect to compliance of an affordable housing development with the provisions of this chapter, the same powers and remedies provided to commissions by section 8-12.

(k) Notwithstanding the provisions of subsections (a) to (j), inclusive, of this section, the affordable housing appeals procedure established under this section shall not be available if the real property which is the subject of the application is located in a municipality in which at least ten per cent of all dwelling units in the municipality are (1) assisted housing, or (2) currently financed by Connecticut Housing Finance Authority mortgages, or (3) subject to binding recorded deeds containing covenants or restrictions which require that such dwelling units be sold or rented at, or below, prices which will preserve the units as housing for which persons and families pay thirty per cent or less of income, where such income is less than or equal to eighty per cent of the median income, or (4) mobile manufactured homes located in mobile manufactured home parks or legally approved accessory apartments, which homes or apartments are subject to binding recorded deeds containing covenants or restrictions which require that such dwelling units be sold or rented at, or below, prices which will preserve the units as housing for which, for a period of not less than ten years, persons and families pay thirty per cent or less of income, where such income is less than or equal to eighty per cent of the median income. The municipalities meeting the criteria set forth in this subsection shall be listed in the report submitted under section 8-37qqq. As used in this subsection, "accessory apartment" means a separate living unit that (A) is attached to the main living unit of a house, which house has the external appearance of a single-family residence, (B) has a full kitchen, (C) has a square footage that is not more than thirty per cent of the total square footage of the house, (D) has an internal doorway connecting to the main living unit of the house, (E) is not billed separately from such main living unit for utilities, and (F) complies with the building code and health and safety regulations.

(l) (1) Notwithstanding the provisions of subsections (a) to (j), inclusive, of this section, the affordable housing appeals procedure established under this section shall not be applicable to an affordable housing application filed with a commission during a moratorium, which shall be the four-year period after (A) a certification of affordable housing project completion issued by the commissioner is published in the Connecticut Law Journal, or (B) after notice of a provisional approval is published

pursuant to subdivision (4) of this subsection. Any moratorium that is in effect on October 1, 2002, is extended by one year.

(2) Notwithstanding the provisions of this subsection, such moratorium shall not apply to (A) affordable housing applications for assisted housing in which ninety-five per cent of the dwelling units are restricted to persons and families whose income is less than or equal to sixty per cent of median income, (B) other affordable housing applications for assisted housing containing forty or fewer dwelling units, or (C) affordable housing applications which were filed with a commission pursuant to this section prior to the date upon which the moratorium takes effect.

(3) Eligible units completed after a moratorium has begun may be counted toward establishing eligibility for a subsequent moratorium.

(4) (A) The commissioner shall issue a certificate of affordable housing project completion for the purposes of this subsection upon finding that there has been completed within the municipality one or more affordable housing developments which create housing unit-equivalent points equal to the greater of two per cent of all dwelling units in the municipality, as reported in the most recent United States decennial census, or seventy-five housing unit-equivalent points.

(B) A municipality may apply for a certificate of affordable housing project completion pursuant to this subsection by applying in writing to the commissioner, and including documentation showing that the municipality has accumulated the required number of points within the applicable time period. Such documentation shall include the location of each dwelling unit being counted, the number of points each dwelling unit has been assigned, and the reason, pursuant to this subsection, for assigning such points to such dwelling unit. Upon receipt of such application, the commissioner shall promptly cause a notice of the filing of the application to be published in the Connecticut Law Journal, stating that public comment on such application shall be accepted by the commissioner for a period of thirty days after the publication of such notice. Not later than ninety days after the receipt of such application, the commissioner shall either approve or reject such application. Such approval or rejection shall be accompanied by a written statement of the reasons for approval or rejection, pursuant to the provisions of this subsection. If the application is approved, the commissioner shall promptly cause a certificate of affordable housing project completion to be published in the Connecticut Law Journal. If the commissioner fails to either approve or reject the application within such ninety-day period, such application shall be deemed provisionally approved, and the municipality may cause notice of such provisional approval to be published in a conspicuous manner in a daily newspaper having general circulation in the municipality, in which case, such moratorium shall take effect upon such publication. The municipality shall send a copy of such notice to the commissioner. Such provisional approval shall remain in effect unless the commissioner subsequently acts upon and rejects the application, in which case the moratorium shall terminate upon notice to the municipality by the commissioner.

(5) For purposes of this subsection, "elderly units" are dwelling units whose occupancy is restricted by age and "family units" are dwelling units whose occupancy is not restricted by age.

(6) For purposes of this subsection, housing unit-equivalent points shall be determined by the commissioner as follows: (A) No points shall be awarded for a unit unless its occupancy is restricted to persons and families whose income is equal to or less than eighty per cent of median income, except that unrestricted units in a set-aside development shall be awarded one-fourth point each. (B) Family units restricted to persons and families whose income is equal to or less than eighty per cent of median income shall be awarded one point if an ownership unit and one and one-half points if a rental unit. (C) Family units restricted to persons and families whose income is equal to or less than sixty per cent of median income shall be awarded one and one-half points if an ownership unit and two points if a rental unit. (D) Family units restricted to persons and families whose income is equal to or less than forty per cent of median income shall be awarded two points if an ownership unit and two and one-half points if a rental unit. (E) Elderly units restricted to persons and families whose income is equal to or less than eighty per cent of median income shall be awarded one-half point. (F) A set-aside development containing family units which are rental units shall be awarded additional points equal to twenty-two per cent of the total points awarded to such development, provided the application for such development was filed with the commission prior to July 6, 1995.

(7) Points shall be awarded only for dwelling units which were (A) newly-constructed units in an affordable housing development, as that term was defined at the time of the affordable housing application, for which a certificate of occupancy was issued after July 1, 1990, or (B) newly subjected after July 1, 1990, to deeds containing covenants or restrictions which require that, for at least the duration required by subsection (a) of this section for set-aside developments on the date when such covenants or restrictions took effect, such dwelling units shall be sold or rented at, or below, prices which will preserve the units as affordable housing for persons or families whose income does not exceed eighty per cent of median income.

(8) Points shall be subtracted, applying the formula in subdivision (6) of this subsection, for any affordable dwelling unit which, on or after July 1, 1990, was affected by any action taken by a municipality which caused such dwelling unit to cease being counted as an affordable dwelling unit.

(9) A newly-constructed unit shall be counted toward a moratorium when it receives a certificate of occupancy. A newly-restricted unit shall be counted toward a moratorium when its deed restriction takes effect.

(10) The affordable housing appeals procedure shall be applicable to affordable housing applications filed with a commission after a three-year moratorium expires, except (A) as otherwise provided in subsection (k) of this section, or (B) when sufficient unit-equivalent points have been created within the municipality during one moratorium to qualify for a subsequent moratorium.

(11) The commissioner shall, within available appropriations, adopt regulations in accordance with chapter 54 to carry out the purposes of this subsection. Such regulations shall specify the procedure to be followed by a municipality to obtain a moratorium, and shall include the manner in which a municipality is to document the units to be counted toward a moratorium. A municipality may apply for



a moratorium in accordance with the provisions of this subsection prior to, as well as after, such regulations are adopted.

(m) The commissioner shall, pursuant to regulations adopted in accordance with the provisions of chapter 54, promulgate model deed restrictions which satisfy the requirements of this section. A municipality may waive any fee which would otherwise be required for the filing of any long-term affordability deed restriction on the land records.

(P.A. 88-230, S. 1, 12; 89-311, S. 1, 4; P.A. 90-98, S. 1, 2; P.A. 93-142, S. 4, 7, 8; P.A. 95-250, S. 1; 95-280, S. 1, 3; P.A. 96-211, S. 1, 5, 6; June Sp. Sess. P.A. 98-1, S. 84; P.A. 99-261, S. 1-3; P.A. 00-206, S. 1; P.A. 02-87, S. 1, 3, 4; P.A. 05-191, S. 2; P.A. 10-32, S. 18; June 12 Sp. Sess. P.A. 12-2, S. 46; P.A. 13-234, S. 11, 150.)

History: P.A. 89-311 effective July 1, 1990 (Revisor's note: P.A. 88-230 authorized substitution of "judicial district of Hartford" for "judicial district of Hartford-New Britain" in all 1989 public and special acts, effective September 1, 1991); P.A. 90-98 changed the effective date of P.A. 88-230 from September 1, 1991, to September 1, 1993; P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; P.A. 95-250 and P.A. 96-211 replaced Commissioner and Department of Housing with Commissioner and Department of Economic and Community Development; P.A. 95-280 amended Subsec. (a) to revise the definition of "affordable housing development" to require 25% of units rather than 20% be affordable for 30 rather than 20 years and to add provision that income of eligible persons or families may be 80% of the state median income; amended Subsec. (b) to change appeal to the judicial district where the real property is located instead of the Hartford-New Britain district and amended Subsec. (c) to add provision placing burden of proof on the commission to show that the application would locate affordable housing in an industrial area not zoned for housing and that development is not assisted housing and made technical changes, effective July 6, 1995, and applicable to affordable housing applications pending on that date for which the commission has not rendered a decision; June Sp. Sess. P.A. 98-1 amended Subsec. (a) by making a technical change; P.A. 99-261 amended Subsec. (a) by adding that for at least 30 years after the initial occupation of the proposed development the dwelling units shall be sold or rented at, or below, prices which will preserve the units as affordable housing, and by adding the requirement that 10% of the deed-restricted units be set aside for families at or below 60% of the area median income, effective June 29, 1999, and amended Subsec. (b) by adding further specification as to where all appeals, including pretrial motions, shall be heard (Revisor's note: In codifying Subsec. (a) the Revisors editorially deleted the designator "(i)" from the phrase "... of the proposed development, (i) such dwellings ..." to reflect the deletion of "(ii)" by floor amendment to sHB 6834); P.A. 00-206 amended Subsec. (a) to redefine "affordable housing development" and to add definitions in Subdivs. (6) to (8), inserted new Subsecs. (b) to (e), inclusive, re affordability plan, conceptual site plan, maximum monthly housing cost and maximum percentage-of-income-for-housing requirement, respectively, relettered former Subsecs. (b) to (e) as Subsecs. (f) to (i), amended Subsec. (g) re commission's burden of proof, amended Subsec. (h) to add language re commission procedures to deal with modifications to applications and increase from 45 to 65 days the time period within which the commission must act, added new Subsec. (j) re powers and remedies of commission under this chapter, relettering former Subsec. (f) as (k) and adding

requirement that commissioner use the most recent U.S. census, deleted former Subsec. (g) re certificate of affordable housing project completion and added Subsec. (l) re moratorium; P.A. 02-87 amended Subsec. (k) by adding "binding recorded" in Subdiv. (3), adding Subdiv. (4) re mobile manufactured homes and accessory apartments, defining "accessory apartment" and making technical changes, amended Subsec. (l)(1) to extend moratorium period from 3 years to 4 years and add provision re extension of moratorium in effect and added Subsec. (m) re model deed restrictions; P.A. 05-191 amended Subsec. (k) by requiring municipalities meeting criteria to be listed in report submitted under Sec. 32-1m instead of in regulations, and eliminating authority for regulations and requirement re denominator to be used in determining percentage required by subsection; P.A. 10-32 made technical changes in Subsecs. (f), (h) and (i), effective May 10, 2010; June 12 Sp. Sess. P.A. 12-2 made technical changes in Subsecs. (f) and (g); P.A. 13-234 amended Subsec. (a)(8) by redefining "commissioner" and amended Subsec. (k) by replacing reference to Sec. 32-1m with reference to Sec. 8-37qqq re report, effective July 1, 2013.

Court held that legislature intended statute's appeals procedure to apply to defendant's legislative decision to grant or deny a zone change in connection with an affordable housing proposal. 228 C. 498. Cited. 232 C. 122. Denial by planning commission of master plan for affordable housing development does not invalidate appeal of decision by zoning commission denying proposed changes to zoning regulations and map because viability of such changes not dependent on viability of such master plan. 271 C. 1. Denial of sewer application by water pollution control authority is valid reason for denial of subdivision application for affordable housing development by the planning commission and commission has no authority to approve subdivision application on condition sewer application is approved. *Id.*, 41.

The narrow rigorous standard of section dictates that commission cannot deny an application on broad grounds such as noncompliance with zoning. 37 CA 303. Cited. *Id.*, 788. Court construed language of section to apply to every type of application filed with a commission in connection with an affordable housing project whether application is submitted to change zoning at a particular site or to build affordable housing on land previously zoned for that purpose. 42 CA 94. Burden of proof on commission to show by specific evidence that denial was necessary to protect substantial public interests in health and safety or that public interests clearly outweighed need for affordable housing. 59 CA 608. Statute requires applicant in an affordable housing appeal to prove that he or she is aggrieved pursuant to Sec. 8-8(b). 66 CA 631.

Subsec. (a):

Plaintiff's floating zone creation application and its accompanying single page conceptual site plan failed to satisfy definitional requirement to be considered an "affordable housing development" because it failed to demonstrate that it received or should be receiving financial assistance under any governmental program for its development and, in the alternative, the conceptual site plan also did not indicate an intention to restrict the deed language in accordance with the definitional language in section. 142 CA 300.

Subsec. (f) (former Subsec. (b)):

Statute provides no right of direct appeal to Appellate Court from a final judgment of Superior Court and, as in other zoning cases, such an appeal requires certification by Appellate Court as required in Sec. 8-8(o). 245 C. 257.

To have statutory standing to bring an affordable housing appeal under Subsec., plaintiff was required to establish that defendant's approval of plan with modifications created a substantial adverse impact either on the viability of the planned affordable housing development or on the degree of affordability of the planned units. 139 CA 256.

Subsec. (g) (former Subsec. (c)):

When a town renders a decision, it shall identify those specific public interests that it seeks to protect by the decision; Subparas. (B), (C) and (D) of Subdiv. (1) require the same defendant's burden as Subpara. (A), namely, to establish that decision and reasons cited therein are supported by sufficient evidence in the record; court's function in an appeal is to apply the scope of judicial review as expressed in Subparas. (A), (B), (C) and (D) to the pertinent determinations made by zoning commission; Subpara. (A) states the general scope of review, drawn from traditional zoning principles, that applies to Subparas. (B), (C) and (D); each of the Subparas. in Subdiv. (1) embodies the "sufficient evidence" standard; judicial review must be based on the zoning record returned to the court, not on the basis of a trial de novo; need for affordable housing is determined by the need for such housing in the local community, not by regional or statewide housing needs. 249 C. 566. Legislature intended that commission bear burden of proving that the public interest cannot be protected by reasonable changes to applicant's proposed development and such burden is not inconsistent with Sec. 22a-19. 256 C. 674. Statute requires board to make a collective statement of its reasons on the record when it denies an affordable housing land use application, including a denial based on the industrial zone exemption. 259 C. 675. Application of legal standards set forth in Subsec. is mixed question of law and fact subject to plenary review by court and the court is not limited to review of commission decision to determine if supported by sufficient evidence. 271 C. 1. Trial court's remand order to defendant zoning commission was not an appealable final judgment in a matter where remand order required commission to conduct further evidentiary proceedings and thereafter commission retained discretion to grant or deny plaintiff's application. 284 C. 124.

The goals of affordable housing can be satisfied by conditional approvals; since a conditional approval can protect against the risk of harm to the public interests, it was proper for the trial court to order commission to grant plaintiff's amended application on condition that plaintiff obtain approval from the water pollution authority, even if there was no evidence that the other agency would act favorably. 124 CA 379. Court has power to correct application defects arising from noncompliance with statutory requirements, and is not limited to defects re municipal regulations. 125 CA 665. In reviewing affordable housing appeal, court must determine whether the record establishes that there is more than a mere theoretical possibility, but not necessarily a likelihood, of a specific harm to the public interest if the application is granted; reasons cited by zoning commission for denial of affordable housing application

not supported by sufficient evidence of a quantifiable probability that a specific harm would result if application were granted. 130 CA 36. Establishment of town-wide standards for road construction is matter of public health and safety that commission may properly consider, but any deviation from those standards does not constitute "per se" ground for denial of affordable housing application; court authorized under Subsec. to remand matter to commission with direction to grant modified application "as is". 162 CA 678.

TOWN OF CROMWELL  
PLANNING AND ZONING COMMISSION

APPLICATION FOR SITE PLAN APPROVAL (Grading/Erosion Control Plan) only

Name of Project: Scannell

Street Address: 120 County Line Drive

Volume/Page: 49/37 & 77/223 PIN #: 00189500

Applicant Name: ARCO National Construction Attn: Dan Bumberry

Address: 900 N. Rock Hill Rd  
St. Louis, MO 63119

Telephone: 314-963-0715 (day) \_\_\_\_\_ (evening)

Email Address: dbumberry@arco1.com

Property Owner Name: Gardner's Nurseries, Inc.

Address: P.O. Box 260  
Rocky Hill, CT 06067

Attached:

- Application fee.
- Twenty-five copies of the **Site Development Plan** prepared in accordance with Article 13.3 of the Cromwell Zoning Regulations.

- |   |  |                                       |  |
|---|--|---------------------------------------|--|
| 1. <i>Is any part of the site within 500' of an adjoining town?</i>   | <input checked="" type="radio"/> (Yes) | <input type="radio"/> (No)            |  |
| 2. <i>Will this project require an Inland Wetlands Agency permit? if yes, have you obtained it?</i>                                     | <input checked="" type="radio"/> (Yes) | <input type="radio"/> (No)            |  |
| 3. <i>Will this project require a DEP Stormwater Management Permit? if yes, have you applied for it?</i>                                | <input checked="" type="radio"/> (Yes) | <input type="radio"/> (No)            |  |
| 4. <i>Will this Project Require an STC Permit? if yes, have you submitted a copy of the plans to the STC?</i>                           | <input type="radio"/> (Yes)            | <input checked="" type="radio"/> (No) | N/A - [ Will apply after town approval |
| 5. <i>Does the parking comply with the handicapped parking requirements as set forth in current version of the State Building Code?</i> | <input type="radio"/> (Yes)            | <input type="radio"/> (No)            |  |

I hereby certify that the information presented above is correct to the best of my knowledge.

Daniel Bumberry Daniel Bumberry 8/4/17  
Applicant Name and Signature Date

17-33



Town of Cromwell  
Planning and Zoning Commission

APPLICATION FOR MINOR HOME-BASED BUSINESS

Name of Applicant: Christopher Parebianco  
Address: 48 South Street  
Name of Owner (if different): Richard Parebianco  
Assessor's PIN # \_\_\_\_\_ Volume/Page: \_\_\_\_\_ / \_\_\_\_\_  
Telephone Number of Applicant: 203-464-6490  
Email Address of Applicant: Christopherparebianco@gmail.com  
Description of Proposed Activity:  
Scapes; sighting; refurbishing;

"I hereby certify that I have read Section 2.9.B ("Minor Home-Based Business") of the Zoning Regulations and that my proposed activity will comply with these regulations."

*[Signature]*  
\_\_\_\_\_  
(applicant's signature)  
*[Signature]*  
\_\_\_\_\_  
(owner's signature, if different)

8-3-17  
\_\_\_\_\_  
(date)  
8-8-17  
\_\_\_\_\_  
(date)

**This IS NOT a Building Permit!**

----- FOR STAFF USE ONLY -----

Zoning Enforcement Officer: ( ) approve ( ) deny

Comments: \_\_\_\_\_

\_\_\_\_\_  
Signature date

*Per Article 8.3.G.1 of the Zoning Regulations, this Permit shall become invalid if the authorized activity is not commenced within six months after issuance.*

TOWN OF CROMWELL  
PLANNING AND ZONING COMMISSION

LEGAL NOTICE

The Town of Cromwell Planning and Zoning Commission will hold a Public Hearing on Tuesday August 15, 2017 at 7:00 p.m. in Room 224 of the Cromwell Town Hall at 41 West Street on the following item:

1. Application #17-22: Request for Site Plan Approval for Center Point Apartments (an Affordable Housing Application) at 186 Shunpike Road. JPG Partners, Inc. is the Applicant and the Estate of Helen M. Ewald c/o Sybil C. Martin Executrix is the Owner.

At this hearing interested persons may appear and be heard and written testimony received. This application is available for public inspection in the office of the Town Planner.

Alice Kelly  
Chairman

Dated in Cromwell, Connecticut this 28<sup>th</sup> day of July 2017.

17-22

TOWN OF CROMWELL  
PLANNING AND ZONING COMMISSION

APPLICATION FOR SITE PLAN APPROVAL

Name of Project: Center Point Apartments

Street Address: 186 Shunpike Road, Cromwell, CT

Volume/Page: Map 25/2F PIN #: 11600700

V. 15581 P. 158

Applicant Name: JPG PARTNERS, LLC

Address: 110 Court Street, Suite 1  
Cromwell, CT 06416

Telephone: 860-632-7090 (day) (evening)

Email Address: pat@premierbuilding.org

Property Owner Name: Estate of Helen Ewald c/o Sybil Martin, Executrix

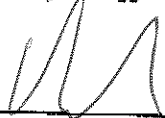
Address: 16 Chatfield Road  
Derby, CT 06418

Attached:

- (X) Application fee.
- (X) Twenty-five copies of the Site Development Plan prepared in accordance with Article 13.3 of the Cromwell Zoning Regulations.

1. Is any part of the site within 500' of an adjoining town? (Yes) (No)
2. Will this project require an Inland Wetlands Agency permit?  
if yes, have you obtained it? applied (Yes) (No)
3. Will this project require a DEP Stormwater Management Permit?  
if yes, have you applied for it? (Yes) (No)
4. Will this Project Require an STC Permit?  
if yes, have you submitted a copy of the plans to the STC? (Yes) (No)
5. Does the parking comply with the handicapped parking requirements as set forth in current version of the State Building Code? (Yes) (No)

I hereby certify that the information presented above is correct to the best of my knowledge.

  
 Applicant Name and Signature

5/12/17  
 Date

JPG Partners, LLC  
 By: Patrick Snow, Member



08-03-17P02:20 RCVD

RECEIVED FOR FILING  
8-3-2017 at 2:20 M. P  
TOWN CLERK'S OFFICE  
CROMWELL, CONN.

**TOWN OF CROMWELL  
PLANNING AND ZONING COMMISSION  
SPECIAL MEETING**

*Jean Oelquist*  
TOWN CLERK

**7:00 PM TUESDAY AUGUST 1, 2017  
ROOM 224 CROMWELL TOWN HALL 41 WEST STREET  
MINUTES AND RECORD OF VOTES**

**Present:** Chairman Alice Kelly, Michael Cannata, Chris Cambareri, Jeremy Floryan, Paul Cordone, Richard Waters and David Fitzgerald (alternate)

**Absent:** Brian Dufresne, Ken Rozich, Kenneth Slade and Nicholas Demetriates (alternate)

**Also Present:** Director of Planning and Development Stuart Popper

**1. Call To Order**

The meeting was called to order by Chairman Kelly at 7:04 p.m.

**2. Roll Call**

The presence of the above members was noted.

**3. Seating of Alternates**

Michael Cannata made a motion to seat Alternate David Fitzgerald, Seconded by Richard Waters. *All in favor; motion passed.*

**4. Approval of Agenda**

A motion to approve the agenda was made by Michael Cannata and Seconded by Jeremy Floryan. *All in favor; motion passed.*

**5. Public Comments**

There were no public comments at this time.

**6. Development Compliance Officer Report**

Mr. Curtin was not present at the meeting due to illness. Mr. Popper offered to pass along any questions the members might have, but there were no questions.

**7. Town Planner Report**

Mr. Popper discussed the STEAP grant to improve Cromwell Landing Park by adding in a walkway and handicap accessible pier. He stated that there would be some tree cutting and maintenance in the area adjacent to the river. He stated that there had been a wetlands application that was approved for soil remediation at the northern end of River Road and Wall Street. Some brush would be cut for surveying purposes. He also stated that if the developer goes forward at 120 County Line Drive, then an erosion control plan would be issued, as well as a grading and site plan.

**9. New Business Accept and Schedule New Applications:**

- a. Application #17-31: Request for a Site Plan Modification to install a monument sign at 200 West Street. Dorothy Williams is the Applicant and Linh D. Truong and Linda Duong are the Owners.

Mr. Popper stated that the sign complies with the zoning regulations. He was asking the Commission to accept and schedule the application to be heard tonight. He stated that the house is a single family residence that is currently non-conforming as it is in the Highway Business District.

Michael Cannata made a motion to accept and schedule the application to be heard tonight; seconded by Jeremy Floryan. *All in favor; motion passed.*

Dorothy Williams, 360 Berlin Turnpike, Berlin, Connecticut, stated that she planned to operate an astrology, chakra balancing and energy healing business at the site. She would not be living at the property. Chris Cambareri asked if this was an approved use and required a license. Mr. Popper confirmed that it was approved and Ms. Williams stated that no license is necessary. Chairman Kelly asked about the color of the sign. The applicant stated it was red or burgundy. She would be the only employee. Mr. Popper stated that the applicant had been working with the building department and Zoning compliance officer on the handicap ramp, parking and signage.

Michael Cannata made a motion to approve the Application conditioned upon the applicant working with building department staff to complete all required improvements; seconded by Richard Waters; *motion passed.*

**10. New Business:**

- a. Application #15-31: Request for a Site Plan Modification to install a temporary parking lot at 14 Hillside Road. GKN is the Applicant and Buhl Land East V LLS is the Owner.

Mr. Popper stated that the application approved on July 21, 2015 was conditioned upon a four year limit for the use of the temporary parking lot and a two year review and status report being submitted. The Applicant has submitted the required two year review and status report. Mr. Popper stated that he had conducted a site visit and the site was in good condition and all requirements had been met.

Nick Shaw, Plant Engineer for GKN, stated that they were asking for an extension of time to use the parking lot. They wanted to maintain the spots and possibly expand further. They were not planning on making it a permanent lot at this time as the property is only leased and the operation could move in part in the future. Mr. Popper clarified that the applicant was really only asking for an additional three years.

Michael Cannata made a motion to approve the application, Seconded by Chris

- Cambareri. *All in favor; motion passed.*
- b. Application #11-31: Request to release the \$1,200.00 street tree bond (six trees at \$200 per tree) for the Sunset Ridge Subdivision. Reed Builders, LLC was the applicant, John Masserio and Janice Piccoli were the Owners.

Mr. Popper stated that he had conducted a site visit and all six trees had been planted. He asked the Commission to vote to release the bond. Chairman Kelly confirmed that she had visited the site and all six trees were there. Michael Cannata made a motion to approve the request, Seconded by Richard Waters. *All in favor; motion passed.*

#### **11. Public Hearings:**

- a. Application #17-25: Request to amend the Zoning Map to create a Planned Residence Development Zone District at 76 Field Road. Carrier Group, Inc. is the Applicant and Larry Webster Associates is the Owner.

Mr. Popper informed the public in attendance that this was a two step process, with only the zone change being decided at this time. If approved, there would be a separate hearing on the site plan and special permit application. He also stated that if the concept plan was approved for 75 houses, the number would then be set and could not be increased. All design details would be discussed at the later hearings. Michael Cannata made a motion to open the public hearing; seconded by Paul Cordone. *All in favor; motion passed.*

Joan Molloy, of Loughlin Fitzgerald, in Wallingford, Connecticut, represented the applicant. She stated that this was a zone change application for the 50 acre parcel from R25 to PRD. She stated that the property could be developed as a traditional subdivision. She stated that she had submitted summary information regarding the waivers being requested. Attorney Molloy next reviewed the revised emergency access, which consisted of the existing right of way with an additional two connections so that most homes could then be accessed two ways. She stated that the traffic engineer would provide updated information at the hearing on the site plan and special permit. She stated that a licensed environmental professional was here to discuss the remediation process. She discussed the "house lot", which would be restricted in its development and accessed only through a private drive through the proposed subdivision.

Scott Bristol, LEP, of Milone and MacBroom, stated that he was licensed by the state of Connecticut to access and clean up affected parcels. The subject property was used for agriculture, and dieldrin was a commonly used pesticide likely to be present. He stated that the chemical stays in the soil and doesn't wash out. He said that the state guidance for the past two years has been to manage the soil onsite by blending it with deeper soils and also removing one to two feet, creating berms, and capping them with clean topsoil. He stated that the previous owner had sampled the soil in 2011 and meet with the DEP in 2012 to discuss the process of relocating and capping the soil. Mr. Bristol stated that there would be dust controls and erosion and

sedimentation controls. At the end, the soil would be sampled to ensure success. Richard Waters asked about test bores and when the usage of dieldrin was phased out. Mr. Bristol stated that he hadn't conducted any test bores and did not know when the pesticide was last used. Using DEEP criteria, they would remove all soils that exceed acceptable levels. Mr. Bristol stated that there would be no regulated waste. He also stated that the developer is the one to bring in the fill material and to complete the grading. As the LEP, he will sample the fill to ensure it is clean, will provide the sequence for work and confirm the grading plan. Mr. Popper reminded the Commission that this type of remediation is heavily regulated by the DEEP.

The hearing was opened up to public comment. Chris Rasmussen of 16 Glenwood Terrace, stated that he had reviewed the Town's Plan of Conservation and Development and that he did not believe that higher end developments were wanted or needed. He did not believe that the occupancy rates cited by the applicant warrant further development. Nicholas Armata of Milone & MacBroom, clarified that these were single family home owner-occupied occupancy rates.

Michael Camilleri, 14 Centerwood Drive, reiterated his suggestion that the remaining acreage could have a deed restriction that gives the town power to veto development. He further stated that he hoped the traffic study information would be made available electronically. He also stated that he supported the application.

Julie Schmidt of 54 Field Road stated that she was concerned over the possible traffic and safety. She stated that people often bike and walk along that area of Field Road. She wanted there to be a stop sign along Field Road to make the intersection at Field Road and Greendale Road a three-way stop.

Rich Rogozinski, 5 Rivercove Drive, asked how many lots there would be if it was developed as a R-25 zone.

Dick Coughlin, 19 Glenwood Drive, stated that he was concerned about Agent Orange in the soil. He also stated that there was a large shrub near that part of Field Road that blocks the view.

Nick DiBattista of 71 Field Road, voiced concerns about the narrowness of Field Road, especially during the winter snowplowing season. He is concerned about possible accidents during the winter and drivers pulling out and ending up on his front lawn. Mr. Popper stated the he would talk with the town engineer and highway department regarding the width of the road, especially after plowing.

Mark Benedetto, 30 Field Road, was concerned over the amount of construction related traffic, such as concrete trucks. Chairman Kelly stated that that was a detail to be dealt with during the site plan or special permit application.

Eric Montas, 98 Field Road, asked if the information could be made available via electronic dropboxes. Mr. Popper stated that that type of technology was not

available at this time and not something that the Commission could order.

Mary Tobias, 61 Field Road, asked how the number of houses was determined. Mr. Popper stated that it is up to the Commission to approve or disapprove the concept plan. The number was proposed by the developer in the concept plan.

Attorney Molloy stated that 72 to 100 lots were possible in a traditional subdivision. She stated that the number of lots proposed was similar to that of nearby developments and it was possible that the final number could be less than the 75 proposed.

Michael Cannata wanted confirmation that a broad spectrum of pesticides would be tested for and remediated, not just dieldrin.

Attorney Molloy summarized her argument that the application met the standards set forth in 8.9.D of the Zoning Regulations for a PRD in that water and sewer were available, that no municipalities or regional planning groups had objected, that it was consistent with the POCD, that residential use was permitted and maintained, that it was consistent with the residential neighborhoods nearby, and that the anticipated impacts were all the same as if it had been developed as an R-25. She stated that all requirements would be complied with at the time of the site plan / special permit application, that the development did not impact natural resources, that it would not impact the level of service as far as traffic capacity, and did not endanger safety, health or welfare of the surrounding community.

Attorney Molloy reviewed the six requested waivers as set forth in her letter dated June 12, 2017.

She stated that the soil will be managed in compliance with DEEP. The revised Fiscal Impact Analysis will be provided at the Special Permit hearing.

There was a brief discussion among the Commission member, Mr. Popper, Mr. Camilleri and Attorney Molloy about the appropriateness of including a development restriction affecting the remaining acreage at tonight's hearing as it only affects the 50 acre piece and because the remaining acreage is essentially landlocked and does not have the required 50 feet of frontage along a town road. Attorney Molloy stated that the HOA will control the right of way, that all development proposals would need to go in front of a land use board, and that she is not comfortable having the town being part of a private agreement at this time. She is asking that the issue be addressed at the special permit hearing instead. Chairman Kelly agreed that the present application was only for the 50 acres and not the other land.

Michael Cannata made a motion to close the public hearing; seconded by Richard Waters. *All in favor; motion passed.*

Michael Cannata made a motion to approve the six requested waivers:

1. 9.4.B.2 Requirement that the Municipal Fiscal Impact statement be prepared by a professional real estate economic analyst. Report prepared by an AICP certified planner. Applicant does not seek to change use from the current approved use – residential homes.
2. 9.4.B.4(2) Design and shading of proposed lighting
3. 9.4.B.4(3) Design and layout of parking and its feasibility and safety for use by public
4. 9.4.B.4(4) Capacity of the wastewater, water and other utility systems proposed to be built and used by the project. Applicant has provided confirmation municipal systems will be able to serve the proposed development
5. 9.4.B.5. Cultural, aesthetic or heritage – not applicable to the site.
6. 9.4.B.6. Natural resources – not applicable as views or view shed, no wetlands on the site, no endangered or critical plant species or woodland habitats, and no endangered or critical animals or natural habitats. Site is a former plant nursery. Soil management will be in compliance with DEEP guidance policies.

The motion was seconded by Paul Cordone. All favor except Richard Waters.  
*Motion passed.*

Michael Cannata made a motion to approve the application; seconded by Paul Cordone. All in favor except Richard Waters. *Motion passed.*

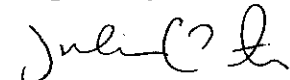
**12. Commissioner's Comments: NONE**

**13. Approval of Minutes:**

a. July 18, 2017: A motion to approve the minutes was made by Michael Cannata; Seconded by Paul Cordone. *All in favor; motion passed.*

**14. Adjourn:** a motion to adjourn was made by Michael Cannata; seconded by Paul Cordone. *All in favor; motion passed.* Meeting adjourned at 8:53 p.m.

Respectfully Submitted,



Julie C. Petrella  
Recording Clerk