



Town of Hamden

Planning and Zoning Department

Hamden Government Center
2750 Dixwell Avenue
Hamden, CT 06518
Tel: (203) 287-7070
Fax: (203) 287-7075
www.hamden.com

November 19, 2012, Revised 1/9/13 per Commission review at the 12/11/12 meeting

MINUTES: THE PLANNING & ZONING COMMISSION, Town of Hamden, held a Public Hearing and Regular Meeting on Tuesday, November 13, 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:

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

Staff in attendance:

Leslie Creane, Town Planner
Dan Kops, Assistant Town Planner
Tim Lee, Assistant Town Attorney
Stacy Shellard, Clerk
Sotonye Otunba'Payne, Stenographer

Mr. Poitier called the meeting to order at 7:10 p.m. The clerk read the Public Hearing items into the record. Mr. Poitier reviewed the Public Hearing procedures and the panel introduced themselves.

A. Public Hearing

- 1. Special Permit & Site Plan 12-1196/WS**
1315 Dixwell Avenue(aka 1299-1315), T-4 Zone
Daycare
Harmony Kids Connecticut, LLC, Applicant
Deadline to open Public Hearing 12/1/12

Mr. James Segaloff, Attorney, addressed the Commission and introduced the presenters for this meeting. He reviewed the previous Special Permit 12-1196 application for a daycare that was denied and he referred to the minutes of the July 12, 2012 meeting. He feels that this new application addresses the previous concerns made by the Commissioners and that the proposed plan is vastly different.

Mr. David Sacco, Civil Engineer, addressed the Commission and explained the changes that were made to the proposed site that will allow the mix of children, cars and the existing uses on the site to exist together. He described the location of the primary entrance that will be used only for the daycare. Mr. Sacco reviewed the parking plan which includes a drop off/pickup area and a designated parking area for the parents. There is a separate parking area for the Subway and Rent A Center already located on the site. The existing dock will be filled in and the stormwater catch basin will be raised up. The glass entrance door will have barriers located in front of it. The proposed traffic calming measures will include a one way traffic flow with a speed bump near the drop-off/pick up area and a striped crosswalk. Mr. Sacco said the location of the play area can be accessed internally from the building and will be recessed into the building and only a small area will be visible from Dixwell Avenue. Mr. Sacco reviewed the lighting on the site and the photometric study.

Mr. Michael Wyoczanski, Architect, addressed the Commission and stated that the building has the benefit of being an at grade single story building. The new entrance will be located on the side of building and there will be other means of egress located on the other side of the building and one located to access the play area. The plan indicates the corridor widths, plumbing for both genders, and what currently exists on the site. "I4" indicates use by children up to the age of three, and the "E" group indicates use by children who are older than three years of age. There is a small area that has a narrow corridor which can be corrected. There is a proposed corridor to separate the occupancy of the daycare from the storage space. Mr. Wyoczanski has spoken with the Building Department and the proposed corridor is acceptable. Indicated on plan are the egress paths and there are no violations with regards to travel distances. One travel path is longer than allowed and this will be resolved by adding a second means of egress or a wall. All areas of the building can be exited legally. Mr. Wyoczanski stated that he is not the architect of record but was asked by the applicant to do a plan review. He modifications will be made by the daycare center to allow its occupancy.

Mr. Sacco explained that Mr. Jeff Krember did a review of the traffic flow and parking area.

Mr. Paul Humennyj, Director of Operations, Harmony Kids, addressed the Commission and reviewed the floor plan, the designation of rooms and their uses. The rooms will meet the State of Connecticut regulations. Mr. Humennyj feels that the proposed location will meet the needs of the daycare. There will be intercoms in each room that will allow contact between them. Mr. Humennyj reviewed his resume. He stated that the location will provide quality daycare to meet the needs of the children, parents and daycare staff.

Mr. David Sacco submitted a photograph of the loading dock and stated that the landlord has closed it off to the Rent A Center. This has allowed time for people to become accustomed to the area not being in use and that it will be used only by the daycare. Blocking off the loading dock has not created any operational problems for the existing businesses on the site.

Mr. Sacco referred to Mr. Kops' recommended condition #6 and he said that the Department of Public Health will not grant a certificate until a certificate of Zoning Compliance issued.

Mr. Szczypek was glad to see that the light levels in the parking lot will be consistent with the light and dark spots. He asked if there is a proposed lighting plan. Mr. Sacco said that the lighting consultant would be modifying existing fixtures and adding new heads to the existing poles. New fixtures would be added to even out the lighting.

Ms. Cutrali said that rooms 126, 127 and 128 are off a common corridor. She asked who will occupy the rooms and if the traffic from the daycare can access the rooms. Mr. Humennyj discussed the rooms that will be vacant and he explained that they are included in the daycare's lease. The rooms will be left unused and will be locked.

Mr. Hul noted that Mr. Humennyj had commented on two areas of concern, one being the narrow corridor. Mr. Hul asked what the second concern was and what the solution would be. Mr. Humennyj replied the second concern was the length of the path of travel to exit the building with one path being four feet over the limit and reviewed the possible solutions. Mr. Hul asked Mr. Humennyj if a solution would be addressed in this presentation. Mr.

Humennyj stated that the consulting architect has not been engaged by the applicant to make changes to the proposed plans.

Mr. Hul asked Mr. Sacco if any additional information would be presented with regard to the traffic. Mr. Sacco said that he is prepared to respond to any questions about traffic concerns.

Ms. Cutrali asked how many designated parking spaces are assigned for the designated drop-off/pickup area. Mr. Sacco said there are seven spaces directly in front of the building which includes one handicapped accessible space. In addition there are another 12 spaces across from the driveway with a marked crosswalk. The total number of parking spaces would be 19 parking spaces. Ms. Cutrali asked if these will be specifically designated for the daycare and Mr. Sacco replied yes and that there will be signage.

Mr. Kops read his comments which recommend approval based on the following plans:

“Property Survey Land of Hamden Associates, LLC, 1299-315 Dixwell Avenue”, sheets X-01 and X-02, dated September 11, 2012, prepared by Clarence Blair Associates, Harmony Kids Day Care Center, 1315 Dixwell Avenue, Sheet 1, “Existing Conditions and Demolition Plan,” Sheet 2 “Site Plan,” and Sheet 3 Miscellaneous Details,” dated September 18, 2012, prepared by TPA Design Group,

Mr. Kops suggested that condition #6.a be changed to read: Prior to the opening of the daycare center a license must be received from the Department of the Public Health. He also recommended that a condition 1.j be added to read: Contains all changes resulting from the review by the engineering and architectural consultant.

Mr. Sacco stated he agrees to the suggested changes and conditions recommended by Mr. Kops.

Mr. Poitier asked for public comments in favor and against the application. There were none.

Mr. McDonagh asked if there would still be a kitchen located in the southwest corner of the facility. Mr. Sacco said that the food will be prepared off site and delivered to the site. The kitchen will be used only to handle and serve the food. Mr. McDonagh asked if there will be a catering entrance. Mr. Humennyj explained that there is a catering entrance on Dixwell Avenue and he reviewed the location of the door.

Mr. McDonagh asked if the playground area will have an egress in case of emergency. Mr. Sacco replied that there will be a gate for egress in case of emergency.

Mr. Hul is concerned with the rooms that will not be used, but that in the future they may be used for a purpose other than the daycare. He feels that there may be a conflict because if the rooms are used by individuals who do not have business with the daycare they will be able to enter and walk through it. Mr. Sacco said that the daycare’s lease gives them full control over the space and it cannot be sublet or used in conflict with the daycare use. Ms. Mastropetre asked why this is not noted in the proposed plan. Mr. Sacco said that the architect did not review the spaces because they were not part of the dedicated daycare spaces and he did not evaluate them to determine the degree of code compliance. The spaces will be closed off by a locked door for safety and will not be used as part of the facility. The daycare operator will have control of the space and he will make sure that no one else uses the spaces and creates a conflict.

Ms. Cutrali asked if greeters will still be used and how elementary school students using bus transportation will access the building when being dropped off or picked up. Mr. Humennyj noted that there will be two greeters and he described their job description. The location of drop-off/pickup area will be determined by the bus company. Ms. Cutrali asked how elementary school students using bus transportation will access the building when being dropped off or picked up. Mr. Humennyj explained that the bus company requires that a staff member be present when the students are being dropped off/picked up.

Mr. Kops recommended that a condition 11 be added to read: Any use of the currently unoccupied spaces shown on the floor plan must be approved by the Planning Staff or the Commission as appropriate prior to their use.

Mr. Segaloff asked if the vacant spaces can be used for daycare uses without approval. Mr. Kops said that any use even if daycare would need an amendment to the Special Permit.

Mr. Poitier asked if there will be monitoring cameras used on the site. Mr. Humennyj said there are currently eight cameras on the site and additional cameras will be installed. A monitor will be located at the secretary's desk and the director will have the capability of accessing the monitors with an IPAD or other tablet.

Mr. Poitier 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

Public Hearing continued from October 9, 2012 Meeting

Mr. Tim Hollister, Attorney, addressed the Commission and introduced the presenters for this meeting. He stated that the intent of this presentation is to try and address most of the comments made by the Planning Staff, Public and the Commissioners at the October 9, 2012 meeting. Mr. Hollister reviewed his presentation outline.

Mr. John Milone, Professional Engineer, addressed the Commission and reviewed the revised site plan (Exhibit 13) dated October 25, 2012. The walkways have been increased to 4 ½ foot in width. The plan has been modified to increase the amount of parking spaces from 87 to 95 spaces which meets the criteria of the residential zones and special districts in the current zoning regulations. The earthwork operations will take place from 8:00 a.m to 5:00 p.m., and a note was added re: noise limitations for the crusher operation. Mr. Milone referred to the Town Engineer's comments dated November 9, 2012 and stated they will be incorporated in the plans. The cleanliness of the trucks leaving the site is the responsibility of the owner and will be added to the plans. A definition for the recreation area located on the south of the building will be added to the plan and it will include additional plantings and furniture. The parking area will be modified to include additional landscape islands to meet the requirement of one shade tree with an internal island for every five parking spaces. There will be a total of 21 shade trees. The project title has been added to the title sheet.

Mr. Milone stated that there have been some concerns about the driveway width which is 24 feet throughout most of the site where there is perpendicular parking and this would be consistent with the zoning regulations. However, on the north side, the driveway will be maintained at 24 feet and at the south side there will be two 15 feet lanes inbound and outbound. It was suggested that the widths of the paved areas should be reduced. Mr. Milone said that he is not comfortable with reducing the widths and that the increased widths are appropriate for the safety of emergency vehicles and other large vehicles. He reviewed the locations of the driveway entrances with the Commission.

Mr. Milone said that it had been noted at the previous meeting and was a recommended condition of approval that a waiver was needed from the Department of Public Health for the discharge of storm drainage from a discharge pipe that is within 100 feet of a water course. The proposed stormwater discharge pipe will be 108 feet away from a water course and a waiver should not be required. Mr. Poitier confirmed with Mr. Milone that he had said the discharge pipe will be 108 feet away. Mr. Dan Kops, Assistant Town Planner, said that the discharge pipe is 8 feet beyond the 100 foot requirement.

Mr. Hollister reviewed the written submission of the Applicant's Supplemental Materials dated October 31, 2012.

Mr. Hollister stated that the IWC requires that the applicant comply with conditions of approval when approval for this site was received in 2007. Mr. Hollister said that he would accept as a condition of approval if the P&Z Commission would like to incorporate the IWC conditions into the application.

Mr. Hollister reviewed Tab C and E of the Applicant's Supplemental Materials and the revisions to the proposed zoning regulations that were made since the October 9, 2012 meeting.

Mr. Dan Kops, Assistant Town Planner, read his comments for the amendment to the zoning regulations application 12-930. Staff is unable to recommend approval at this time.

He then stated that Staff are unable to recommend approval for the proposed amendment to the Zoning Map 12-931 and Site Plan 12-147 without approval of the Zoning Regulations Amendment 12-930. He did note that case law does not appear to support the requirement of consistency between the zoning regulations and an affordable housing site plan application. The Commission may be obligated to approve Site Plan 12-147.

Mr. Hul referred to page 6 of 6, the last sentence of Mr. Kops' comments and he asked for an explanation.

Mr. Tim Lee, Assistant Town Attorney, explained that the application is an affordable housing application and that a lot of the normal rules that the Commission applies to the Special Permit and Site Plan applications that comes before them do not apply to an Affordable Housing application. The applicant has issued three applications; an application to amend the zoning regulations, an application to amend the zoning map and an application for site plan approval. The Commission theoretically can deny the application to amend text in the zoning regulations and the application to amend the zoning map. However, the Commission may still be obligated to approve the site plan without amendments to the zoning regulations. Regarding the site plan, the Commission is not looking at the application as it would a traditional Special Permit application or a Site Plan application. Per the Affordable Housing Statute, CGS 830-g, the Commission must look at the application differently. When evaluating this application, the Commission must determine if it poses a substantial threat to any public interest and public health, safety and welfare. If the Commission finds such threats to the public health, safety and welfare, they must make a determination of whether the threats outweigh the need for affordable housing in Hamden. Pursuant to the State law, Hamden is under the 10 percent affordable housing threshold and there is already a finding that Hamden is in need of affordable housing. The Commission would need to make a finding that the public interests cannot be protected by reasonable changes to affordable housing development. Mr. Lee referred to Mr. Kops' comments which noted that the proposed site plan may not comply with the existing zoning regulations, and that the Commission may or may not approve the text of the proposed zoning regulations. Mr. Lee said that if the Site Plan application does not pose a substantial threat to the public health, safety and welfare, Commissions may be required to approve the application even though they consider it not to be a perfect site plan and it did not cover 100 percent of the issues they would like to see addressed.

Mr. Poitier remarked could of, should of, might be. There are a lot of things in Mr. Kops' comments that indicate the applications should not be approved unless the plan is corrected and fixed because they are minor problems. He stated that the concerns of the Commission are that the applicant should be able to meet the zoning regulations and be consistent with the rest of Town and approvals given for similar applications. Mr. Lee replied that the Commission should have a dialogue with the applicant to see what concerns can be addressed. If there are things that the applicant cannot address, then it is up to the Commission to make its finding.

Ms. Mastropetre stated that she is in favor of the affordable housing application. However, she has serious concerns about the requested changes to the zoning regulations. She is happy to see that language was put into the application about the earth and terrace excavation removal. She feels there will be a severe adverse impact on the surrounding businesses and condominiums if rock crushing is allowed. Ms. Mastropetre said that the earth material and excavation should not be part of the proposed MIH zone and should be removed from the proposal and then she would have a favorable view on the application. Under section 384.8, Ms. Mastropetre is concerned because there is a conflict between the provision of the existing zoning regulations and the proposed regulation governing the

MIH district. She commented on Mr. Kops' comments. She said that the dust and noise from the proposed project will be severe and will have a negative impact on the businesses and the neighbors.

Mr. Reynolds asked why the applicant wants to change the existing zoning regulations when the affordable housing statute allows an applicant to override a lot of local zoning regulations.

Mr. Hollister replied that 8-30.g. says that a zoning commission cannot deny the application simply because it does not meet the exact letter of the existing zoning regulations. The Blue Ribbon Commission came up with the recommendation to the Legislature before it became 8-30.g. The Blue Ribbon Commission met over two years and it found that across the State when an applicant was proposing lower cost housing the zoning commissions were denying the applications. The zoning commissions were stating that the denials were because they did not like the density, it would change the character of the neighborhood, or they did not like the number of trees on the site. With a normal zoning application if a reason is given for denial and there is any evidence in the record to support it then the commission would win. The Blue Ribbon Commission found that application, after application, to have mixed income housing was being turned down by zoning commissions and the applicants were losing and they were completely defenseless. The sense of the Blue Ribbon report was that applications were being turned down for insubstantial reasons that did not take into account that Connecticut needed more economically diverse housing.

The way the courts review the applications is that the Commission cannot just look at whether the application meets the zoning regulations, but is it a substantial matter of public health and safety. If it is a matter of public health and safety then the Commission must determine if it outweighs the need for affordable housing. There are approximately 30 towns that are exempt from meeting 8-30.g., but Hamden is not one of them because it is below the 10 percent threshold. Mr. Hollister went on to say the Commission must determine if the application can be turned down because its concern is whether the development plan does not meet the regulations and constitutes a matter of health and safety. He stated that the applicant has the option to make an application with a site plan and say it does not matter if it does not conform to Hamden's regulations or any regulation and this is an option that Mr. Hollister has had. Over the past 20 years, Mr. Hollister has come to feel the better way to go is to craft a site specific regulation. He always starts with a town's existing regulations and tries to get as close as possible to the set of regulations because the Commission has worked on its own standards and they have a valid basis. The reason for a site specific regulation is to work with a commission to spell out exactly what will be developed on a property. He is resistant to special permits by definition because it puts together a basic concept of a use and then the commission has unlimited discretion to shape the application and the use, the dimensions and everything involved in it. This is not compatible with the approach to come up with a specific density that will work from an affordable housing standpoint. Affordable developments are internal subsidies, market rate units that are subsidizing the applicant's ability to rent or sell units substantially below market rate. By putting together the governing regulation everyone will know what will be developed on the site. The practical reason for doing a new regulation is because if there is a development plan that is not in compliance with governing regulations, when the applicant goes to a lending institution for financing, the loan officer will ask for a zoning compliance opinion. The applicant wants to say that what is approved conforms with zoning regulations that are on the books. Another reason is to end up with a conforming use and not something that looks like a variance as a site plan with no governing regulation.

Mr. Reynolds asked if the 8-30.g statute allows an applicant to override a special permit. Mr. Hollister replied it allows an applicant to sidestep the special permit. Mr. Reynolds asked if it would be just as easy to make a presentation as close to the existing zoning regulations as possible and then discuss the areas that the applicant would like to change. Mr. Hollister said that as presented at the October 9, 2012 meeting it was explained that the criteria under the Affordable Housing Statute is whether the development plan raises a substantial impact on health or safety. Under a Special Permit an issue within a commission's discretion can be addressed through a condition of approval. A special permit, by definition, expands the commission's scope of review far beyond health and safety and gets into density, architecture, traffic management and other things that may or may not have anything to do with health and safety. There have been court decisions where commissions have demanded a special permit process for affordable housing. The two processes have come into conflict and the courts have said that a special permit is not a substantial enough reason to turn down an affordable housing application. Special Permits vastly

expand a commission's power. The 8-30.g statute was imposed because commissions around the state were engaging in exclusionary zoning. Mr. Hollister acknowledged that the Hamden Planning and Zoning Commission has done a better job than most with their own affordable housing regulation. He said that there are lot of towns that have 3 acres zoning and anyone who wants to live in an apartment on 1 acre can go to another town. The 8-30.g was imposed to try to deal with the exclusionary effect.

Mr. McDonagh there is a recommendation from the Assistant Town Planner that says we don't need part one and two of the proposal and he gives provisional conditions of approval that meets the existing zoning regulations. Mr. McDonagh has a concern of setting a precedent where it is said that a special permit is not needed for rock crushing and excavation, and this would open the door for other projects that are not affordable housing. Mr. McDonagh feels that the provisional conditions of approval recommended by the Planning Office do not agree with Mr. Hollister's proposed amendments. Mr. Hollister explained that many changes were made since the meeting held on October 9, 2012 in response to Mr. Kops' comments. Mr. Hollister said he is prepared to address Mr. Kops' comments dated November 13, 2012. He further stated that he is prepared to address the additional site plan changes being requested and can accommodate most of them and accommodate most of the additional request for regulation changes. He is trying to work with the Commission for everything they are asking for. He does not feel he can get to the same place for the Commission to just approve the site plan with conditions and throw out the regulation and rezoning. It would end up with something that looks like a non-conforming use or variance and would not be a good place for the applicant and it would be a lower level of control for the commission. He asked what if an issue comes up in the future to move a building, modify a building, modify architecture, modifying the use. If there is not a governing regulation the Commission and the Applicant and even the neighborhood would not have anything to go back to as a reference point. He agreed with Mr. Kops that it is within the Commission's right to address the site plan without addressing the amendment to the zone and map change. However, Mr. Hollister does not feel that this would be the way to go as a matter of planning and land use practice. Mr. Hollister is prepared to address Mr. Kops' list of comments.

Ms. Creane said that when Mr. Hollister first met with P&Z staff it was made very clear that the Planning Office wanted to work with him. There was no issue with the affordable housing. It was made very clear that the Commission, Planning Staff and the Public worked very diligently on the adopted zoning regulations. Mr. Hollister was strongly encouraged during the meeting to work within the realm of the existing regulations. She said that to borrow Mr. Kops' words "it is very disingenuous" to cite issues such as twelve vs. 15 foot lane which can be easily be resolved. There is no reason that the regulations cannot be complied with because they were well thought out. As an example Ms. Creane referred to the issue of the emergency vehicles. She said that emergency vehicles will get wherever they need to get to on a site. There are things that can be done to minimize the amount of paving and a 15 foot lane is not needed. The amount of paving was a policy decision by the Commission, the Planning Staff and the Public. Ms. Creane said that when Mr. Hollister cites 8-30.g and the conclusion that the Blue Ribbon Commission came to of affordable housing applications being denied because there are not enough trees falls into the same category but at the applicant's end. Mr. Hollister replied that there has been progress between himself and the Planning Staff since the July Meeting.

Mr. Poitier asked for public comments in favor of the application. There were none.

Mr. Poitier asked for public comments against the application:

Mr. Gerald Nolan, 144 West Woods Road, addressed the Commission and stated that he lives 1/10 of a mile from the proposed project. He said that at the first presentation that was given at the West Woods Civic Association and there was no inclusion of low income housing and this strikes him as a wedge to get something in the back door. Mr. Nolan described the additional traffic that would be created by the project having the same effect as if it were going to pass through a funnel. He reviewed the area and the traffic that is created by the businesses located in the area of West Woods Road and Whitney Avenue. Mr. Nolan said that he has lived in his home for 58 years and has seen a lot of changes. A traffic study was done by the Town and it indicated that West Woods Road is one of the most heavily traveled roads in the north end of the Town. He compared the traffic on West Woods to a

sponge that can only absorb so much and that it cannot hold any more traffic, and that it has reached a saturation point. He feels that because of the logistics of the proposed plan, the application should be denied.

Mr. Kurt Zilm, 217 Todd Street, addressed the Commission and expressed his appreciation to Mr. Kops and Ms. Creane for the time and work they have done on this project, and for this patience to hear public input. Mr. Zilm feels that there is a gun being held at the Commission's head to approve the applications and that it can only be disarmed if the project represents a threat to the health, safety and welfare of the public. His belief is that a threat does exist. He noted that the State determined that the intersection needed improvements and it a long project ensued. Mr. Zilm described the traffic pattern and traffic congestion that exists on West Woods Road and he said that the project will exacerbate the problem. Mr. Zilm is concerned that the hydrology and the stormwater on the site and could create a safety hazard to the public and the watershed. He said that a sheet flow of water does come off the site and Mr. Zilm referred to the different flows of water that that comes off the site. If the site is mined and the aquifers underneath are exposed he expects that the stormwater will increased and increase water to the Todd Street side of the property. Mr. Zilm feels that the existing ½ inch copper pipe will not be sufficient to pass the increase in the flow of stormwater and flood the road, which will create a public safety hazard. He would like to see the stormwater piped over to the stormwater system on West Woods Road and would like this added to the conditions of approval. Another issue of concern is the control of student housing and the maintenance of any conditions of approval. Mr. Zilm referred to a condominium development in the area, during the second phase, the Commission had required that the stone fence would be put back up when the development was completed. This never happened and the site is now a construction site with a pile of rubble and construction trailers. He feels that the site is now a blight situation that will continue to be one. When the proposed project is completed the basin will be left. Mr. Zilm said that there should not be students unless the applicant agrees to penalties as a condition of approval. There are many houses on his street that have double the number of students allowed and it is difficult to enforce, and that this may also be a problem on the proposed site. Mr. Zilm would like the application denied and not let the regulations be rewritten. He does not want to see spot zoning and to get out of town he can divide his 7 acres for affordable housing and then go to another town that will protect its regulations.

Mr. John Morrison, 1692 Whitney Avenue, addressed the Commission and stated that he is opposed to the application. He said that it was only a few years ago that someone wanted to do strip mining in the area by digging underneath into the dirt and soil and remove the stone. The stone would then be shipped down Whitney Avenue to waiting ships that would take it to China to make concrete. At the time the it was determined that it was a watershed area and public aquifer. This area needs to be protected and it is protected under the Town and State laws. The proposed operation will level off a mountain with 48 trucks going down Whitney Avenue for 2-3 months. The trucks would be going down Whitney Avenue every hour in areas where there are schools, children and school buses. Mr. Morrison feels that transporting the rock would be a safety hazard. Mr. Eric McFee, Supervising Analyst of Ct Department of Public Health, Source Water Protection Unit, issued a letter September 27, 2012 that found that the proposed project was inconsistent with the policies in place to protect public water drinking supplies, and further states that the DWS that a development of this nature is best located outside a public drinking supply water shed. Mr. Morrison said the proposal says that it is in the Town's aquifer protection area and the activity is restricted in such an area, but multi-family is allowed. Mr. Morrison feels if the ground was flat and someone was going to build affordable housing it would be okay, however, the proposed site is a mountain, and someone wants to take it down, rip it apart, and crush the rock, totally change the topography and subtenants of the soil, rock and waterflow that is there. The Mill River is located right below the site and flows down to the reservoir on Whitney Avenue and the public water supply is at risk, endangering public safety. If the applicant is going to build the project let it be built on the mountain and not tear the mountain down which is protected under the State Statute and it should be stopped cold in its tracks.

Ms. Elaine Dove, 137 Santa Fe Avenue, addressed the Commission and stated that she previously worked for an Insurance Company and part of her duties were fraud and abuse. She became very good at sniffing out the fraud and abuse and became a key witness in a very famous case that the FBI brought against hospitals. Ms. Dove said that she has looked at the chain of ownership and sales price of the property as it has changed hands. Her guess is that there have been several people who have made money and some who hope to make money. She feels that rock crushing is gold. Ms. Dove had a friend who built their house for free because he took the rock/gold out of his

property. Ms. Dove said that the applicant wants the rock for money and he will do anything to get it. What disturbs her is that the intent to use the Affordable Housing is fraudulent and it is difficult for the Commission to prove it without the documentation of the applicant's effort of what they will be doing. She stated that this application does not smell good. The fact that the applicant's representation can make something be done specific to the property it will be easier to appeal in court if the applications is denied. It is silly to build affordable housing on a site that is inappropriate. A lot of time was spent on crafting and amending the zoning regulations and they should be honored. A precedent will be set if it is changed for this applicant. Ms. Dove asked what happens once the applicant has excavated the gold/rock out of this site and then decides to go bankrupt or abandons the project. Ms. Dove does not support the proposed project.

Ms. Cindy Civitello, 61 Berkeley Court, addressed the Commission and read the following prepared statement into the record:

Attorney Hollister keeps comparing this application to the previous inn that you as a Commission approved several years back. I'm curious as to why he has not mentioned the application for only 26 town houses at the same location which did not come before you, because in December of 2012 it was denied a variance to allow an exit from the development onto West Woods by the ZBA. One of the reasons was because of the heavy traffic that currently exists on West Woods Road and its impact on the neighborhood. At the previous P&Z meeting in October, Attorney Lee stated that in order to deny this application, the health and safety of the public must out weigh the need for affordable housing. Isn't an overly congested road considered a safety issue for affordable housing as well? Even though, the applicant states that undergraduates will be barred from occupancy, I am skeptical that students will not end up as residents. Can't four graduate students fall under the State's affordable housing guidelines? What safeguards will be in place to assure us that will not happen? I disagree with the data from the traffic study. I use this road every morning to get to work and there are times when the traffic is backed up almost to Kimberly Road, taking at least 2 traffic cycles to reach Whitney Avenue. I can't imagine any additional cars exiting from this development onto West Woods Road trying to tun left while there is a long line of cars waiting for the no turn on red light to change on Whitney. Will those cars from the development still depart hoping someone will let them in, thereby blocking the road for those motorists heading west. In addition the driveway is on a section of West Woods Road that is on a hill which is curved and very slippery in the winter. It is an accident waiting to happen. I have major concerns about the mining operation that will take place for four months and Mr. Morrison stated the same concerns. Another concern is when doing West Woods Road are the homes near the blasting site going to be compensated if there is damage to their foundations. So, with all the traffic at that intersection, Tonino's, Westwoods Corner that includes Talbot's and People's bank, QU Polling Station, student parking lot and the trail crossing, we don't need any more congestion to that area. I know you have a very difficult decision to make, but if you ask any resident of our area, I am sure they will agree that the health & safety of the public clearly out weighs the need for affordable housing. You Must Deny this application. Emails were sent with regard to this application from Mr. Gorman and included in the Commission's packets. One More thing, I would like clarification of Article 380.4.8 concerning conflicts stating where any provision of Section 380.4 conflicts with any of our zoning regulations, the provisions of this section govern and this should not happen.

Mr. Gus Spohn, 4032 Whitney Avenue, addressed the Commission and asked if student housing can be excluded and what legal mechanism would allow exclude students from renting and if there is case law. He also asked if a performance maintenance bond would be required for this development.

Mr. Lee explained that the Commission can require bonds for this application and affordable housing cannot be excluded. Mr. Kops said that under the law amended approximately a year ago, the performance bonds became limited. At the beginning of a project a bond can be required for sediment and erosion controls. When the applicant comes in for a certificate of zoning compliance if the Zoning Enforcement Officer determines there are areas being deficient then a bond can be established for the remaining items that need to be completed. In the past, the Commission was able to require a bond, that at times were well over a million dollars. Mr. Lee said the new bonding laws apply to all applications.

Mr. Hollister agrees that affordable housing bonds must follow the same rules as other housing. He said that student housing is not a protected class and the landlord may exclude a class of people if there is evidence that the group of people cause damage to the house. Mr. Hollister wrote an opinion letter for Avalon Bay when they owned the apartments when they excluding undergraduate students. A copy of the opinion was given to the Commission and is the basis for excluding students for the proposed site.

Ms. Joyce Blandon, 164 West Woods Road, addressed the Commission and said that when the traffic study was done it was done in the summertime when the weather was done. If the study was done in the winter time it would be a different story because West Woods Road has hills and curves, and when it snows it stays covered and usually with ice. It is hard for people traveling west on West Woods Road when they hit the small incline because they get stuck, and cars leaving Talbot's and any place a little north can collide with them. Since the Farmington Trail and York Hill Campus were built there are more people walking and riding bikes. The street has very poor sight lines and one cannot always see around the curves. People must be careful on how you come in and out of the streets and the driveways because you could possibly hit somebody. If a traffic study is done again it should be done from 6:30 am to about 8:30 to see the traffic going out onto Whitney Avenue and again from 4:30pm to 7:00 pm the traffic come back onto West Woods Road, and then at 9:00 p.m when people are coming out of the polling center. People leaving Talbot's get stuck and then people coming onto West Woods Road also get stuck.

Ms. Sara Clark, 4032 Whitney Avenue, addressed the Commission and asked that the letter from Mr. Al Gorham should be read into the record.

Ms. Teresa Charron, 215 West Woods Road, addressed with the Commission and said there have been two accidents in the last 3-4 months. Mail boxes and trees have been knocked over, a telephone pole has been hit, and Ms. Charron said that there have been a lot of accidents and she would like this considered.

Ms. Marsha Walsh, 680 Hartford Turnpike, addressed the Commission and asked if there is any common sense left. She is happy that Sleeping Giant is a state park and the top of it cannot be taken off to crush the rock. The proposed application is a safety issue and needs to be denied because it is a safety issue and does set a precedent if the application is approved.

Ms. Jeanne Harpin, 71 Old Coach HWY, addressed the Commission and stated that she concurs with the comments that were made by Mr. Nolan made concerning the traffic in the area. West Woods Road is saturated with traffic and this continues even with the renovations made at the intersection. Ms. Harpin described the routes she travels and said that the traffic on Whitney Avenue is growing, especially since more Quinnipiac students are driving. There are more students driving to get from one side of Whitney Avenue to the other. If the population in the area is increased it will increase the traffic in an area that is close to Quinnipiac University. Ms. Harpin lives in Hamden and proudly is a democrat. She understands there needs to have more affordable housing in Hamden, but one should consider where it is being put. There is concern for the health and safety of the people in the area especially when she sees Quinnipiac Students crossing Whitney Avenue. Ms. Harpin said that this project is a grave concern.

Ms. Creane read into the record letters that had been received from Ms. Johanna Becker, Mr. Al Gorman and Ms. Constance Lavoie.

Mr. Reynolds asked for clarification at how the rent calculations for affordable housing would be made and what the charge would be for one and two bedrooms apartments. Mr. Hollister said that the calculations given were the maximum calculation based on the current figures from the Federal Government. Mr. Reynolds asked if the amounts given are median for the area and Mr. Hollister said yes. Mr. Reynolds asked if Mr. Hollister knows what the market rate in Hamden is for a two bedroom apartment. Mr. Hollister replied he did not know what the median rate amount is for Hamden. Mr. Reynolds is trying to assess the need for affordable housing is and currently what the market rate is. Mr. Hollister replied said that the market rate would be based on size, quality and location. Mr. Reynolds said that the calculations given were based on price and Mr. Hollister said this is how the state calculation works. Mr. Reynolds noted that the current Hamden Zoning Regulations address affordable housing better than the

Statute 8-30.g. Mr. Hollister said that it is difficult to get financing if you do not know the money or the annual income of who will rent. Mr. Reynolds says that the income levels being shown in this application look like the market in Hamden now. Mr. Hollister said that the income levels remain the same for affordable housing regardless of the market and is the point of 8-30.g for stability and predictability. There is volatility in the single family market. Mr. Reynolds stated that there is also volatility in the level of income. Mr. Hollister says over the last 15 years the income has not gone down. Mr. Reynolds is trying to assess the needs. Mr. Hollister said Hamden is closer to the income median than most towns.

Mr. Poitier asked if the project would be HUD or FHA funded. Mr. Hollister said the project will be privately funded. Mr. Poitier asked how it is possible that the rents are below market rate if they are not getting subsidized. Mr. Hollister said that market rate rents subsidize the applicants ability to reduce the rents of 30 percent of apartments and charge more on the 70 percent of the apartments. There will be no government subsidy.

Ms. Mastropetre asked if consideration was given to revise the proposed plan to include a pull off area for school buses and Mr. Hollister replied no. He said that the feeling is that when a bus stops traffic in both directions must stop, and a pull off area does not add anything to the safety of the situation because once the buses' stop sign flips out traffic must stop. Ms. Mastropetre feels it is unfortunate because of the hill and winter conditions. In the northern end of Hamden the roads are icy in the morning. The Public Works Department does its very best to sand and treat the road, however, water runoff from this project could create black ice and even people traveling slowly could slide on the ice when trying to stop, and a pull in area would be safer for the children. Mr. Hollister said that he will work with the Board of Education to determine the best location so that a bus would not have to stop on an incline. A pull off area could be worse location gives the impression that a vehicle does not have to stop because it the school bus is off to the side of the road, and in the winter snow will be pushed off into the pull off.

Ms. Mastropetre referred to Mr. Al Gorman's letter which addresses the POCD, goal # 6, and she asked if the project would conflict with the goals of the POCD with the items that Mr. Gorham had stated. Mr. Kops explained that a basic project was approved for an inn. The same environmental issues were raised before the IWC, which approved the project and the P & Z Commission had also approved the application for the inn. It would be difficult for the Commission to deny the application based on the POCD when it is similar to the previously approved application. When looking at the POCD you can find points to justify any position wanted. Mr. Kops cited those which expressed the need to increase the affordable housing. There are affordable housing goals, environmental protection goals and when the Commission is deciding on the application it must look to see if the affordable housing application has potential impacts to the environment greater than the need for affordable housing.

Ms. Cutrali asked if it has been determined how many trucks loads, how many days it will take to remove the stone and where the trucks will be going. Mr. Hollister noted that it is stated in the proposed site plan on sheet five. Mr. Kops said as a point of order he feels that the math is faulty regarding the amount of rock being removed and the amount of days it will take. The application approved in 2008 the proposal was to take out 46,350 cubic yards of fill in 65 days. The proposed application estimates that there will be 65,500 cubic yards taken out in 65 days. When he divided the 65 days x 48 truck loads, he got 367 days for this application and the previous application was 360 days they are both in same order of magnitude and this is why the crushing is an issue. Mr. Hollister is not sure the figures are correct. Mr. Kops stated that the figures were taken from page five of both applications and Mr. Hollister replied that the figures would be reviewed.

Mr. McDonagh said that the traffic study was good, however it is misleading on page 2 about the level of service because it only addresses Whitney Avenue. It identifies current and future levels as D and E at West Woods Avenue coming to Whitney Avenue. There is no level of service identified for taking a right hand turn coming down West Woods onto Whitney Avenue. When taking a left from Whitney Avenue onto West Woods is abysmal. He asked that the hours of the trucks traveling to and from the site between 10 a.m and 4 p.m. and this would extend the number of days. He feels it is necessary because of residential traffic. Mr. McDonagh said the proposed community room is idiotic because you must go down a corridor that is 80-90 feet long to reach it, with an exit that is onto the back of the property with a retaining wall. He does not feel anyone will use it. Mr. McDonagh agrees with the purpose of the affordable housing regulation, but if it defined affordable housing by what is charged,

Hamden would be far above the 10 percent requirement. The affordable housing is done by the amount of apartments that are stipulated and meet certain criteria, not based upon if they are affordable. His argument is that the word affordable should be removed.

Ms. Creane read the letter from Mr. Robert Roscow, Commissioner, into the record.

Mr. Hollister summarized by saying that Mr. Kops' comments were thorough concerning the sections of the zoning regulations being proposed, the site plan changes and conditions of approval. Mr. Hollister stated that he is read to add the first four regulations that Mr. Kops would like to see done. He will revisit the proposal of further amending the amount of earth material and its removal and try to meet everyone of the requests. Mr. Kops' comments on the width of the driveway will be re-examined. Mr. Hollister feels that a good explanation has not been given as to what they are planning to do and why. A response will be given in writing well in advance of the next meeting. Mr. Hollister stated regarding the proposed conditions of approval he can agree to condition 1.a.i.e, and will revisit condition 1.a.i.h. He is unsure what condition 1.a.i.f is asking for, because the application already has provisions for monitoring and regular reports. A hard look will be taken at traffic operations for the hours of operation for construction and trucking. Mr. Hollister is agreeable to the remainder of the conditions of approval. He stated that a complete written response will be provided and he feels that they can meet the Planning Staff and the Commission 98 percent of the way. Mr. Hollister will provide an extension of the public hearing in writing.

Mr. Poitier stated that the original application called for no rock crushing, but asking that rock crushing be approved now. He asked why the rocks cannot be moved somewhere else to be crushed. Mr. Elliot said he will provide an explanation in his response, but feels it will be a benefit to the neighborhood.

Mr. Poitier continued the public hearing until December 11, 2012.

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

Public Hearing continued from October 9, 2012 Meeting

B. Regular Meeting

1. Special Permit & Site Plan 12-1196/WS

1315 Dixwell Ave(aka 1299-1315), T-4 Zone

Daycare

Harmony Kids Connecticut, LLC, Applicant

Mr. McDonagh made the motion to approve Application 12-1196 as recommended and amended by Mr. Kops, Assistant Town Planner, and the following conditions.

1. Prior to the Issuance of a Zoning Permit, the applicant must submit revised plans for approval by the Town Engineer and Town Planner, containing
 - a. A note stating that there will be two greeters inside the main entrance during drop-off times.
 - b. Details of the proposed beautification of the exterior of the building next to the outdoor play area.
 - c. Lighting in the outdoor play area.
 - d. A new photometric study that shows illumination levels consistent with the the Zoning Regulations
 - e. Signage indicating spaces reserved for Harmony Kids Day Care
 - f. A note stating that the U-haul trucks will be relocated to the rear of the property.
 - g. Any changes required by the State Department of Public Health
 - h. Any changes required by the Deputy Fire Marshal.
 - i. All conditions of approval.

j. All changes resulting from the review by the engineering and architectural consultant.

2. Prior to the Issuance of a Zoning Permit, the applicant must obtain confirmation from QVHD that the necessary asbestos remediation has been completed, in conformance with Connecticut General Statutes, EPA and Connecticut Public Health Code Regulations.
3. A Zoning Permit must be obtained prior to undertaking any site work or work requiring a Building Permit as well as any other work associated with the daycare center.
4. The Zoning Permit must include the approvals by the Deputy Fire Marshal, QVHD and GNHWPCHA.
5. A Certificate of Zoning Compliance must be obtained prior to opening the day care center.
6. Prior to the issuance of the Certificate of Zoning Compliance the applicant must provide:
 - a. ***Prior to the opening of the daycare facility a copy of the license approved by the State of Connecticut Department of Public Health.***
 - b. A copy of the food service license approved by QVHD.
7. There may be no more than 106 children.
8. The applicant will be responsible for ensuring that the drop off area is employed only for drop offs and is not used for parking.
9. The gate opening and closing times must be adjusted so that daycare staff may park there when arriving and leaving the premises.
10. All work must be completed by November 13, 2017.
11. ***Any proposed use of the currently unoccupied space shown on the floor plan must receive approval by Planning Office and or Commission as appropriate per the zoning regulations, prior to its use.***

Ms. Cutrali seconded the motion.

Mr. Szczypek stated that he would like condition 1.d amended to read: A new photometric study that shows illumination levels consistent with the Zoning Regulations and include a plan of the fixture specifications.

Mr. McDonagh and Ms. Cutrali approved the motion as amended. The motion passed unanimously.

Mr. Hul asked for clarification of the unoccupied space. Mr. Kops said a condition 11 should be added to read: Any proposed use of the currently unoccupied space shown on the floor plan must receive approval by Planning Office and or Commission as appropriate per the zoning regulations, prior to its use.

Mr. Hul asked that if it used for basic storage but to use it as part of the operation of the daycare approval would be needed. Mr. Kops said that the proposed plan shows no use and would need an approval. Mr. Hul said he sees no problem with the use of the rooms as storage, but the area was not reviewed by the architect and do not know if there are any defects with the plan.

Mr. Campo made a motion to amend the previous motion as recommended by Mr. Kops. Mr. McDonagh seconded the motion. 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 was tabled until the December 11, 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 was tabled until the December 11, 2012 meeting.

4. Site Plan 12-1479/WS

55 West Woods Road
Multi-Family Housing
Westwoods Properties, LLC, Applicant

This item was tabled until the December 11, 2012 meeting.

C. Old Business/ New Business

1. Review minutes of October 9, 2012

Mr. Hul asked that the minutes be amended on page 2, 1st paragraph, last sentence be changed to read: There will be no increase in traffic.

The clerk read the request from Ms. Altman to amend the following: Page 6, 2nd to last paragraph, “states” should be “state's”. Page 7, paragraph 4, 1st sentence “approved unless” should be approved, but must be approved unless”. Page 8, paragraph 3, “impact to” should be “impact on”. Page 8, paragraph 5, “public health in safety” should be “public health and safety”.

The clerk read the request from Ms. Mastropetre to amend the following: Page 9, paragraph 7, 1st sentence, “water runoff” should be “runoff”.

The clerk stated that on page 2, 1st paragraph, the second sentence should read: The school will enter into an agreement to rent the building for ten years.

Mr. Reynolds made the motion to approve the minutes of the October 9, 2012 meeting as amended. Ms. Mastropetre seconded the motion. Mr. Campo, Ms. Mastropetre, Mr. Roscow, Mr Hul, Mr. Reynolds, Mr. Poitier, Mr. McDonagh and Ms. Cutrali voted in favor of the motion. Mr. Cesare and Mr. Szczypek abstained. Therefore, the motion passed 8-0-2.

2. Review minutes of October 23, 2012

Mr. Reynolds made the motion to approve the meeting minutes of October 23, 2012 as written. Ms. Mastropetre seconded the motion. Mr. Campo, Ms. Mastropetre, Mr. Hul, Mr. Reynolds, Ms. Cutrali, and Mr. Poitier voted in favor of the motion. Mr. McDonagh and Mr. Cesare abstained. Therefore, the motion passed 6-0-2

3. Revised 2013 Meeting Schedule

Tabled until the November 27, 2012 meeting

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 10:30 p.m.

Submitted by: _____

Stacy Shellard, Clerk of the Commission