

**HARWINTON PLANNING COMMISSION MEETING    WEDNESDAY , JANUARY 24, 2018**  
**TOWN HALL                      7:00 P.M.**

Present: Chairman Michael Orefice, Lee Hall, Roland Perreault, William Starr, Paul Roche, Alternate Member Michael Rewenko, Alternate Member Debra Freidus and Land Use Coordinator Polly Redmond

**PUBLIC HEARING – continued**

**1. OPEN HEARING – ESTABLISH QUORUM.**

Chairman Orefice called the hearing to order at 7:02 p.m. All regular members present are seated.

**2. KEN HRICA, P.E., HRICA ASSOCIATES – APPLICATION FOR TWO LOT SUBDIVISION, 131 CLEARVIEW AVENUE, PROPERTY OWNER: HARWINTON STORAGE, LLC. (PUBLIC HEARING OPENED 1/10/18.)**

Plans by Hrica Associates, LLC, titled Subdivision Map for Harwinton Storage, LLC, 131 Clearview Avenue, dated 12/12/2017, includes Site Grading Plan, dated 12/12/2017 revised to 1/4/2018 for septic data and reserve area, Sediment and Erosion Control Plan, dated 12/12/2017 are provided for review. Ken Hrica is present and reminds the Commission that at the last Planning meeting there was discovery of a potential environmental hazard threatening a drinking water well on this site and the Commission asked that further investigation be done. He has forwarded to the Land Use office a copy of a report from HRP Associates, Inc. dated 6/7/2012 to Patrick Bowe, Director, Remediation Division, Bureau of Water Protection and Land Reuse, DEEP, in response to Mr. Bowe's notification to Anthony Mattiolo (then owner of 131 Clearview Avenue d/b/a VB REO, LLC) dated 3/2/2012 of a significant environmental hazard at the site. Mr. Hrica notes that the notification identified the following significant environmental hazard: Groundwater polluted with cadmium at a maximum concentration of 0.038 mg/L, exceeding the adopted groundwater protection criteria, that is or may be located within 500 feet up gradient of a supply well. HRP Associates, Inc. was retained by VB REO, LLC to conduct the activity directed by DEEP which was for the property owner to conduct an inventory of all drinking water supply wells within 500 feet, and test the onsite well and all identified wells. In addition, the DEEP instructed VB REO, LLC to conduct a Phase II investigation to further investigate the site to locate the source of the hazard. The HRP report of 6/7/2012 states that with data collected from the receptor survey completed, it was determined that four (4) private water supply wells were located down-gradient to the subject site. Those locations included 89 Clearview Avenue, 100 Clearview Avenue, 111 Clearview Avenue, and 112 Clearview Avenue. Requests by HRP to access the properties to sample the potable water supply at each property to analyze for the potential presence of cadmium was agreed to and sampling was done on 3/23/2012. It was found that cadmium was not detectable in the potable wells sampled and Mr. Hrica states that the file on this matter appears to be closed. Mr. Hrica introduces Jeff Gworek, Diversified Environmental Services, who is present and states that he is an environmental professional working with Harwinton Storage, LLC and is here to answer any questions the Commission may have.

Chairman Orefice states that he was forwarded the 6/7/2012 report from HRP Associates by LUC Redmond and reviewed the information which he acknowledges correlates to what Mr. Hrica has just relayed. He adds that the HRP report states testing was done at the 131 Clearview Avenue site and laboratory results concluded that some levels of cadmium existed on site but not in the neighboring wells. Commissioner Paul Roche questions whether LUC Redmond contacted the town attorney as instructed at the last meeting to question whether the Planning Commission should be concerned with the possible pollution of this property. Chairman Orefice notes that with the HRP Associates information received from Mr. Hrica and information received from LUC Redmond who researched the DEEP website finding a List of Significant Environmental Hazards Reported to DEEP where 131 Clearview Avenue was listed, with 'Action' noted that *a Receptor Survey was conducted and the down gradient wells were tested detecting no contaminants of concern found.* Chairman Orefice states that he instructed LUC Redmond to not contact the town attorney due to these findings.

Chairman Orefice opens the floor to public comment at this time.

Chris Gervais, 133 Clearview Avenue, questions whether soil testing was done at the site with Chairman Orefice stating he is not aware of any soil testing. Mr. Gervais states he questions this because of his concern over the parking of vehicles on the site for the past thirty years that could cause contamination.

Commissioner Lee Hall states he would like Mr. Hrica to review the Right of Way aspect of the plan giving access over Lot 1 to Lot 2 in the back. Mr. Hrica explains that the existing driveway located on Lot 1 in front leads to the back of the property (proposed Lot 2). It is not used for purposes of access to the front lot (Lot 1) because the front lot has an area to the south of the existing building that provides access and parking. The plans show the existing driveway with the word “easement” marked at the entrance and a note that states *Grading Rights, Fencing Rights and Easement for Ingress and Egress to be Granted to Lot #2*. The plan also shows the location of a separate driveway located entirely on Lot 2. Commissioner L. Hall informs Mr. Hrica that shared driveways are not permitted with Mr. Hrica stating that technically it is not a shared driveway, that it is an agreement that the existing driveway on Lot 1 will only be used by the property owner of Lot 2. Chairman Orefice states that if the owner of the back lot uses the driveway via the easement and over time the owner of the front lot continues or begins to use the driveway, it would then be considered a shared driveway. He prefers to not have the word “easement” on the plans and to only show what is proposed, a separate driveway giving access to Lot 2 in the back. Any agreement between the two property owners would be between them. Chairman Orefice questions whether there are underground utilities in the back of the property with Mr. Hrica stating, yes there are but he is unsure of how it is fed. There is an SNET pole out in front at the driveway that is a possible source. Chairman Orefice states that in the HRP Associates report there is a map that identifies the location of five monitoring wells on the property that are not shown on the plans presented tonight. Mr. Hrica states that he didn't include them on his plans because when the plans were drawn up, he was unaware of where they were located due to snow on the ground.

Chairman Orefice opens the floor once again to public comment.

Chris Gervais, 133 Clearview Avenue, questions whether the town's building inspector was sent out to inspect the condition of the existing building with Chairman Orefice stating that it is not in the Planning Commission's purview to have an inspection of the building done. Mr. Gervais questions the findings of the Torrington Area Health District and states that there was no finding of whether the current septic system is functional. Chairman Orefice states that that is up to the property owner to have tested.

Elaine Schiavone, 6 Lake Shore Drive, expresses her concern over the shared driveway matter with Chairman Orefice stating that the plan shows a proposed driveway on Lot 2 giving access to that lot.

Mr. Hrica states that at the last meeting, Elaine Schiavone expressed concern over possible effects to Lake Harwinton and informs her and the Commission that the wetlands drainage system goes to the west, not to the east, which is where Lake Harwinton is located in relation to this property.

### **3. CONTINUE OR CLOSE HEARING.**

With no further comments from Commissioners or the public, Commissioner Paul Roche **motioned** to close the hearing at 7:30 p.m., seconded by Commissioner Roland Perreault. Motion passed unanimously.

## PUBLIC HEARING #2

### 1. OPEN HEARING – ESTABLISH QUORUM.

Chairman Orefice called the hearing to order at 7:35 p.m. All regular members present are seated: Chairman Michael Orefice, Lee Hall, Roland Perreault, William Starr, Paul Roche.

### 2. ATTY. WILLIAM J. TRACY – APPLICATION FOR SIX LOT SUBDIVISION, TO BE KNOWN AS HILL VIEW ESTATES, HILL ROAD, ASSESSORS MAP NO. B3-03-0009, PROPERTY OWNER: COUNTRY VIEW PROPERTIES, LLC.

Chairman Orefice acknowledges the call to hearing as published in the Republican American on 1/12/2018 and 1/19/2018. Torrington Area Health District has sent a letter dated 1/22/2018 that states after their review of the plans, these six parcels can satisfactorily accommodate subsurface sewage disposal systems for single family four-bedroom dwellings. IWWC approval has been received and the Wetlands application includes Supplemental Data dated 12/7/2017 prepared by Robert Green Associates and includes a Wetlands Report and Soil Test Data.

Atty. William J. Tracy, Furey, Donovan, Tracy & Daly, Bristol, CT is present to represent along with Robert Green, P.E., Robert Green Associates, Terryville, CT. Plans by Robert Green Associates titled Hill View Estates, Hill Road (CT Route 222), dated 12/7/2017, includes Sheet 2, an Index Plan, Sheet 3, Subdivision Plan, revised 1/17/2018 for Conservation Restriction Easement, Misc. Sightline Notes, Sheet 4, Subdivision Plan, Sheet 5, Site Development & Sediment and Erosion Control Plan, revised 1/17/2018 for Conservation Restriction Easement, Misc. Sightline Notes, Sheet 6, Site Development & Sediment and Erosion Control Plan and Sheets 7 & 8 Miscellaneous Note and Details are reviewed. Plans titled Driveway Sightlines, Sheets 1 & 2 are also provided. Proof of certified mailings giving notice to neighbors within 200 feet of the property of this application and a copy of the notification letter are collected and are in order. A copy of the notification letter to the Pratts includes the request that the information regarding the public hearing is shared with other family members as the property to the east of the proposed subdivision is owned by four individuals but only two have been located. Atty. Tracy notes that Robert Green sent a letter to Aaron Steeves, Special Services Manager, CTDOT, dated 1/19/2018 and submits a copy for the file. The letter is a request that the plans be reviewed and approval sought for driveway encroachments on to the highway of Route 222. Plans include the Driveway Sightlines at the six locations within the subdivision. Atty. Tracy notes that the CTDOT will act on the application for driveway encroachments once the Planning Commission gives approval of the subdivision. Atty. Tracy submits for the record a copy of a Permanent Sight Line Easement to be filed in the land records, after reviewed by the town attorney, that gives, grants, bargains, sells and confirms to the Town of Harwinton a certain Sight Line Easement over a certain strip of land located on the easterly side of Hill Road and more particularly described as *A full and perpetual easement sight line easement located on Lot 4 and more particularly shown as "Subject To a Sight Line Easement" on a certain map or plan entitled: "Subdivision Plan Hill View Estates..."* continuing with wording noting the sheets included in the plans presented tonight. The Permanent Sight Line Easement is granted for the purpose of maintaining an unrestricted sight distance line so as to create and maintain an unobstructed area at such location shown on said map so that there shall be no obstruction to sight from the intersection of the proposed driveways and Hill Road.

Atty. Tracy gives description of the 43.11 acre parcel located in a Country Residential zone. The subdivision will create six front lots with no streets or public improvements proposed. Lots 1-5 have greater than two acres and Lot 6 will contain 32.43 acres. Lots 2-6 have at least 200 feet of street frontage and Lot 1 has 200 feet of street frontage at the building line which complies with Zoning Regulation Section 5, Footnote 1. Atty. Tracy submits a written description he wrote on how it was arrived at to determine the front measuring at the building line and explaining that Footnote 1 states "*Lot Width is the distance between the side lines of a lot measured along the front street line. Where the front street line is on a curve or the side lot lines converge toward the front street line, lot width may be measured at the required front yard setback line.*" Atty. Tracy points out that the lot lines of Lot 1 do converge toward the front in a narrowing fashion and therefore falls under this regulation.

Atty. Tracy also submits for the record a copy of a Declaration of Conservation Restrictive Covenants to be filed in the land records, after reviewed by the town attorney, that declares conservation easements along the highway line of Hill Road at Lots 1, 2 and 3 which are delineated on the revised plans presented tonight. The 30 foot conservation restriction easements are located in a wooded area along the street line and Atty. Tracy notes that within that wooded area is the old highway boundary stone wall which will also be protected by the easement. The exception to the restrictions will be the driveway cuts. Atty. Tracy notes that on the south side of Lot 6 there is also a stone wall and the Declaration of Conservation Restrictive Covenants includes the protection of that stone wall as well. He notes there are other stone walls throughout the property but they are not boundary walls. Lots 5 and 6 do not have stone walls in front but there are some on Lot 4 but none of these three lots are included in the Declaration of Conservation Restrictive Covenant. A portion of the vegetation on Lot 4 must be removed to provide for sight lines.

Robert Green, P.E., Robert Green Associates, reviews the plans presented tonight and provides information on the septic system locations and the proposed homes on the lots. He points out that the driveway of Lot 5 has a grade of 11.5%. (Zoning Regulation 6.4.3 calls for engineer certification for driveways in excess of 10% gradient.) He points out that Low Impact Development techniques would be difficult to implement due to the nature of the project which is on a hayed field. Swales are noted on Subdivision Plan (Sheet 3) that shall be located between the side lot lines of all the lots. The plans have notation that the side property lines are "*Subject to and together with a temporary right to grade for construction of a drainage swale.*" LUC Redmond questions who would construct and maintain those swales with Mr. Green stating he believed the developer would have the swales in place when preparing for the development of the subdivision so each lot would be ready to be built on. He notes that all drainage is away from Hill Road. Mr. Green states that other than work to remove trees in the front, there is no proposal to cut any other trees on the site except to get to the septic and leaching field areas.

Commissioner Paul Roche questions if there are any provisions for open space with Atty. Tracy stating there are no provisions. He points out that Lot 6 (with 32.43 acres) is a narrow lot at the front with the back portion of the lot to be accessed only by Lot 6 which can become an agricultural field for farming or animals if a potential buyer so desires. Atty. Tracy states that open space would take that agriculture consideration away. He points out, with Mr. Green's confirmation, that there is a total of a half-acre of conservation area in the front of the parcel as mentioned earlier.

Chairman Orefice refers to the lot frontage of Lot 1 and notes that Footnote 1 of Zoning Regulation Section 5 usually refers to a cul-de-sac if lots were arranged around a circle but with the word "or" in the second sentence that reads, "Where the front street line is on a curve OR the side lot lines converge toward the front street line, lot width may be measured at the required front yard setback line." the regulation does apply here.

Chairman Orefice does point out that Lot 6 has excess of 200 feet required street frontage that could be taken and given to Lot 1 with lot line adjustments but based on the wording of Zoning Regulation Section 5, Footnote 1, he believes there is no point in rearranging the lot lines. The back side property lines of Lot 1 are wider than the front side property lines so the word “converge” does apply. Chairman Orefice notes that the matter of Open Space could be discussed further but any open space would need public access.

Chairman Orefice opens the floor to public comment.

Elaine Schiavone, 6 Lake Shore Drive (and 589 Hill Road), has concern that the proposed driveways will be directly across from the existing driveways on the west side of Hill Road. Chairman Orefice points out that the plans show the driveways on the west and that they appear to be off center with the proposed driveways.

Ralph Johnson, 603 Main Street, New Hartford, (and owner of property to the north of Lot 1) wishes to view the location of the swale on the plans and is invited up to see the plans provided on an easel. Mr. Green notes that the decision was made to cut off water from one lot to the next with the design of the swales and directing the water to the wetlands in the back. Upon questioning, Mr. Green reports that the total area of wetlands on site is 3.96 acres.

Scott Martin, 577 Hill Road, has concern with where Lot 1 driveway will exit and that headlights from cars leaving that property will shine right into his home. He questions whether the building setback line starts at the measured 200 foot street frontage line and is informed that it does not. The 60 foot building setback line begins at the front property line. He questions whether the conservation easement prevents anyone from cutting the trees within the easement with Atty. Tracy replying that trees could be pruned and that some of the trees are on State of CT property and can be removed by the state. Mr. Martin refers to Lot 6 and questions whether someone could be prevented from constructing a large barn on the property with horses and increased traffic entering the property. Chairman Orefice states that the lot could support a home or could be used for livestock that would require shelter. Mr. Martin questions the acreage required for open space. Subdivision Regulation 4.17.3 states that not more than 10% of the total area of the subdivision shall be required to be so reserved, and lesser areas should be determined sufficient or no such reservation shall be required because of reasons cited in the regulations. Chairman Orefice points out that any open space acquired would become public land and would have to have access from a public highway. It is pointed out that there is a Conservation Easement on Lots 1, 2 and 3 and that is in accordance with Subdivision Regulation 4.17.5 that accepts land established by suitable restrictive covenants. Chairman Orefice states that he would like to see Conservation Easements on Lots 4, 5 and 6 but understands the sight line issue. Atty. Tracy states that a Conservation Easement could be placed on the back property of Lot 6 which could be the 10% that is required in the Subdivision Regulations but would like to preserve the area for agricultural use. He states once again that he doesn't want to take away any agricultural use of Lot 6 by implementing a conservation easement.

### **3. CONTINUE OR CLOSE HEARING.**

With no further comments from Commissioners or the public, Commissioner Roland Perreault **motioned** to close the hearing at 8:35 p.m., seconded by Commissioner Paul Roche. Motion passed unanimously.

REGULAR MEETING

**1. OPEN MEETING – ESTABLISH QUORUM.**

Chairman Orefice called the meeting to order at 8:36 p.m. All regular members present are seated.

**2. APPROVE MINUTES OF PREVIOUS MEETINGS: 1/10/18**

Commissioner P. Roche **motioned** to approve the minutes of the previous meeting, seconded by Commissioner W. Starr. Motion passed unanimously.

**3. DISCUSSION/POSSIBLE DECISION - KEN HRICA, P.E., HRICA ASSOCIATES – APPLICATION FOR TWO LOT SUBDIVISION, 131 CLEARVIEW AVENUE, PROPERTY OWNER: HARWINTON STORAGE, LLC.**

Commissioner P. Roche **motioned** to approve the application for a two-lot subdivision, 131 Clearview Avenue, for the reasons that proper notice of the hearing to neighbors was given, TAHD has reviewed the plans and gave their opinion, there are no wetland activities and IWWC gave approval of the subdivision and it complies with the town's Plan of Conservation and Development. The approval is given with the following conditions: (1) That no wells for potable water shall be drilled on Lot 2. (2) That the "Easement" notation be removed from the plans to be filed in the land records. (3) That the five monitoring wells, as noted on a map provided in the HRP Associates report, be noted on the plans to be filed in the land records and (4) that the location of the power source from the transformer to Lot 2 be shown on the plans to be filed in the land records. Commissioner R. Perreault seconded the motion and it passed unanimously.

**4. DISCUSSION/POSSIBLE DECISION – ATTY. WILLIAM J. TRACY - APPLICATION FOR SIX LOT SUBDIVISION, HILL ROAD, ASSESSORS MAP NO. B3-03-0009, PROPERTY OWNER: COUNTRY VIEW PROPERTIES, LLC.**

Chairman Orefice states for the record that his concerns were addressed during the public hearing and wishes to note that he did visit the site on his own and viewed the property from the street.

Commissioner P. Roche **motioned** to approve the application for a six-lot subdivision, Hill Road, to be known as Hill View Estates, for the reasons that proper notice of the hearing to neighbors was given, TAHD has reviewed the plans and gave their opinion, there are no wetland activities and IWWC gave approval of the subdivision, it complies with the town's Plan of Conservation and Development and that the issue with the lot width of Lot 1 at the street complies with the Zoning Regulations based on the Chairman's analysis. The approval is given with the following conditions: (1) That the CTDOT gives sight line approval for driveway locations. (2) That based on the half acre Conservation Restriction Easement in the front of the subdivision, as well as the fact that 30 acres in the back of Lot 6 that includes four acres of wetlands, the Commission waives any additional open space requirements. Commissioner R. Perreault seconded the motion and it passed unanimously.

**5. OLD BUSINESS.** None.

**6. NEW BUSINESS.**

Chairman Orefice states that the Zoning Commission should review, and possibly delete, Section 5, Footnote 1 in its entirety as well as delete Footnote 5. That Footnote 1 does not state what the rule applies to, i.e., cul-de-sacs. The Planning Commission believes these requirements/regulations should be in the Subdivision Regulations and not in the Zoning Regulations. Further discussion will take place once the Zoning Commission Regulations are revised.

**7. ANY OTHER BUSINESS.**

None.

**8. CORRESPONDENCE.**

A memo from the Zoning Commission is received dated January 23, 2018 regarding the State of CT Public Act 17-155, An Act Concerning Temporary Health Care Structures. The memo states:

The Zoning Commission has reviewed Public Act 17-155 and has decided to consider a proposed opt-out of State of Connecticut Public Act 17-155, An Act Concerning Temporary Health Care Structures. The law allows for temporary housing permitted only while “medically necessary” as determined by a licensed physician. The Zoning Commission does not see how the municipality can reasonably determine when it is no longer “medically necessary” without being intrusive. The law only allows for “unpaid care” versus permitting visiting nurses, rehabilitation specialists, etc. that would otherwise be allowed in a private primary residence. The town would not be able to verify that care is “unpaid” nor that the caregiver, as defined by the statutes, qualifies to give care.

For these reasons, the Zoning Commission will hold a public hearing on Monday, February 12, 2018 in the town hall at 7:00 p.m. to consider and vote on the proposal to opt-out of PA 17-155, An Act Concerning Temporary Health Care Structures.

**9. INVOICES.**

None.

**10. ADJOURN.**

Commissioner P. Roche **motioned** to adjourn the meeting at 9:10 p.m., seconded by Commissioner R. Perreault. Motion passed unanimously.

Respectfully submitted,

Polly Redmond  
Land Use Coordinator

RECEIVED FOR RECORD AT HARWINTON CT  
ON 1-31-2018 AT 12:53pm  
ATTEST NANCY E. ELDRIDGE TOWN CLERK