February 4, 2020, revised February 13, 2020 & February 26, 2020

**MINUTES: THE PLANNING & ZONING COMMISSION**, Town of Hamden, held a Regular Meeting on Tuesday, January 28, 2020 at 7:00 p.m. in the Legislative Council Chambers, Memorial Town Hall, 2372 Whitney Avenue, Hamden, CT with the following results:

**Commissioners in attendance:**
- Brack Poitier, Chair
- Michele Mastropetre
- Bob Roscow
- Joel Mastroianni
- Paul Begemann
- Rob Cocchiaro
- Joe Banks, Alternate, Sitting for Vacancy
- Ted Stevens, Alternate, Sitting for Vacancy

**Staff in attendance:**
- Dan Kops, Town Planner
- Matthew Davis, Assistant Town Planner
- Natalie Barletta, Clerk
- Genevieve Bertolini, Stenographer

Mr. Poitier opened the meeting at 7:02 p.m. The clerk read the Regular Meeting items into the record. The Commission and staff introduced themselves. Mr. Poitier reviewed the meeting procedures.

**A. Public Hearing:**

1. Special Permit & Site Plan 19-1328,
   - 11 Hamden Park Drive, M Zone
   - Solar Array
   - SunPower, Applicant

Matthew Skein, a representative from Comcast, addressed the Commission. Mr. Skein said that this would further Comcast’s commitment to sustainability, as the company wants to use the most current and green technology for this project. Furthermore, Mr. Skein added that there will be an Electric Vehicle charging station.

Brad Dakeke, a representative from Sunpower, addressed the Commission. Mr. Dakeke gave a brief history of the company, and went on to say that Sunpower has worked with many Fortune 500 companies including Walmart, and Bed Bath and Beyond. Mr. Dakeke added they have built two projects in New England, and have four more in the process, including this one.

Ms. Mastropetre asked why they were abandoning underground conduits and referenced the site plan. Mr. Dakeke said these will remain, and that some are being used for their own solar panel system, which will avoid the expense of pulling them up. Ms. Mastropetre then asked if they are electrical conduits, and Mr. Dakeke replied yes but they are not connected to anything. Ms. Mastropetre asked if there was a way that someone could connect them accidentally and voiced concern about someone getting hurt. Therefore, Ms. Mastropetre said that she would like them removed. Mr. Dakeke said it is quite common that older conduits remain in the ground, as there is no way for them to energize them. Ms. Mastropetre asked if they were connected in anyway. Mr. Dakeke replied that they were not to his knowledge.
Mr. Kops read his report to the commission recommending approval, with the following conditions:

1. The applicant shall obtain a Zoning Permit be approved by the Town Engineer, the GNHWPCA and the Fire Marshal.

2. Prior to the Issuance of a Zoning Permit:
   (a) The applicant shall provide for approval by the Town Engineer and Town Planner with revised plans containing:
       i. A cover sheet with a relevant project title and a list of the plans.
       ii. A planting plan indicating where trees to replace the ones being removed will be located, where feasible.
       iii. A six inch wide, three to six inches deep gravel strip on the tilt side of the solar panels in order to prevent the formation of rills and gullies.
       iv. A vegetated buffer consisting of native ground-cover on the northern and northeastern chain-link fence.
       v. A storm water management plan.
       vi. All Conditions of Approval.
   (b) The applicant shall provide a performance bond in an amount approved by the Town Planner and Town Engineer.

3. During the demolition and construction phases:
   (a) All erosion controls depicted in the plans shall be installed prior to the removal of the satellite dishes and shall remain in place until all exposed or disturbed soil is fully stabilized.
   (b) During the removal of the satellite dishes any hazardous, regulated or universal waste generated should be removed by a licensed waste hauler and properly disposed of.
   (c) All soil stockpiles shall be secured with tarpaulins at the close of each work day and prior to storm events.
   (d) Erosion controls should be inspected regularly and immediately after each rainfall, as well as maintained and modified as necessary.
   (e) There shall be no paving of the previous work area, and the grass ground-cover shall be restored upon completion of the solar array installation work.

4. After the completion of construction the applicant shall adhere to the storm water management plan to be listed in the plans.

5. All work must be completed by January 28, 2025.

Mr. Cocchiaro asked if it would be possible to remove “where feasible” on 2a section 2, and asked about the plan for the 11 trees, which include six Flowering Dogwood, and five American Holly. Mr. Dekake confirmed that was the plan.

Mr. Poitier asked if the applicant agrees with these conditions, and they said yes.

Chairman Poitier asked if there was anyone who would want to speak in favor of this item. There was no one that did. Chairman Poitier then asked if there was anyone who wanted to speak against this item. There was no one.

The public hearing was closed.

2. Major Amendment to Site Plan 12-1479
   55 West Woods Rd, MIH Zone
   Diverse changes, including landscaping, grading, fencing & interior walks
   West Woods Properties, LLC, Applicant

Bernard Pellegrino, Pellegrino Law Firm, New Haven, addressed the Commission and said that he would like the record to reflect that he does not think that it is a special permit, as he thinks it’s a site plan. Mr. Kops said that he was correct. Because it was originally, a trifecta of applications, the public hearing for the project included a site plan application. Mr. Pellegrino said he came to the Commission in the fall on these same items, but withdrew the
application, as he wanted to include a copy of the Geotech’s report. Mr. Pellegrino added there are four or five items they are requesting to modify from the original approval.

Ryan McEvoy, Milone and Macbroom, 99 Reality Drive in Cheshire, said that the applicant is asking for a few changes. The project was originally approved in 2012, and then modified in 2017. Mr. McEvoy began by saying in the original plan, there were a bunch of small trees between the west side of the building and the rock face. Mr. McEvoy said that based on the recommendations from the Geotechnical Engineer after the rock face has been exposed, that no significant trees be placed between the building and the rock face itself. Mr. McEvoy added they are seeking approval for what was the original site plan. Additionally, Mr. McEvoy said they are requesting approval to remove some of the vegetation in front of the building. Mr. McEvoy added that the plan in front of the Commission had the same number of trees, but not the same number of shrubs and perennials. Mr. McEvoy said that additionally on the east side of the property, there is a parking lot with a four-five foot strip and a retaining wall that had shrubs that the applicant asked be no longer required, as they would like to use it for snow storage.

Other modifications include the ability to use asphalt instead of concrete interior sidewalks. Furthermore, the applicant would like to also change it from a decorative fence to a chain link fence, as the various fencing companies consulted had confirmed that it is impossible to install a decorative fence on the cliff. Moreover, if there is any loose debris that goes down, then it would be caught in the rock face in itself. Therefore, the applicant is requesting that the condition would be removed.

Mr. Banks asked if they can be walked through a thumbnail of storm drainage. Mr. McEvoy said it is caught in the storm water basin that is designed to capture and contain it. This was approved as part of the original design. Mr. Banks asked about the original area of the rock.

Mr. Cocchiaro said he is having a tough time with the amount of plants being removed from the plan, as the plan shows much less plants. Mr. Cocchiaro added that he believes that it’s not beneficial to take the plants away, and doesn’t see a huge issue with the snow removal. Mr. Cocchiaro said that he hates to talk about the money aspect of it, and it now looks like they are trying to save on the front side as well. Mr. McEvoy replied that the applicant is not eliminating any of the existing shrubs, and the plans that made actually add dozens of trees and shrubs, all while exceeding what’s in the regulations.

Mr. Pellegrino added that this is an 8-30g approval, and posed the question of whether or not the reduction is allowed given the need for affordable housing, and that’s an important consideration. Mr. Lee explained that it’s not a proposed change of use, and the landscaping plan was already approved, and the applicant was now just trying to modify the plans. Mr. Pellegrino then said that the applicant is looking for more reasons to modify.

Ms. Mastropetere stated that she believes that the concrete interior sidewalks should remain. She added that those who live in affordable housing complexes also should have beautiful landscaping, and it shouldn’t be eliminating from the original landscaping. Ms. Mastropetere then stated that she thinks that the cost of keeping all of the things that were originally approved, would not amount to very much factored in over a period of time. Ms. Mastropetere said that she would consider going along with the fencing changes, but not the elimination of landscaping.

Mr. Davis read his report, which recommended approval of the permit, with the following conditions:

1. Within 90 calendar days of the date of this approval, the applicant must:
   (a) Submit revised plans containing:
       i. All Conditions of Approval.
       ii. Eliminating the proposed bituminous walks.
   (b) Provide a revised performance bond in an amount approved by the Town Planner and Town Engineer, if the Town Engineer determines any surety currently held is insufficient.

2. Prior to and during fence installation:
   (a) The owner shall field identify the property line adjacent to the fence by certified LS to A-2 standards. Such field identification shall be inspected by the Town Planner or his agent prior to the initiation of fence installation and a contemporaneous copy of the certified A-2 survey depicting the location of
this property line, as well as the location of the adjacent (on site) grading, cut slope and “shelf” available for fence installation shall be provided to the Town Planner. No fence installation shall be initiated until these surveys and field installation have been reviewed and approved by the Town Planner or his agent.

(b) All work to install the fence shall take place from the owner’s property and no encroachment shall occur onto or impact abutting land not controlled by the owner.

3. During construction of the catchment area:
   (a) The catchment area construction shall be monitored by the project PE and the Geotech, to insure that said installation is carried out in compliance with the approved design. As necessary and in order to meet other conditions of this approval, the LS shall document actual grading, slopes and spot elevations of the installation at a scale and level of detail sufficient to determine compliance with the approved design.
   (b) No changes will be made to the catchment area design without the prior review and approval of the Town of Hamden Town Engineer, based on a formal written request by the project PE and Geotech. Said request must be accompanied at a minimum by a detailed narrative explaining the basis for the request, a PE and LS certified alternative, and a written certification from the Geotech that said alternative is acceptable to him.

4. Upon Project Completion:
   (a) The owner shall make application for a Certificate of Zoning Compliance (CZC) and no Certificate of Occupancy shall be applied for until a CZC is issued under the Zoning Official’s signature.
   (b) The application for a CZC shall be accompanied by a PE and LS certified as built of site conditions, as well as a written certification by the project geotech that the final condition of the catchment area complies with his recommendations and any Town approved modifications, if applicable.
   (c) The application for a CZC shall also include a statement from the project PE that the project has been completed in accordance with the approved plans, or in the event it has not, the narrative shall identify any deviations from the approved plan and include a request for modifications. Any such requests shall be reviewed by staff and may be approved as field modifications or through application for a Minor Amendment, based on the Town Planner’s assessment of the requested changes.
   (d) No Conditional or Temporary CZC shall be issued without an acceptable surety being provided to the Town Planner, in an amount and form acceptable to the Town.
   (e) In the event a Conditional or Temporary CZC is issued, prior to the issuance of the final CZC, the owner shall provide the certified as-built necessary to document final acceptable completion of all required improvements.
   (f) Prior to the issuance of a CZC (in any form) the Zoning Official shall consult the applicable town and other regulatory agents having jurisdiction over one or more aspects of the project and shall confirm that all work required under their jurisdiction included on the Site Plan has been completed to their satisfaction.
   (g) Prior to the issuance of a CZC (in any form), the owner shall provide the Zoning Official with a written statement from any State of CT agency or office having a role in the project, that the project’s completion meets with their requirements. If such a written statement cannot be provided, the Zoning Official will, at a minimum, consult with said State officials in advance of issuing a CZC (in any form).

Mr. Roscow said he agreed with Mr. Lee that after the approval, the applicant can return to the Commission an infinite number of times to remove items to reduce cost. He then asked where it stands in terms of excavation. Mr. McEvovy answered that he would roughly say it’s mostly done, and the rock face is essentially where it’s going to be.

Mr. Roscow stated that the problem lies with the Geotech, and that the Commission discussed already what the removal of the trees would entail. Mr. Roscow then asked how much of a drop off it would be with the removal of the trees. Mr. McEvovy said at the uppermost end, it would be 9 feet, and added that there is limited space for that. Mr.
McEvoy said that this is why he included guardrails and he would just argue that there is not enough room for trees. Mr. Roscow said that there wasn’t enough room, which is taking money out of the job.

Mr. McEvoy pointed out that affordable housing isn’t limited to just low income renters. Mr. Roscow said that he is disappointed, and he thinks that they shouldn’t take things out of the site plan. Mr. Roscow then expressed the concerns of the applicant returning to the Commission again for a different change to the plans. Mr. Davis said that these requirements from the Geotech report, and there is an annotation on a grading sheet as a result of that. Mr. McEvoy said that typically a Geotech analysis is not usually needed.

Mr. Roscow wondered how financing a project worked when not knowing the actual cost. Mr. Pellegrino confirmed that the previous project was financed, and the one presented to the Commission tonight has financing in place that was approved prior to the Geotech report.

Mr. Banks then asked for a clarification on figures one and two, which show a couple of trees in the back part of the property and wanted to know if that was for scale. Mr. Banks then added that it was mentioned that trees in that area were not viable to growing. Mr. McEvoy said that due to the existing vegetation in that area, and based on the report that states that there are no trees, the Geotech recommended this based on the slope and with trees on top, it lessens its survivability. Mr. Banks replied that it’s many and not all. Mr. McEvoy said that this was a practical matter. Mr. Banks added that there was one other thing that he noticed, which was whether or not there was some sort of cost analysis, because he doesn’t think that it was in the plan. Mr. McEvoy said that he was not aware of that. Mr. Roscow repeated that financials were never shared in the plans.

Mr. Cocchiaro wanted to know if removal of the plants around the guard rail was due to snow removal. Mr. McEvoy replied that it was very difficult to remove snow, and wanted to add perennials and other plants that are not susceptible to salt damage, since there are plenty of plants that are not, and wanted to know the reason for doing so. Mr. McEvoy stated that’s an alternative that can be explored, but he is just conveying the owner’s concern.

Mr. Stevens wanted to discuss whether or not the property had bike racks. Mr. McEvoy answered that he doesn’t recall if there are bike racks.

Ms. Mastropetere said that she is hearing the reservations from the Commissions around the table relative to the proposed changes. Ms. Mastropetere asked that the applicant to revise the plan based on the concerns raised tonight, and bring it back to the Commission for consideration. Ms. Mastropetere stated that she can’t approve as it is now. Ms. Mastropetere then added that the Commission spent a lot of time on this project, and now it’s coming back again and we seem to be chipping away at this, which is going to be aesthetically unpleasant.

Mr. Pellegrino stated that the installation of fences needs to happen as soon as possible, and withdrew requests to change the sidewalks and to change the plantings along the guardrail. Mr. Pellegrino said that they would like to get approval, especially on that issue, tonight.

Mr. Pellegrino added that he had two other minor notes. One was conditional approval for the fence, and requested that “without owner’s request” be removed. Mr. Pellegrino thinks that would be a reasonable request as the neighbor agrees. Mr. Pellegrino then added that the applicant requested that the line be restaked and have the inspection.

Mr. Pellegrino asked about the last condition, which is section g, as he is unsure of what state agency would be involved. Mr. Davis inquired if there were any state agencies involved in financing this project. Mr. Davis explained that is intended that the Zoning Officer works with the CDC to follow up and ensure that there are no changes or issues that are going to come back.

Mr. Pellegrino said that all protocols from state agencies have been followed. Mr. Davis said that it’s really just a matter of coordination, and more of a friendly confrontation to check the box. Mr. Pellegrino added that each unit has storage space which could be used for bikes.
Chairman Poitier asked Mr. Pellegrino if he wished to continue the hearing until the next meeting. Mr. Pellegrino replied that he would rather not. Mr. Lee asked Mr. Pellegrino if he could please clarify what he would like the Commission to consider tonight. Mr. Pellegrino said that he wants the Commission to consider the fence, and withdrew the request for the removal of the plans on the guardrail, and to eliminate the landscaping. Chairman Poitier asked if Mr. Pellegrino was withdrawing the full request.

Mr. Lee expressed that since this is a time constraint issue, the applicant needs to consent to the extension, and if the applicant does not consent, then the Commission would need to take action tonight.

Ms. Mastropetere said that this is too messy for her to approve tonight, and said that she understands that the applicant needs to agree to extend the application for two weeks. Ms. Mastropetere added this is because there are too many changes made to the application, and wants to see a clean print of things that she just suggested before the Commission. Ms. Mastropetere said that she doesn’t want this back and forth, and doesn’t want anything to be missed.

Chairman Poitier asked for comments in favor of this application. There were none.

Chairman Poitier then asked for comments against the application.

Joanne Cannelli, 36 Todd Street, addressed the Commission stating she is not sure whether this fence is going to be a decorative fence or a chain link fence. Ms. Cannelli said that she sees it every day, and that a chain link fence is a prison. Ms. Cannelli hopes that either a wood or metal fence would be a sound barrier and expressed that she doesn’t want a chain link fence, nor is she in favor of it.

Cindy Civitello, 61 Berkeley Court, addressed the Commission to say that she is very disappointed that the trees were removed, and feels sorry for those who are looking out their window and seeing nothing but red rock. Ms. Civitello added that she would not rent an apartment back there.

Moira McClosky, 61 Still Hill Road, said that this piece of property has gone through all kinds of iterations, and has been removing all of the items. Ms. McClosky added that the property was going to be a bunch of different things, and everyone got worn down by affordable housing. Ms. McClosky noted that trees were knocked down, and that this is not low income housing; it’s affordable housing. Ms. McClosky asked the Commission to make it nice, as it is already a problem, and the neighborhood will have to deal with 50 additional units. She asked to make the property attractive, as she said, it’s been “uglified.” Ms. McClosky added that by not to providing any kind of landscapes will not work. Ms. McClosky said to make this an attractive thing, not a bare bones thing, not for the people who live there, but for those who live in West Woods.

Mr. Pellegrino stated the chain link fence is not in proximity and is not going to have any effect on the neighbor. Mr. Lee reminded Mr. Pellegrino that they need to hear from the applicant on whether or not they are willing to extend the public hearing. Ms. Mastropetere asked that in regards to the fence, were there other options for fencing, and what the other options that could work there would be. Mr. Davis replied by saying no one, and as for the second, he would have to defer it.

Mr. Pellegrino then said that the recommendation from the fence company because it’s more flexible because of the changes and the topography. Mr. Mastroianni asked if the applicant consulted with just one fence company. Mr. McEvovy said that they have consulted with many companies, and stuck with the one. Mr. McEvovy added that it’s perpendicular to the street and you would see it if travelling uphill. There was a discussion on how visible it was from the street.

Mr. Pellegrino stated that his clients will be away in two weeks for the February 11th meeting, but agreed to grant a time extension and to present the revised plans to the commission on February 25th.

Mr. Poitier than closed the public hearing. At this time, the Commission took a break from 8:30 p.m. to 8:40 p.m.
B. Regular Meeting

1. Special Permit & Site Plan 19-1328,
   11 Hamden Park Drive, M Zone
   Solar Array
   SunPower, Applicant

Ms. Mastropetre made a motion to approve with the conditions of approval as recommended by the Town Planner, with the changes suggested by Commissioner Cocchiaro, and said that she would like to add that the applicant needs to cap off the abandoned conduit on both ends. It was seconded by Mr. Begemann.

DISCUSSION: Mr. Kops said that the first condition, which stated that condition 2a should read that on the northeastern side of the chain link fence, and the revised plans should show the placement of abandoned conduits.

The Conditions of Approval are as follows:

1. The applicant shall obtain a Zoning Permit be approved by the Town Engineer, the GNHWPCA and the Fire Marshal.
2. Prior to the Issuance of a Zoning Permit:
   (a) The applicant shall provide for approval by the Town Engineer and Town Planner with revised plans containing:
       i. A cover sheet with a relevant project title and a list of the plans.
       ii. A planting plan indicating where trees to replace the ones being removed will be located.
       iii. A six inch wide, three to six inches deep gravel strip on the tilt side of the solar panels in order to prevent the formation of rills and gullies.
       iv. A vegetated buffer consisting of native ground-cover on the area near northern and northeastern chain-link fence.
       v. A storm water management plan.
       vi. A note indicating that unused electrical conduits will be capped off at both ends.
       vii. All Conditions of Approval.
   (b) The applicant shall provide a performance bond in an amount approved by the Town Planner and Town Engineer.
3. During the demolition and construction phases:
   (a) All erosion controls depicted in the plans shall be installed prior to the removal of the satellite dishes and shall remain in place until all exposed or disturbed soil is fully stabilized.
   (b) During the removal of the satellite dishes any hazardous, regulated or universal waste generated should be removed by a licensed waste hauler and properly disposed of.
   (c) All soil stockpiles shall be secured with tarpaulins at the close of each work day and prior to storm events.
   (d) Erosion controls should be inspected regularly and immediately after each rainfall, as well as maintained and modified as necessary.
   (e) There shall be no paving of the previous work area, and the grass ground-cover shall be restored upon completion of the solar array installation work.
4. After the completion of construction the applicant shall adhere to the storm water management plan to be listed in the plans.
5. All work must be completed by January 28, 2025.

The vote was unanimous in favor.
2. Major Amendment to Site Plan 12-1479
   55 West Woods Rd, MIH Zone
   Diverse changes, including landscaping, grading, fencing & interior walks
   West Woods Properties, LLC, Applicant
   Postponed from the December 10, 2019 meeting
   This will be continued to the February 25th meeting.

3. Special Permit 87-393 (amendment)
   2323 Whitney Avenue
   Mickey Upstairs Expansion Project, Request for Bond Release - $20,000
   Michael Josephs, Applicant
   This application was withdrawn.

4. Update on POCD implementation and Zoning Regulations Amendment

   Mr. Kops said that he is interested in getting financing to hire a consultant, and as far as limitation goes, and produced a table to factor out and identify action items. Mr. Kops stated that all but two relate to the zoning map. Mr. Kops added the plan is to begin work on these without losing sight of the others. Mr. Kops than stated that once this is implemented, there will be a Word document on the Town website, and there will be a page for each of the action items ordered by reference number and as the Department receives further information, it will be added. Mr. Kops went onto say that it will be available to both the Commission and the public.

   Mr. Kops then said that as far as zoning regulations go, that he and Mr. Davis have started initial work. Mr. Kops said he would like everyone to think about the zoning regulations in terms of the substance and format, as they are hard to use and information is hard to find. Mr. Kops indicated that the Commission will need to make a decision regarding both issues.

   Mr. Kops asked the Commission to fill out the sheets with their strongest likes and dislikes, as well as what they feel should be added regarding format and style. These sheets can be submitted either by scanning and emailing or can be brought to the next meeting.

   Ms. Mastropetre asked if the department had reached out to the users for their input. Mr. Kops indicated that they had not yet. Ms. Mastropetre asked for a list of the proposed changes that are compiled so far. Mr. Kops said that they are formed based zoning requirements. Instead of saying that you have to have an alleyway, they are saying that this is the principals, and this is the regulations that address all of the spilt zoned parcels. Mr. Kops said that there are actually not that many things, as they have a list, and it will change the zoning map as the names of some of these districts are likely to change, since they may be replaced.

   Ms. Mastropetre asked that if funding isn’t provided, would it be possible for the Commission and staff to update the regulations themselves. Mr. Kops said absolutely. Mr. Begemann asked for a ballpark figure. Mr. Kops answered $125,000.

   Mr. Roscow asked how much of it has actually been implemented under the form based code, such as the AAA, and the hotel project where the funeral home was opposed to the building sticking out, and he didn’t know how much north of town hall. Mr. Kops answered by saying that there is AAA, Liberty Bank, the building that has the auto parks, and 380 and 415 Mather Street, which had buildings close to the street. Mr. Kops said that he is not sure if that’s a good idea. Mr. Roscow said it might be helpful for those that might be building, and added that he didn’t think that there were that many. Mr. Kops added that the only concrete example was a project that never went forward due to zoning requirements.

C. Old Business/ New Business

1. Review minutes of the November 12, 2019 Meeting
Approval of the November 12, 2019 minutes was postponed to the February 25, 2020 meeting.

Chairman Poitier said that next meeting is February 11, 2020, which would also be the annual meeting. Mr. Kops said that as of right now, the Commission does not have anything on the agenda for that date, so he thinks it would make more sense to wait until the 25th of February to hold the annual meeting. Mr. Kops asked Commissioners can send in their recommendations for chair, vice-chair, and representative to the Regional Planning Agency, and if they are interested in holding office to please send him an email.

Mr. Roscow then gave an update for the Regional Planning Annual dinner that he recently attended.

Ms. Mastropetre asked if there would be an educational meeting for this year for a “refresher.” Mr. Kops said that if he heard anything, he would let the commission know.

D. Adjournment

Mr. Banks made a motion to adjourn the meeting. It was seconded by Mr. Roscow, and all were in favor. The meeting was adjourned at 9:03 p.m.

Submitted by: ________________________________

   Natalie Barletta, Clerk of the Commission