

**PLANNING COMMISSION  
PUBLIC HEARING MAY 7, 2012 FOR FAWN MEADOW SUBDIVISION PHASE  
III, LOCATED NEAR THE INTERSECTIONS OF FAWN MEADOW DR.,  
WARM EARTH RD., LONGWOOD DR., AND MORNING DOVE RD.  
APPLICANT: NORTHEASTERN DEVELOPMENT**

**MEMBERS:**

Anthony Whelan, Chair  
Robert Pease, Vice-Chair  
Harry Jancis  
Lois E. Braziel, Secretary, Absent  
Deanna Krzykowski  
Katherine Gabrielson, Alternate, Absent  
Robert Urbano, Alternate

**OTHERS:**

Public: 0  
Sue Goggin, Secretary  
Keith Rosenfeld, Town Planner

The applicant submitted a letter to postpone the opening of the Public Hearing which was accepted by the commission.

**PLANNING COMMISSION  
REGULAR MEETING May 7, 2012**

Anthony Whelan, Chairman, opened the meeting at 6:00 P.M. with the following in attendance:

**MEMBERS:**

Anthony Whelan, Chair  
Robert Pease, Vice-Chair  
Harry Jancis  
Lois E. Braziel, Secretary, Absent  
Deanna Krzykowski  
Katherine Gabrielson, Alternate, Absent  
Robert Urbano, Alternate

**OTHERS:**

Public: 0  
Sue Goggin, Secretary  
Keith Rosenfeld, Town Planner  
Attorney Frank Pilicy

1. Tony Whelan led with the Pledge of Allegiance. He took attendance, and noted there was a quorum. He appointed Robert Urbano as a regular voting member in place of Lois Braziel.
2. Executive session with Borough Attorney regarding Planning Commission of the Borough of Naugatuck v. Primrose Companies LLC.

**VOTED:** Unanimously on a motion by Robert Urbano and seconded by Robert Pease to recess to Executive Session at 7:30 PM.  
At 7:45 PM, the commission was called to order.

No decision was made during the Executive Session in the matter of Primrose V. Naugatuck Planning Commission.

3. Review /Approval of the April 9, 2012 Regular Meeting Minutes.

**VOTED:** 4-0-1 on a motion by Robert Pease and seconded by Robert Urbano to **APPROVE** the April 9, 2012 meeting minutes as written.

**FOR**

Anthony Whelan  
Deanna Krzykowski  
Robert Pease  
Robert Urbano

**AGAINST**

**ABSTAIN**

Harry Jancis

The commission recessed the meeting at 6:11 to wait for the Town Attorney.

The commission reopened the meeting at 6:24 PM.

#### 4. OLD BUSINESS:

- A. Commission discussion/ decision regarding Planning Commission of the Borough of Naugatuck v. Primrose Companies, LLC.

Attorney Pilicy said they are in active mediation regarding the Phase Bonding. They provided a letter dated April 4, 2012 to Attorney Fitzpatrick comparing the provisions of the Borough's existing Phase Bonding regulation with the Huntington Hills subdivision. Chairman Whelan noted for the record that the commission was not approving Attorney Pilicy's April 4, 2012 letter in whole or in part, only acknowledging the responses delineated in the letter. He also attached the Superior Court judgement that is in affect with respect to this subdivision. It also speaks to the issue of the phase nature of this project. Harry Jancis asked what the current status of the property is as far as ownership. Attorney Pilicy said he would have to defer that question to Mr. Guedes. Mr. Guedes, principle in the Primrose project, said that the various parcels were under contract and there have been discussions between the Borough and the Condon property. He said for the most part they are proceeding with the program to develop the entire property. Harry asked if they have an option on the piece of property or if it has expired. Mr. Guedes said technically they never received termination of the contract agreement and in discussions with Attorney Condon, for the most part, if he writes a check tomorrow, the Borough is out of the picture. The reason they are entertaining selling the property to the Borough is because they want to finish this process. Harry asked if they have a right to sell to the Borough if Mr. Guedes has an option on it. Mr. Guedes said technically they do because either he buys it or they sell it, so that's the whole problem. He said he can't buy it unless they have a program whereby, and he thinks that's the reason why the Borough has entertained buying it to try to kill the subdivision. He said with all due respect to the Commission, he went through this experience and it's been this commission that has created the obstacles for them to be able to develop this property. He said so far they have spent almost two million dollars with this process which makes it difficult to walk away from. He said 5 months ago at the Superior Court, they were asked to provide certain information with the understanding that this was over and done with. Meanwhile the State stepped in and created new State Statutes governing subdivisions, governing bonding and so forth and yet they are still there making presentations to the Planning Commission, where he has no clue the rest of the reasons. He said forget the purchase of the property, if it goes down that road, it goes down that road, but this commission has an obligation to decide on how to settle a court case. And if it's a case that this commission decides that they are not going to settle, proceed with a trial, then they should go that route, but to just stall and stall and stall so that hopefully he goes away or hopefully the Borough finds the money to buy a piece of property to kill the subdivision,

that's not appropriate. He said even if they take a chunk out of it, it still doesn't kill the ability to develop other portions of it. He said the commission has an obligation to tell him where their position is. He said he wasn't sure what they were going to present at this meeting. He asked what else they could present which they haven't already over a long period of time. Tony asked Mr. Pereira if he wanted to speak. Joe Pereira, engineer, agreed with Mr. Guedes in wondering what the commission wants. Tony said it's in the Courts and they took it there, not the Planning Commission. He said he's not a lawyer, so he's not going to get involved with anything that's involved with the Court's. Joe asked where the Borough Attorney was for the meeting. Keith said he knew he was on the agenda. Tony said their intent was to have the Borough Attorney and you bring the Commission up to date on where the two sides are at with the whole development. Joe said at this point they have everything approved except for the Phase Bond issue, which by State Statute as of right, they are approved. Harry said Phase Bonding was the only issue because it was not in the regulations. He said when they put the Phase Bonding into the regulations, they thought they were all set and that the next step would be for you to pay the bond and move ahead. Then we hadn't heard any details since then. Joe asked if the commission could vote on this tonight. Harry said they can only examine and see if the plans correspond to what the regulations are as far as Phase Bonding is concerned. Bob Pease said he asked them for a demonstration of how they comply with each paragraph of the regulations for each section of the project. During Mr. Pereira's presentation, he noted that additional detail for each phase are contained in the 185 page drawing package and not shown on the phased drawings. The additional details are beyond those shown on the phasing plans. A discussion ensued regarding the timeline of the Court appearances and the adoption of the Phase Bonding. Attorney Pilicy said the commission needs to read the court order and read their regulations and they will see that everything that the commission was asking for is in the court order as well as on the plans. Harry asked if Wayne had a chance to look at the maps and say that they correspond to the Borough's regulations. Deanna said her concern is whether or not the phases fit in with the current Phase Bonding Regulations. Joe went through line by line Phase Bonding compliance with the commission. Harry asked for final approved plans for the engineer to review. Joe said the commission received a copy of the 185 pages of detailed drawings. He began explaining the drawings and the Phases. Bob Urbano asked when the Phase Bonding came into the picture. Joe said the commission wanted them to Phase Bond the entire subdivision together. Harry said they did not have Phase Bonding in the regulations at the time, therefore their only option was for it to be bonded all at once. There is Phase Bonding in the current regulations. Keith clarified that it didn't suit the applicant's needs to submit each phase separately. Joe agreed with that statement, but also felt that the commission wouldn't allow them to submit an application for the phases

independently. Attorney Pilicy said that they repeatedly asked for Phase Bonding since the first night of the Public Hearing. Bob Urbano said he has been on the board since September 2007 and the first time he heard of a request for Phase Bonding was November 2007. Attorney Pilicy argued that it is mentioned in all the Public Hearing minutes. At the Borough Attorney's recommendation, they filed an application to amend the regulations to allow Phase Bonding. He said that application was denied and they were told that the Planning Commission was going to have their own Phase Bonding Regulations. So that's where we are right now. Now that you have Phase Bonding in the regulations, all they are asking is for is a confirmation that this subdivision complies with your regulations. Deanna stated that there is no mention in the Public Hearing minutes of this. Bob Urbano felt that they (Joe Pereira, Attorney Pilicy and Mr. Guedes) changed the rules in Nov 2007 by saying they wanted Phase Bonding. Joe began reviewing the Phase Bonding again. Harry felt that the only question he had was can Phase I stay as a freestanding subdivision. He also asked if they have rights to the property, because the commission cannot give them permission to build on this property if they don't have rights. Attorney Pilicy said they are seeking a vote with your agency to settle the outstanding lawsuit, with an understanding and acknowledgement that the Planning Commission's Phase Bonding regulations can be applied to the subdivision. Harry asked if they have rights to the property. Attorney Pilicy said they have not received a termination notice, however the property can be sold to someone else if this doesn't move quickly. Tony said they will be referring this to the Borough Attorney and the Borough Engineer. This item was tabled until next month's meeting.

- B.** Commission discussion/decision regarding the installation of a gate at its Dunn Avenue entrance to the Hoadley Grove Subdivision to determine compliance to subdivision approval.

The commission agreed that the gate that Mr. Kimmer installed is not in compliance with what he was required to install. It was supposed to be emergency accessible with the fire and police departments having a key to the lock. It also was supposed to be a heavier gate. Keith will send a letter to Mr. Kimmer and consult the Borough Attorney. The commission tabled this until the Borough Attorney joined the meeting.

- C.** Commission discussion/decision regarding the update to the 2001 Naugatuck Plan of Conservation and Development and the scheduling of potential consultant candidate interviews.

Keith said that the attorney for FHI and the Borough Attorney are working toward a final contract.

5. **NEW BUSINESS**

A. Additional items require a 2/3 vote. There were no additional items.

6. **CORRESPONDENCE**

There was no correspondence.

7. **REPORT OF BURGESS LIASON**

There was no report.

8. **ADJOURNMENT**

**VOTED:** Unanimously on a motion by Robert Urbano and seconded by Deanna Krzykowski to adjourn the meeting at 7:49 P.M.

RESPECTFULLY SUBMITTED:

Deanna Krzykowski, Acting Secretary/sg