



Town of Hamden

Planning and Zoning Department

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October 15, 2012, Revised 1/9/13 per Commission review at the 11/13/12 meeting

MINUTES: THE PLANNING & ZONING COMMISSION, Town of Hamden, held a Public Hearing and Regular Meeting on Tuesday, October 9, 2012 at 7:00 p.m. in the Thornton Wilder Hall, Miller Memorial Library Complex, 2901 Dixwell Avenue, Hamden with the following results:

Commissioners in attendance:

Ann Altman, Chairperson
Brack Poitier
Lee Campo
Michele Mastropetre
Bob Roscow
Myron W. Hul
Peter Reynolds
Joe McDonagh, sitting for Ryszard
Szczypek
Ralph Marottoli sitting for Jon Cesare
Ms. Cutrali, Alternate in attendance

Staff in attendance:

Leslie Creane, Town Planner, arrived at
7:08
Dan Kops, Assistant Town Planner
Tim Lee, Assistant Town Attorney
Stacy Shellard, Clerk
Lisa Raccio, Stenographer

A. Public Hearing

Ms. Altman called the meeting to order at 7:03 p.m. The clerk read the Public Hearing items into the record. Ms. Altman introduced the panel and reviewed the Public Hearing procedures.

1. Special Permit & Site Plan 12-1204/WS

1851-1861 Whitney Ave, R-4 Zone

Place of Worship

New Haven Korean Church, Applicant

Deadline to open Public Hearing 11/15/12

Mr. Joe Porto, Attorney, addressed the Commission and reviewed the application and the location of the site. The site is located in North Haven and the Town of North Haven and has been approved by Special Permit Application for this site. Mr. Porto reviewed the history of the site and the church. The existing school has been in existence

since 1993. The Church has entered into a contract to purchase the building and the grounds where the school is located. The school will enter into an agreement to rent the building for 10 years. Mr. Porto explained that there will be no changes to the operation of the school, or the exterior and interior of the building. The church will utilize a small portion of the building for Sunday school classes, church services and meetings. Mr. Porto stated that the congregation has approximately 350 Adults and 100 children. The church's youth group is composed of approximately 30 students ranging from 7th grade to 12th grade and they will attend Sunday school classes from 11:30 a.m. to 1:30 p.m. The church's impact group made up 30-35 college and graduate school aged young adults will attend church services on Sunday mornings in the school. The size of the church's congregation has remained steady for the last 5-7 years. Mr. Porto reviewed the church's involvement in the community. Mr. Porto stated that the application is consistent with POCD and the use is consistent with the surrounding area. There will be no increase in traffic.

Ms. Altman asked for comments in favor of the application:

Mr. David Golden, 30 Short Hill Road, North Haven, addressed the Commission and stated that he is in favor of the application. The school and church have lived peacefully in the neighborhood. The church and the school are good neighbors, and have been responsive to the neighborhood concerns. Mr. Golden said that Mr. Porto stated that there will be no changes to the school, church building or fields. Mr. Golden noted that generations of Spring Glen children have grown up using the fields on the churches property. The Town of North Haven has addressed the traffic concerns. The residents are working with the Town of North Haven to get additional signage in the area. There are teenagers that congregate at night at the picnic tables located behind the school and Mr. Golden would like the Hamden Police Department to increase their patrols in the area. Mr. Golden stated that the dumpster behind the school is unsightly and may not be in compliance with the zoning regulations. He would like the Commission to address the placement of the dumpster and the early hours that it is picked up by the trash company. Mr. Golden explained that the neighbors have met with the church and they have an understanding of the neighbor's concerns and the church will address the concerns.

Ms. Christine Esposito, 1742 Whitney Avenue, addressed the Commission and stated that she is in favor of the application. She feels that the church will go along with the neighbor's wishes and the church will be a good use for the building.

Ms. Altman asked for comments against the application. There were none.

Mr. Dan Kops, Assistant Town Planner, read his comments which recommend approval based on the following plans:

“Property Survey, 1851 Whitney Avenue AKA #1861, Prepared for Lorraine D. Foster Day Care School”, dated June 13, 2012 prepared by Codespoti & Associates, P.C.

Ms. Mastropetre asked if the dumpster could be located to the other side of the parking lot. Mr. Kops said that the Planning Office has not received any complaints about the location of the dumpster. He will verify the location of the dumpster on the original approval for the school. Mr. Kops is unsure where else on the property the dumpster could be placed and he explained that if the dumpster is placed on the North Haven side of the property it would be closer to the abutting neighbors.

Mr. Golden feels that the location of the dumpster is appropriate. However, because of the graffiti Mr. Golden would like to see the dumpster replaced. He asked if the pickup time and the aesthetics of the dumpster are in compliance with the zoning regulations.

Mr. Hul asked Mr. Kops if the limit of 60 people to use the building is the ratio per the zoning regulations. Mr. Kops explained that the parking requirement is for a place of assembly. Mr. Hul's concern is that the 60 count is based on the ratio of parking spaces on the parcel, but the church has parking on their property and the school is also located on a bus line. Mr. Hul is not sure if the limitation of 60 people is appropriate and if the number of

people should be a condition of approval. Mr. Kops said that the recommendation of approval has a condition that states "Occupancy of the building is limited to 60 people unless additional approved parking is provided. The issue of parking for places of assembly may be addressed by the Commission in the future. The applicant also has the option to request a variance to the requirement that there must be one space for every 3 legal occupants and they could justify the request by stating that there are a number of people that will use the bus line to get to the building.

Ms. Altman closed the Public Hearing.

2. Proposed Amendment to the Hamden Zoning Regulations 12-930

55 West Woods Road

Mixed Income Housing (MIH) District

File available for review in the Planning Office & the Office of the Town Clerk

Westwoods Properties, LLC, Applicant

Deadline to open Public Hearing 12/1/12

Ms. Altman reviewed the Public Hearing and Regular Meeting procedure for this application.

Mr. Tim Lee, Assistant Town Attorney, asked if it is the intent of the Commission and the Applicant to combine testimony for this application and Zone Change Application 12-931 and Site Plan Application 12-1479.

Ms. Altman stated that the Commission would agree to hear testimony for this application, Application 12-931 and Application 12-1479 together.

Mr. Tim Hollister, Attorney, addressed the Commission and stated that he would be in favor of combining testimony for this application, Application 12-931 and Application 12-1479.

Mr. Tim Hollister stated that the proper notifications to the surrounding towns and the appropriate agencies was done. The applications were also properly noticed in the Hamden Town Clerk's Office and in the New Haven Register. The applicant posted the public hearing sign in accordance with the zoning regulations. Mr. Hollister reviewed the materials submitted to Planning Office. He submitted to the clerk and reviewed a presentation outline (Exhibit 1) for this meeting which includes supplemental materials.

Mr. Hollister noted that the applicant will not be applying for Student Housing Permits and the intent is to exclude undergraduate students from the tenant population. Mr. Hollister explained that in 2003-2005 he represented Avalon Bay Properties. Avalon Bay Properties owned Hamden Walk and they had a very difficult issue with the student population. Mr. Hollister had given Avalon Bay an opinion letter that stated they could exclude undergraduate student population. In 2005, Mr. Brendan Sharkey, State Representative, had requested an explanation for excluding the student population and Mr. Hollister sent a response in writing.

Mr. Hollister outlined the presentation and introduced the presenters for the applications. Mr. Hollister reviewed the applications for the amendment to the zoning regulations, the zoning map, and the site plan approval. He explained that an approval was received from the IWC on September 5, 2012. Mr. Hollister said that the IWC determined that there would be no change to the impact on regulated activity from the original approval granted for the Inn. The GNHWPCA reviewed and provided a stamped set of approved Sediment & Erosion Control Plans (Exhibit 2). The RWA stated in a letter dated 10/9/12 that it agreed with the proposed Sediment & Erosion Control Plans and the Storm Water Management Plan. There was notification to the DPH and Mr. Hollister reviewed the response letter from the DPH dated September 27, 2012 which included the parameters that they would like imposed. The response letter from the DPH included the previous letters to the IWC dated August 10, 2005 and November 18, 2005. Mr. Hollister summarized the IWC condition of approval requiring the applicant to prepare a memorandum of understanding addressing water quality issues to the satisfaction of the RWA. Mr. Hollister stated that the memorandum of understanding and the subsequent materials from the IWC and the DPH will be provided for the record at a later date.

Mr. Hollister reviewed the original request submitted in July 2012 to amend the zoning regulations. The request included a new Section 380.4 under the Special District Regulations. After the application was filed the Planning Staff advised Mr. Hollister that the zoning regulations have been amended in 2010, converting areas such as this to Transect Zones have requirements that are different from those of Euclidean Zoning and standards for multi-family housing with a mandated 20 percent affordable housing component. Mr. Hollister said that he met with the Planning Staff on July 31, 2012 and discussed the issues. Mr. Kops prepared a follow up letter dated August 10, 2012 which asked that Mr. Hollister consider creating a subsection of the T-4 zone with regulations regarding affordable housing, which would give the P&Z Commission discretion over whether to allow changes to accommodate the proposed building vs. the proposed regulation filed by the applicant. Mr. Hollister responded to Mr. Kops on September 24, 2012 and a copy of the letter is included in the supplemental materials (Exhibit 1).

Mr. Hollister said the application is to modify the development approval Application(Application 08-1140) that was issued in 2008, before the T-4 zone regulations were in place. Mr. Hollister feels that the previous approval gives the applicant grandfathered status. He does not feel it is appropriate to redesign the entire project based on the T-4 regulations and transect zones. Mr. Hollister stated that Section 830.g of the General Statutes for affordable housing is not compatible with the special permit process. Under Section 830.g the only issue to be considered is whether the proposal creates a public health and safety concern that outweighs the need for affordable housing in the Town and the region. The special permit process grants the Commission discretion over a host of factors well beyond public health and safety, and Mr. Hollister said that from an applicant's standpoint it is a non-starter.

Mr. Hollister stated that in July and September that he had advised the Planning Staff he would meet the Commission halfway and in the revised amendment to the regulations, dated September 24, 2012, he included three sub-sections that took most of the substantive standards from Section 520.8 and included them in the proposed regulation. Included in the revision are Sections 520.9 and 520.11. Mr. Hollister explained that in proposing an amendment adding a new zone it would allow the Commission to approve standards for that particular zone. To create a subsection of the T-4 zone regulations with a list of discretionary exceptions would undermine the work that the Commission has done over the recent years because it would set a bad precedent for the well constructed and well intended regulations as they are applied to future properties and future developments. Mr. Hollister explained that the proposed regulation was drafted to apply only to the 55 West Woods site. This was done because the courts have said that in affordable housing cases the goal to accommodate mixed income housing is without concern for spot zoning and that it is okay to create a regulation that is specific to one parcel. When considering the proposal, Mr. Hollister did not want to ask the Commission or Planning Staff to have to consider the draft regulations as pertaining to any number of properties in Hamden. But if the proposed amendment is approved then the Commission would have the discretion to extend the geographic area. Mr. Hollister said that this request is not 3 applications but is 1 application with 3 parts and he agrees that when the motions are made each part should be voted on separately. Mr. Hollister stated that a letter was submitted to Mr. Kops granting an extension for the Site Plan Application, and if necessary he will grant any additional extensions for any part of the applications. Mr. Hollister stated that he has no intention of trying to claim an automatic approval.

Mr. Hollister reviewed the standards for Section 830.g. The applications fall under the Affordable Housing Land Use Appeals Act and the term affordable housing is often misunderstood. CT General Affordable Housing Program 830.g is confused with the Federal Section 8 Subsidized Housing Program and they serve different segments of the population. Connecticut's program encourages housing with a 30 percent component set aside for moderate income families that earn between \$40,000.00-\$70,000.00 per year. The remaining 70 percent of units available are at market rate. The Federal programs are subsidy programs (public money). The proposed project will be privately funded and privately built with a portion of the units to be set aside for forty years for moderate income households. This allows the applicant the ability to maintain 30 percent of the units below market rents. Mr. Hollister said that in the early 1990's a superior court judge ruling in an affordable house case stated "The fear of an influx of families of low and moderate income into an established neighborhood tends to alarm the citizens and promotes embellished statements of probable harm to a point where they frequently become protectoral". Mr. Hollister asked that the Commission deal with the facts and not stereotypes, not prejudice, not fear, not speculation or exaggeration. The applicant is trying to convert a previously approved 90 room inn to a 50 unit apartment building. The apartment building is smaller and better for the neighborhood because it will have less impact than

the inn. It is not low income housing but for those who earn, on average, between \$40,000.00-\$70,000.00 per year. Those in this income bracket will occupy 30 percent of the units. The remaining 70 percent will be rented at market rate without any income limitations. The area along Whitney Avenue is recognized by the Town as an appropriate location for multi-family housing. Mr. Hollister stated that in other towns in Connecticut it is documented that the properties with the highest tax revenues and lowest municipal service needs are multi-family rental developments.

Mr. Hollister stated that a memo from Mr. Kops dated September 24, 2004 asked that there be revisions to the site plans. He said that they are prepared to make all the revisions that were requested by the Planning Staff in the memo.

Mr. Hollister summarized by saying that inn did not proceed because of the economic downturn. He said that real estate professionals have said that across Connecticut especially in the I-91 corridor there is a high market demand for three types of housing, “multi-family rental, multi-family rental and multi-family rental”. The reason for multi-family rental is because in a difficult economy people are careful about committing to ownership and they instead opt for rental. The federal Dodd-Frank law makes single family construction and financing difficult whereas, multi-family financing and construction is not. The incentives in the federal law have shifted away from single family construction. The applicant is changing the use to follow the market. Multi-family rental boosts the regional economy and does not undermine property values in neighboring areas. The application proposes 39 2-bedroom units and 11 1-bedroom units. Mr. Hollister reviewed the rent amounts for the corresponding income levels and units. Mr. Hollister stated the affordability plan would meet the affordable housing regulations. The affordable housing statute has been implemented for 22 years and has been implemented in more than 50 towns. The affordability plan provides for an administrator who does the income calculations and sets the restrictive rents and issues reports to the Commission and the Zoning Enforcement Officer showing that year by year the income restrictions of the Affordability Plan are being followed.

Mr. John Milone, Professional Engineer, addressed the Commission and reviewed the existing conditions and the location of the site. He introduced an overall aerial view (Exhibit 3) and an enlarged aerial view (Exhibit 4). Mr. Milone described the surrounding properties and their uses. He also displayed a map of the existing conditions on the site (Exhibit 5). Mr. Milone reviewed a rendered version (Exhibit 6) of the previously approved site plan for an Inn on the property and the proposed Site Plan (Exhibit 7). He explained that the proposed site plan is similar to the previous approval for the Inn, but that it will be less intense in the amount of building coverage and the total impervious surface. The proposed site plan follows the same design principles and objectives used for the plans for the Inn. The design principles will be to minimize the visual impact from Whitney Avenue, the Farmington Trail, and abutting properties to the west and north. The design would minimize impervious surfaces and provide a higher level of storm water treatment because the site is within the Mill River watershed. Mr. Milone explained the topography of the site and the placement of the building. He compared the previously approved site plan and the proposed site plan.

Mr. Milone reviewed a true-scale section through the subject Property (Exhibit 8) and the abutting properties to the west and the east. Mr. Milone said that they are developing the building into the hillside rather than on the hillside to provide visual protection for the surrounding areas and the neighborhood. Mr. Milone stated that the purpose of the true-scale section is to give a sense of how the site will be developed and how a steep sloped site can be developed within the natural terrain of the site. Mr. Milone reviewed the rendered version of the Utility Plan (Exhibit 9). Confirmations to serve the site were received from the utility companies available to the property. Mr. Milone reviewed the stormwater management system and the three components that will provide a high level of treatment of stormwater. Mr. Milone reviewed the earthwork computations and details. The excavation on the site will be done to tuck the building into the site while maintain the existing vegetation. Mr. Milone said that 57,000 cubic yards of material will be excavated. He explained that 5,500 cubic yards of the material will be reused on the site, while 51,500 cubic yard will be exported from the site. Mr. Milone said that the materials will be removed from the site in the most efficient manner possible. It will take approximately 65 days to remove the materials from the site. Mr. Milone reviewed the comparison of the impervious surface and building coverage (Exhibit 10) for the Inn vs. Multi-Family Housing.

Mr. Henry Ditman, Professional Engineer, addressed the Commission and stated that he specializes in traffic engineering and transportation planning. He reviewed his qualifications and certifications. Mr. Ditman explained that in 2008 a traffic study was done for the 90 room inn. He said a traffic study dated July 12, 2012 was submitted. Mr. Ditman explained that at the time of the study Todd Street was under construction and there was a detour route which did not allow for traffic counts. When Todd Street was reopened in September an addendum to the traffic study was done. Mr. Ditman reviewed the revised traffic study dated September 27, 2012. He stated that the increase in street traffic based on the proposal for multi-family housing would not adversely impact the roads in the area. The traveling public would not realize the slight increase in traffic and the traffic could be accommodated efficiently and safely.

Mr. Jeff Elovitz, Licensed Architect, addressed the Commission and reviewed his resume. He reviewed the Rendered P-1 Floor Plans & Elevations which overlay the floor plans of the outline of the footprint of the approved inn vs. the proposed footprint for the multi-family building. Mr. Elovitz discussed the Rendered P-5 Elevations (Exhibit 12). Mr. Elovitz said that all the first floor units in the proposed building will be designed to be handicapped accessible. Mr. Elovitz reviewed the exterior design of the building. Mr. Elovitz reviewed the sustainable approach to living that will be used in accordance with the 2011 Enterprise Greater Green Community. Mr. Elovitz said that the following will be taken into consideration: the lighting techniques to reduce energy consumption, recycling bins for each living unit, 15 percent of the dwelling units will conform to ICCANNC 819.1 Tight at Bay Fully Accessible Guidelines (1ST floor units), 10-12 units per acre or less (suburban setting), 10 percent of acreage will be kept as open space, materials and appliances will meet energy star certification, final energy performance is equivalent to home energy rating system index of 85, electric meters in each living unit, no paints, primers, adhesives or sealants will contain DOC's, construction waste management plan will be in place prior to construction beginning, mold prevention surfaces in bathroom, kitchens and laundry facilities will be provided, proper vapor barriers of areas for external walls and drainage techniques will be provided. Mr. Elovitz reviewed the Rendered P-5 Elevations (Exhibit 12) and design of the building. Mr. Elovitz reviewed the building materials to be used. He said that all the units will have their own laundry facility and heating-cooling unit. Mr. Elovitz reviewed the different classifications and numbers of each unit, the size of each unit and the numbers of 1 and 2 bedroom units. He said that on the proposed plans for one of the 3rd floor units should read as a 2F unit and not a 2B unit. There will be a community room, an office for management/rental, mechanical and electric rooms for the general building, and storage spaces for the living areas. Mr. McDonagh asked for a list for the different number and classifications of apartments. Ms. Altman asked that the list include which apartments will be affordable housing. Mr. Elovitz said that he does not have a list for the affordable housing apartments because they are dispersed throughout the building.

Mr. Hollister stated that he will address Mr. Kops' comments at the next meeting of the Public Hearing.

Mr. Kops read his comments for the amendment to the zoning regulations application 12-930. Staff is unable to recommend approval at this time. In addition to the written comments he noted:

The RWA in an email dated October 9, 2012 indicated that their concerns have been addressed in the revised plans and they have no further comments.

Graduate Students are included in the Student Housing Regulation.

Mr. Kops' comments stated that Staff is unable to recommend approval for the proposed amendment to the Zoning Map 12-931 and Site Plan 12-1479 without an approval of Zoning Regulations Amendment 12-930.

Ms. Altman asked if the changes to the Hamden Zoning Regulations and amending the zoning map are impacted by the State's requirement that Hamden have a certain amount of affordable housing.

Mr. Lee said that this application was submitted pursuant to CT General Statute 830.g which is the Affordable Housing Statute. The Statute is applicable to each town and city in the State of Connecticut if it's housing stock is

less than 10 percent deed restricted affordable housing pursuant to the statute. The housing stock must be deemed restricted in order to be deemed affordable. Hamden's affordable housing is less than 10 percent and is subject to the affordable housing act and this is why the application is before the Commission. The Act was enacted by the State Legislature 25 years ago based on a finding in the state there was a need for affordable housing. Pursuant to the act it changes the way a Planning & Zoning Commission must consider an application for housing. In the past an application would come before the Commission for multi-family housing with Special Permit criteria. The Affordable Housing Act changes the burden of proof from the applicant to the Commission. The Commission must approve the application pursuant to 830.g unless the application poses some type of substantial threat to the Public Health or safety. The threat to the public health and safety must clearly outweigh the need for affordable housing as found by the State Legislature. Even in the event that the Commission finds a threat to the public health, safety and welfare, the Commission must then find that the threat cannot be corrected by reasonable changes to the affordable housing application. Ms. Altman asked if the legal standard would include the site plan and the application to change the zoning regulations. Mr. Lee replied that all three versions of the application should be judged by the standard as he stated.

Mr. McDonagh said that the applicant has suggested that the Special Permit process is incompatible.

Mr. Lee said that based on case law he agrees with the applicant and that the special permit criteria is not applicable to an affordable housing application. Under the affordable housing application the Commission may consider the public health and safety when considering the application. Some of this would overlap with the special permit criteria but there are other provisions of the special permit criteria that could go beyond the public health and safety. Mr. Lee instructed the Commission that they should consider the public health and safety when considering the affordable housing application before them, and not all of the special permit criteria.

Ms. Altman asked if the change in the zoning regulations would have to be approved to allow affordable housing. Mr. Lee said it does not necessarily have to be approved, but must be approved unless the Commission finds that there is threat to the public health and safety presented by the application and that the threat cannot be alleviated by reasonable conditions imposed on the application.

Mr. McDonagh asked if the Commission approves the amendment to zoning regulations and the zoning map would the Commission be able to add conditions of approval for other items that are of a concern. Mr. Kops replied that some of the concerns may be addressed, but the Commission may not request a change to the site plan if the change is inconsistent with the regulations that were adopted.

Mr. Hul asked when the applicant prepared the proposed MIH zoning (text) how it compare to other towns that have already embraced MIH zoning. Mr. Kops stated that he cannot say if other towns are happy with what they have. The trio of applications received is an instrument that has been used elsewhere. Mr. Kops said that his comments state where the proposed regulations are or are not compatible with Hamden's existing regulations.

Ms. Leslie Creane, Town Planner, clarified that the affordable housing portion of the regulations for Hamden were adopted in 2004 and they were not changed when the zoning regulations were amended in 2010. The affordable housing regulations have been used for multi-family homes built in the past.

Mr. Poitier asked if spot zoning is not permitted under the State Statue how can it be approved by the Commission. Mr. Lee explained that the application was submitted pursuant to the Statute 830.g which allows a specific parcel to be identified by the applicant. Concerns about spot zoning should be alleviated by the application being pursuant to the Affordable Housing Act. Mr. Kops explained that the courts allow spot zoning if it is consistent with the comprehensive plan.

Ms. Mastropetre asked if the Town already has provisions for affordable housing in the zoning regulations then why is there a need to create a special zone for this proposed project. Mr. Lee said that Hamden is below the 10 percent threshold for affordable housing and an applicant is therefore entitled to come before the Commission with

an application identifying a specific parcel. Mr. Kops said that the Hamden Zoning Regulations require that 20 percent of multi-family housing units be deed restricted and affordable, while 830.g requires 30 percent.

Mr. Roscow asked if spot zoning is like an overlay zone. Mr. Lee said theoretically it could be considered as an overlay. However, he is unsure if there is another property in town that could be subject to the MIH zone regulation. The regulation was designed specifically for the property for which it is being proposed.

Mr. Poitier asked how far below the required 10 percent affordable housing is Hamden. Ms. Creane said that Hamden has between 6 to 7 percent affordable housing. She said that deed restriction is the critical element and Hamden does not have 10 percent deed restricted affordable housing. This does not take into account people who are making \$40,000.00-&70,000.00 and living in Hamden, and whether Hamden is actually providing such housing.

Mr. Reynolds asked if there is something specific to the T-4 zone that makes the proposed development unable to approved. Mr. Kops stated that under the current regulations and the combination of multi-family housing regulations regarding the T-4 zone, there are certain provisions that would not allow multi-family housing at the proposed site. The site is not on a major thoroughfare. A letter that was sent August 10, 2012 to Mr. Hollister which addressed the specific issues to the T-4 zone and suggested that the regulation be modified to meet the requirements.

Ms. Altman asked what the legal ramifications would be if the applications are denied by the Commission and they ask the applicant for modifications. Mr. Lee said that there would need to be a specific reason for denial. He said that the Affordable Housing Act says that if the Commission finds that there is an impact on the Public's health or safety the Commission could impose a condition or ask that the application be changed so it would alleviate the concern. Mr. Lee explained that any major changes would require a new application.

Mr. Hul's understanding is that the most significant reason the proposed project does not fall under the T-4 regulation is because it does not exit onto Whitney Avenue. Mr. Kops said that the multi-family regulations require a special permit and the applicant has argued that a special permit would be inconsistent with 830.g. Mr. Hul said that it is the desire by the developer to create affordable housing. He asked if the developer could not do it on his own with a restrictive deed and the Commission's approval. Mr. Kops replied that the applicant could do it on his own. Mr. Hul asked if the property exited on to and fronted Whitney Avenue would no application be needed. Also, Mr. Hul asked if the design specific to the project proposed dictates a need to change the zoning from a T-4 zone to a MIH zone. Mr. Kops replied that there are a series of issues that were outlined in a letter to Mr. Hollister dated August 10, 2012, and Commissioners received copies of that letter.

Ms. Altman said that the comments made by Mr. Kops relate to public health and safety because they refer to open space and the need for sidewalks. She asked if the proposal would need attention with respect to making the changes and revisions conform to the what is best for the public. Mr. Kops said that Mr. Hollister will say that the site plan does address a number of the issues, but it is Mr. Kops' contention that the zoning regulations being proposed do not. Ms. Altman said that the Commission must make sure that the zoning regulations should conform to the public's health and safety. Mr. Kops said the application is site specific to 55 West Woods Road and says it must be on West Woods Road, and be between 5.5 and 6 acres. There is only one parcel that meets those requirements. However, the application states that it could be used as a model for other sites in the Town if the address and perhaps the acreage are modified in the regulations. Ms. Altman feels that the mention of other sites and certain other issues that require attention would suggest that the Commission would be allowed to ask for clarification from the Applicant without acting against the spirit and the law that relates to affordable housing. Mr. Kops said that the suggestion was that the applicant consider changes, but because of timing restraints it would not allow it. The presumption is that the applicant can address the issues necessary to consider this application. Ms. Altman said the Commission could reject the present application and the applicant can make the changes and have the request re-heard by the Commission. Mr. Lee said that if the applicant can address and resolve the concerns made in Mr. Kops' comments the application(s) could be approved, and if they cannot then the Commission would

need to decide if the issues do affect the public's health and safety and if the public's interest outweighs the need for affordable housing under the Statute before the Commission could reject the application.

Mr. Roscow said there is a substantial amount of rock excavation that would go approximately two feet below grade and a footnote (18) assumes 48 16 cubic yard capacity truckloads per ten hour day which would be an increase of 25 percent over the 65 days given time. The zoning regulations permit 7 a.m to 5 p.m workday. Mr. Roscow asked how much blasting would occur. Mr. Milone stated that he will check the calculations for the hours of operation and would adjust if necessary. He is not sure what would have to be ripped vs. blasted and that will be unknown until the excavation begins. Mr. Roscow asked if there will be a school bus pull over area on West Woods Road. Mr. Milone said there is not a school bus pull over area proposed and that the traffic is required to stop for school buses. Mr. Roscow asked where the recreational space would be located. Mr. Milone stated that recreational space will be provided in the revised site plan. Mr. Roscow reviewed the proposed storm water management plan with Mr. Milone. Mr. Milone said the proposed site is unique and they have over-compensated with a complex stormwater management system which provides for the stormwater management structure with an elaborately designed basin.

Mr. Campo asked how abutting properties would be protected during blasting. Mr. Milone said that the Building Department and Fire Department would issue the appropriate permits and they will be consistent with the Town Standards and State Building Codes.

Mr. Campo would like provisions for school buses because there are dangerous curves on West Woods Road and he is concerned with the winter weather. Mr. Milone replied he would take this concern under consideration.

Ms. Mastropetre said that there will be 51,500 cubic yards of material excavated and she asked where it would be taken too. Mr. Milone replied that this has not been determined.

Ms. Mastropetre asked for a list showing the square footage of the apartments and which ones would be designated as affordable housing. She also asked if all the apartments would have the same interior materials used. Mr. Hollister explained that the affordability plan requires that the price restricted and market rate units be comparable. There is minimum set of standards in the affordability plan. There is an initial designation for the price restricted apartments and it must be dispersed throughout the floors and apartments in equal proportions. If someone is in a price restricted apartment and goes over the income restrictions when it is time to renew their lease and they wish to stay in the apartment then another unit must be designated as affordable. An initial designation is done but part of the enforcement is that there is annual compliance and the disbursement stays the same. An annual report will be sent to the Commission and the Zoning Enforcement Office.

Ms. Mastropetre said that there is a gravel drive that goes onto the Farmington Canal and she asked who would maintain it if there is runoff. It is a heavily used area of the trail and she does not want to see any runoff onto it. Mr. Milone said that the gravel drive or pathway would be the responsibility of the applicant or the owner of the development. He explained that the design has been done so there would be no runoff onto the Farmington Canal Trail and any runoff would be diverted toward the stormwater management basin. Ms. Mastropetre asked if there is any damage who will repair it. Mr. Milone said the applicant will be responsible for the damage. Ms. Mastropetre asked if the Commission could have in writing who would be responsible and Mr. Milone replied yes.

Ms. Altman asked for Mr. Hollister's comments with regard to the requested changes to the proposed applications.

Mr. Hollister agreed that Mr. Kops' comments are very thorough. He did not hear anything in Mr. Kops' comments that could not be accommodated with a change in the plan. However, there is one fundamental difference in the comments from August vs. today comments. In August the suggestion was to create a subsection of the T-4 regulation with discretionary exceptions, and Mr. Hollister did not feel that this was the way to go. Mr. Hollister said that today's comments suggest that they work with the structure of the regulation proposed and to make sure it is comprehensive in addressing all the parameters such as open space and recreational matters, and he feels this can be done. Mr. Hollister did not hear anything in the site plan comments that cannot be done, and he

will look at which side of the street the sidewalk should be on. He further stated that the issues raised can be accommodated. Ms. Altman said that the Commission has limited options. The public hearing can be left open and Mr. Hollister can submit revised applications. The options available to the Commission are to hear more from the applicant or deny the applications which would put the Commission in an adversarial position and Ms. Altman feels this would not be good for anyone.

Mr. Hul said the property does not empty out onto Whitney Avenue as he originally thought. He asked Mr. Milone to use the panoramic cross section (Exhibit 8) to identify the area that will be excavated. Mr. Hul's understanding is that there will be 22,000 cubic yards of materials and he does not know if the amount would fill a football stadium or a swimming pool. Mr. Milone reviewed the area to be excavated and said the total amount of excavation would be 57,000 cubic yards. Approximately 5,500 cubic yards of material would be used as fill on the site, and 51,500 cubic yards of material would be removed from the site. In comparison the original proposal for the inn had an excavation of 49,000 cubic yards of material.

Mr. Ryan McEvoy, Profession Engineer, addressed the Commission and stated that an analysis of the site was done. The rough estimate to remove the material from the site would be 65 days, with 48 trucks leaving the site per day.

Mr. McDonagh asked if there would be 48 trucks leaving and returning to the site each day. Mr. McEvoy said that 48 trucks would exit the site with material .

Mr. McDonagh asked if Page 2 in the addendum to the traffic report refers to the capacity analysis summary. He reviewed the report with Mr. Ditman. Mr. McDonagh does not feel the information is correct and reviewed the traffic report with reference to Whitney Avenue and West Woods Road. He does not feel that the information provided is acceptable and it does not addresses the trucks that will be traveling to the site during the peak hours of 7 a.m and 9 a.m. Mr. McDonagh would like a provision that does not allow the trucks at the site any earlier then 9 a.m. Mr. Ditman asked for clarification on the intersection in questioned. Mr. McDonagh said the intersection in question is Whitney Avenue and West Woods Road. Mr. McDonagh said that he would like information included in Table 2 be more pertinent to the site. Mr. Ditman discussed the timing of the traffic signals set up by the State at Whitney Avenue and West Woods Road. Mr. Ditman noted that the traffic signal timing favors Whitney Avenue and is controlled by the State. He said that he would need to notify the State and ask them to review the traffic volumes to see if the timing can be changed to better accommodate the traffic on West Woods Road. Ms. Creane said that the light signals on Whitney Avenue can only be sequenced in one direction at the same time. She noted that Whitney Avenue is sequenced going towards New Haven in the morning and reversed at the end of the day. Ms. Creane questioned the travel route of the trucks and what the impact would be to the area. Mr. Ditman said that traffic signals in the system can be sequenced so that the travel flow can be favorable in both directions. Mr. McDonagh said that Ms. Creane was referring to not how long someone is at a traffic signal but how long it takes to get down Whitney Avenue. Mr. McDonagh said that the Commission asks that the travel route be approved by the Planning Office and Town Engineer for both site plans and special permits. Mr. Ditman reviewed how the system is analyzed using the intersections within a certain area. There was further discussion on the signals and flow of traffic on West Woods Road and Whitney Avenue. Ms. Creane asked Mr. Ditman to submit in writing how a traffic signal can favor both directions at one time. Mr. McDonagh said that he would like to impose a condition that is more severe than 8 a.m to 6 p.m. Mr. Ditman discussed the amount of trucks vs. peak hours with the Commission.

Mr. McDonagh asked Mr. Hollister if he would accept as a condition of approval that student housing would not be allowed, and Mr. Hollister replied yes. Mr. McDonagh said that a sidewalk on the north side of West Woods Road would be more appropriate than a crosswalk.

Ms. Altman stated that the applicant has agreed to continue the Public Hearing until the regular meeting November 13, 2012. Ms. Altman asked for public comments from those who would be unable to attend the November 13, 2012. Mr. Hollister is concerned that he would be unable to address the public's comments if they are not heard prior to the November 13, 2012 meeting. Ms. Creane said that prior to the next meeting the Planning Staff will be meeting with the applicant and the public would still have the right to comment on any changes at the November

13, 2012. Mr. Hollister asked that the public be allowed to submit comments to the Planning Office prior to the November 13, 2012 and that they be forwarded to him so he will be able to respond at the next meeting. Mr. Lee reviewed his discussion with Mr. Hollister with regard to continuing the public hearing. Mr. Hollister said that the Commission will have a formal response at the November 13, 2012 meeting.

Ms. Altman asked for comments from the public that are unable to attend the November 13, 2012 meeting.

Mr. Peter Schwartz, 605 Still Hill Road, addressed the Commission stated that a comment was made that there did not seem to be in the application a caring about people. To set up a special zone to make it easier for the applicant and less accountable for the applicant vs. those who are at this meeting to protect the residents interest is crazy. Mr. Schwartz reviewed his resume and stated that he is not opposed to affordable housing. He is opposed to the kind of zoning that would impact what the Commission has done to create a new zoning system. Affordable housing has been raised to allow applicants to do what they want. There seems to be no interest to stop affordable housing but an interest to increase it. It is a slippery slope to have a property have its own zone, this is crazy. Mr. Schwartz said that he is not an expert in traffic, but if there are 50 apartments and some would have young working couples and there would be two cars for one apartment. To start with the assumption that there would only be 35 cars makes no sense. Mr. Schwartz urged the Town to hire their own traffic engineer for an opinion. Mr. Schwartz said that he goes to People's Bank which is located down the street from the proposed project and said it is difficult to turn left without the project, and if the project is completed traveling West Woods Road would be more difficult. Mr. Schwartz is concerned after listening to what is involved with blasting and the number of trucks that would exit onto the road and referred to another project that made trucks entering a road and getting up to the speed of traffic difficult. Mr. Schwartz feels that trucks should not be allowed to start until 10 am. and this would take the removal of fill longer than 65 days. He said there is a public health and safety issue with blasting because of the surrounding properties. It is an inappropriate site for anything to be built that involves blasting.

Ms. Sue Dennis, 114 West Woods Road, addressed the Commission. She feels that there is a good reason that the zoning regulations require multi-family housing to exit onto a major road such as Whitney Avenue. She feels that West Woods Road is inappropriate because it curves and is steep, and also has a lot of traffic with some traveling too fast. It is not just a matter of how much traffic, but also the condition of the roads in the winter because there are hazards. Ms. Dennis stated that people who are turning left on to West Woods Road worry about people crossing the trail or coming out of other driveways and having to make sudden stops. Ms. Dennis that a pedestrian crosswalk used in place of a sidewalk is irresponsible.

Ms. Altman continued the Public Hearing until the November 13, 2012 meeting.

3. Proposed Amendment to the Hamden Zoning Map 12-931

55 West Woods Road

Change from a T-4 to MIH zone

File available for review in the Planning Office & the Office of the Town Clerk

Westwoods Properties, LLC, Applicant

Deadline to open Public Hearing 12/1/12

B. Regular Meeting

1. Special Permit & Site Plan 12-1204/WS

1851-1861 Whitney Ave, R-4 Zone

Place of Worship

New Haven Korean Church, Applicant

Mr. McDonagh said that there should be a condition that states there be proper screening of the dumpster.

Mr. McDonagh made the motion to Approve Application 12-1204 with the conditions as stated by Mr. Dan Kops, Assistant Town Planner and a condition #3 that reads: The appropriate disposition of the dumpster, and the following conditions:

1. The Applicant must obtain a Zoning Permit
2. Occupancy of the building is limited to 60 people unless additional approved parking is provided.
3. **The appropriate disposition of the dumpster.**

Ms. Mastropetre seconded the motion.

The Commission and the Planning Staff discussed the enforcement of the placement and screening of the dumpster.

The motion passed unanimously.

2. Proposed Amendment to the Hamden Zoning Regulations 12-930

55 West Woods Road

Mixed Income Housing (MIH) District

File available for review in the Planning Office & the Office of the Town Clerk

Westwoods Properties, LLC, Applicant

This item is tabled until the November 13, 2012 meeting.

3. Proposed Amendment to the Hamden Zoning Map 12-931

55 West Woods Road

Change from a T-4 to MIH zone

File available for review in the Planning Office & the Office of the Town Clerk

Westwoods Properties, LLC, Applicant

This item is tabled until the November 13, 2012 meeting.

4. Site Plan 12-1479/WS

55 West Woods Road

Multi-Family Housing

Westwoods Properties, LLC, Applicant

This item is tabled until the November 13, 2012 meeting.

C. Old Business/ New Business

1. Review minutes of September 27, 2012

Mr. Campo made the motion to approve the meeting minutes of September 11, 2012 as written. Ms. Mastropetre seconded the motion. Mr. Campo, Ms. Mastropetre, Mr. Roscow, Mr. Hul, Mr. Reynolds voted in favor of the motion. Mr. Poitier abstained. Therefore, the motion passed 5-0-1

2. Minor Amendment – 3011 Whitney Avenue

Ms. Leslie Creane, Town Planner reviewed the application and advised the Commission that she had signed it.

D. Adjournment

Mr. Reynolds made the motion to adjourn. Ms. Mastropetre seconded the motion. The motion passed unanimously. There was no further discussion.

The meeting adjourned at 10:36 p.m.

Submitted by: _____
Stacy Shellard, Clerk of the Commission