

**PLANNING COMMISSION
CONTINUED PUBLIC HEARING MAY 5, 2008
AMENDMENT to the NAUGATUCK SUBDIVISION REGULATION
Pertaining to the creation of (NEW) SECTION 3.5.2.C, CONDITIONAL
APPROVAL. APPLICANT: ATTORNEY FRANKLIN G. PILICY.**

James Jordan reconvened the Public Hearing at 7:44 P.M. with the following in attendance:

MEMBERS:

James Jordan, Chair
Patricia Marino
E. Harry Jancis
Anthony Whelan
Robert Pease
Katherine Gabrielson, Alternate, absent
Robert Urbano, Alternate

OTHERS:

Public: 3
Keith Rosenfeld, Town Planner
Jim Stewart, Boro PE
Allison Hurley, Asst. ZEO
N.Warren Hess, Boro Attorney

Attorney Franklin Pilicy stated that this process began with correspondence from Attorney Fuller to the Commission back in November of 2007. That letter followed his presentation for a particular subdivision that called for some phasing of construction and development of the property. Attorney Pilicy commented at the time they would be seeking at the end of the process a phased approach to bonding as well. Attorney Fuller commented that the General Statute Section 8-25 contemplated and authorized such bonding, but the Borough regulations did not have an opportunity of such bonding and suggested that the application could be filed to supplement the regulations to put the provisions of Section 8-25 into the regulations, which would then give the Commission the discretion to approve phase bonding in circumstances where it may be appropriate to use the phase bonding. Attorney Hess stated he would like to hear any additional comments from the Commission. Then he would take a closer look at the proposed amendment and submit a draft to the Commission at next month's meeting. Attorney Hess stated that he is looking at this, not from the stand point of anyone subdivision but from the stand point of the entire town and any subdivision in the future. Harry Jancis read his comments of elements for phase bonding. He stated that he agrees that it makes sense to have phase bonding. Attorney Pilicy said that from Primrose's perspective he would like to see what the Town Attorney drafts before the Public Hearing is closed. James Jordan stated that he would like to see Attorney Pilicy draft a new town ordinance and then have the Borough Attorney comment on it. The Commission recessed this public hearing to June 2, 2008 at 6:30 P.M.

RESPECTFULLY SUBMITTED:

Anthony Whelan, Secretary, ah

**PLANNING COMMISSION
REGULAR MEETING MAY 5, 2008**

James Jordan opened the Regular Meeting at 6:04 P.M. with the following in attendance:

MEMBERS:

James Jordan, Chair
Patricia Marino
E. Harry Jancis, arrived at 6:30
Anthony Whelan
Robert Pease
Katherine Gabrielson, Alternate, absent
Robert Urbano, Alternate

OTHERS:

Public: 10
Jim Stewart, Boro PE
Keith Rosenfeld, Town Planner
N.Warren Hess, Boro Attorney
Allison Hurley, Asst. ZEO

1. James Jordan took attendance, it was determined a quorum was present. James Jordan appointed Robert Urbano a regular voting member in place of Harry Jancis.
2. No Executive Session
3. Review /Approval of Minutes.
VOTED: Unanimously on a motion by Anthony Whelan and seconded by Patricia Marino to **APPROVE** the April Regular and Public Hearing Meeting Minutes.
4. **OLD BUSINESS:**
 - A. Commission discussion/decision regarding Chemtura Corporation Subdivision, located on Spencer St. & Elm St. Applicant: Chemtura Corporation
VOTED: Unanimously on a motion by Anthony Whelan and seconded by Robert Pease to **APPROVE** Sidewalk waiver for Chemtura Corporation Subdivision, located on Spencer St. & Elm St. Applicant: Chemtura Corporation
VOTED: Unanimously on a motion by Anthony Whelan and seconded by Robert Pease to **APPROVE** a 2-Lot Subdivision on Spencer Street and Elm Street Chemtura Corporation subject to the following terms and conditions:
 1. Chemtura shall convey 8.0 acres +/- of land to the Borough of Naugatuck, as generally shown on Sheet 4 of the Plans (the "Land Grant Parcel"), in satisfaction of the subdivision open space requirements set forth in Section 6 of the Borough of Naugatuck Subdivision Regulations (the "Regulations"). The exact dimensions of the Land Grant Parcel, including a metes and bounds description, shall be determined by mutual agreement between Chemtura and the Borough of Naugatuck (the "Borough")

prior to conveyance, but the size and location of the Land Grant Parcel shall be as generally shown on Sheet 4 of the Plans. The Land Grant Parcel shall be conveyed by deed to the Borough, free and clear of all liens and tenants in possession, and said deed shall restrict as a covenant running with the land the usage of the Land Grant Parcel to “industrial or commercial activity”, as defined in Section 22a-133k-1(a)(29) of the Regulations of Connecticut State Agencies, as same may be amended from time to time. The Borough shall utilize the Land Grant Parcel for any “industrial or commercial activity” deemed appropriate by the Borough except as limited hereinafter. The conveyance of the Land Grant Parcel to the Borough shall be completed in accordance with the following procedures and terms:

- A. In addition to satisfying the subdivision open space requirements set forth in Section 6 of the Regulations for the present subdivision, the conveyance of the Land Grant Parcel shall satisfy all obligations of Chemtura for open space or other land donations for the remaining 77 acres +/- of land owned by Chemtura as depicted on Sheet 1 of the Plans (the “Remaining Land of Chemtura”). Notwithstanding any future change to the Regulations, or any other ordinance, rule or law, all future subdivisions or resubdivisions of the Remaining Land of Chemtura shall be deemed to have complied with any requirement for a donation or contribution of open space or fee in lieu thereof. This condition shall inure to the benefit of any of Chemtura’s successors or assigns and this fact shall be recited in the deed of the Land Grant Parcel to the Borough as a covenant running with the land. This Motion to Approve shall be (1) filed on the land records of the Borough of Naugatuck (the “Land

Records”), and (2) added to the final Plans to be filed on the Land Records. Furthermore, at Chemtura’s request, the Borough and Chemtura shall enter into a recordable agreement that shall set forth the terms specified in this condition so as to provide conclusive evidence that the Remaining Land of Chemtura is deemed in compliance, now or in the future, with any open space requirements pursuant to this condition. This agreement shall have the legal description of the Remaining Land of Chemtura attached as an exhibit and shall make reference to the Plans.

- B. Chemtura shall retain a utility easement across the Land Grant Parcel in an area to be determined by Chemtura and approved by the Borough’s engineer, which approval may not be unreasonably withheld, conditioned or delayed.
- C. The Borough shall agree to provide ongoing access to Chemtura for remediation purposes.
- D. Chemtura shall complete remediation of the Land Grant Parcel in accordance with the requirements and timetables as provided in the Consent Order of the State of Connecticut Department of Environmental Protection with the agreement of Chemtura USA Corporation, dated December 7, 2006, a copy of which is attached hereto and made a part hereof as EXHIBIT A (the “Consent Order”). To the extent possible, Chemtura shall coordinate its remediation of the Land Grant Parcel with the Borough. Chemtura shall supply the Borough with copies of all environmental reports submitted to the Department of Environmental Protection henceforth in connection with the Consent Order as said reports apply to the Land Grant Parcel. Chemtura’s remediation of the

Land Grant Parcel shall comply with the “industrial or commercial activity” of Connecticut’s Remediation Standards as set forth in Sec. 22a-133k, et seq. of the Regulations of Connecticut State Agencies, including any mechanisms for compliance provided for therein. To the extent any such compliance requires the consent of the Borough as the owner of the Land Grant Parcel, such consent shall be timely provided by the Borough, including without limitation the Borough consenting to and signing an Environmental Land Use Restriction (“ELUR”) in its capacity as the owner of the Land Grant Parcel; provided, however, that the Borough will not be required to grant an ELUR for any portion of the Land Grant Parcel as may be requested by Chemtura if that ELUR would materially impede the Borough’s proposed “industrial or commercial activity” use of the Land Grant Parcel. Should any investigation or remediation be necessary because of an activity on the Land Grant Parcel subsequent to the transfer of the Land Grant Parcel to the Borough, excluding any activities by Chemtura, its agents or assigns, the Borough agrees to perform in a timely manner such investigation and remediation as may be necessary because of such activities.

- E. The Land Grant Parcel shall not be used as a repository of contaminated fill generated from remediation of the Remaining Land of Chemtura.
- F. To the extent the transfer of the Land Grant Parcel shall be subject to the Connecticut Transfer Act, Sec. 22a-134, et seq. of the Connecticut General Statutes, Chemtura agrees it shall prepare and sign the necessary transfer form

as the transferor and the certifying party and the Borough agrees it shall sign the transfer form as the transferee.

- G. Grading rights may be reserved, if necessary, by either Chemtura or the Borough.
2. Provide a copy of the proposed lease for parking across Spencer Street. Provide conceptual parking plan and calculations for one site parking. Place a note on the record subdivision plan that parking will be provided onsite prior to termination of the parking lease.
 3. Provide additional 5' ROW along Elm and Spencer Street, with appropriate monumentation per sections 5.3.3 and 5.3.6.

B. Commission discussion/decision regarding Amendment to the Naugatuck Subdivision Regulation pertaining to the creation of (New) Section 3.5.2.c, Conditional Approval. Applicant: Attorney Franklin G. Pilicy.
The Commission continued the Public Hearing to June 2, 2008 at 6:30 P.M.

C. Commission discussion/decision regarding completion of Subdivision improvements and Release of Bond for Westover Hills Subdivision. Applicant: Realrock Associates, LLC.

Attorney Barry Knott representing Realrock Associates stated that the letter of credit remains in place and will be extended. Attorney Knott handed out a folder which contained the following information: 1. Section 5.10.3, 5.10.5 and 4.5.6 of the Subdivision regulations that pertain to what will be discussed tonight. 2. A map that shows how much of the area around the detention basin where the 2 to 1 slope exceeds. 3. A letter from Dirk Sabin, A.S.L.A in support of a letter to the Commission from Attorney Knott stating that Mr. Marciano has volunteered to install planting and a fence. The Borough Engineer reviewed his checklist. Harry Jancis asked Jim Stewart if the original detention plans showed what was anticipated in the drawings for the detention pond. Jim Stewart said that it was not anticipated to be that steep. Dirk Sabin a Landscape Architect explained that after inspecting the property he disagrees with any concept of going back into this basin blasting out rock and creating new slopes trying to meet the 2 to 1 slope. Mr. Sabin submitted photos showing rocky slopes, berm, large rock outcrop, cattails in the wetlands, berry plants, and little saplings. He believes that if the natural species comes in and grows it would be more effective in the long term. James Jordan asked if anyone that lived in the subdivision who had concerns would like to speak. Steve Cote stated that his main

concern is the safety and maintenance of the detention basin. Because when the Association takes it over the Association is now liable. Mario Varrone of 177 Graham Ridge Rd. stated that he and Mr. Jando of 171 Graham Ridge Rd. had met with Mr. Marciano and what he is proposing to do is somewhat acceptable to them. Mr. Varrone is concerned with how much Mr. Marciano is willing to do and when will it be started, hopefully sooner than later. Harry Jancis stated that the Association will have the responsibility whether the residents like it or not when Mr. Marciano leaves. Barb Godejohn of 64 Westover Dr. stated that she was not aware of any association when she bought her house and just wants the detention basin to be safe. James Jordan stated that they will have a special meeting on May 19, 2008 at 6:00 P.M. to discuss the completion of Subdivision improvements and the Release of Bond for Westover Hills Subdivision. Applicant: Realrock Associates, LLC.

5. **NEW BUSINESS:**

- A. Commission discussion/decision regarding Country Hollow Estates, Section Five located on Country Hollow Rd. and Donovan Ct. Applicant: City Hill Associates, Inc.

The Commission tabled this item until next month's meeting.

- B. Commission discussion/decision to Call Bond regarding Westover Hills Subdivision, Applicant: Realrock Associates LLC.

The Commission agreed to discussion this at a Special Meeting scheduled for May 19, 2008 at 6:00 P.M.

- C. Zoning Commission referral regarding a Special Permit for a Masonary Supply Store located on 1483 New Haven Rd. Applicant: Mirjand and Genti Mulla
VOTED: Unanimously on a motion by Anthony Whelan and seconded by Harry Jancis to send a **POSITIVE** referral regarding a Special Permit for a Masonary Supply Store located on 1483 New Haven Rd. Applicant: Mirjand and Genti Mulla

- D. Zoning Commission referral regarding a Special Permit for a Tattoo Shop located on 387 North Main St. Applicant: Robert Clark.

VOTED: Unanimously on a motion by Harry Jancis and seconded by Anthony Whelan to send a **POSITIVE** referral regarding a Special Permit for a Tattoo Shop located on 387 North Main St. Applicant: Robert Clark.

- E. Zoning Commission referral regarding a Special Permit Application for 2 Interior Lots, located on Mill St. Applicant: Anderson Mills LLC.

VOTED: Unanimously on a motion by Anthony Whelan and seconded by Harry Jancis to send a **POSITIVE** referral regarding a Special Permit Application for 2 Interior Lots, located on Mill St. Applicant: Anderson Mills LLC.

- F. Request for a 90 Day extension of filing of the Mylar for 2 Lot Re-subdivision located at 30 Maple Hill Rd. Applicant: John Hayward.

VOTED: Unanimously on a motion by Harry Jancis and seconded by Robert Pease to **GRANT** a 90 Day extension of filing of the Mylar for 2 Lot Re-subdivision located at 30 Maple Hill Rd. Applicant: John Hayward.

G. No Additional items to be added to the agenda.

6. No Correspondences

7. No Report of Burgess Liaison

8. **VOTED:** Unanimously on a motion by Anthony Whelan and seconded by Robert Pease to adjourn the meeting at 9:00 P.M.

RESPECTFULLY SUBMITTED:

Anthony Whelan, Secretary, ah