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May 1, 2019

VIA EMAIL AND FEDEX OVERNIGHT DELIVERY

Melanie A. Bachman, Esq.
Executive Director/Staff Attorney
State of Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051

**RE: Petition No: 1362
Candlewood Solar, LLC – 20 MW Solar Photovoltaic Project
New Milford Assessor's Map Parcels 26/67.1, 9.6, and 34/31.1
Candlewood Mountain Road, New Milford, Connecticut--
Petition by Town of New Milford for Declaratory Ruling and for Party Status
under C.G.S. Section 22a-19**

Dear Attorney Bachman:

Enclosed please find the original and fifteen copies of the following:

- Town of New Milford's Responses to Connecticut Siting Council's Interrogatories (Set One) Regarding Court-Ordered Remand on Visibility; and
- Rescue Candlewood Mountain's Responses to Connecticut Siting Council's Interrogatories (Set One) Regarding Court-Ordered Remand on Visibility.

Copies of this filing are also being provided to the parties on the service list.

Very truly yours,

CRAMER & ANDERSON, LLP

By 
Daniel E. Casagrande, Esq., Partner

DEC/smc
Enclosures

CONNECTICUT SITING COUNCIL

RE:

PETITION NO. 1312

Candlewood Solar LLC Declaratory Ruling :
that no Certificate of Environmental :
Compatibility and Public Need is required :
for the proposed construction, maintenance :
and operation of a 20 megawatt AC :
(26.5 megawatt DC) solar photovoltaic electric :
generating facility located on a 163 acre parcel :
at 197 Candlewood Mountain Road and :
associated electrical interconnection to :
Eversource Energy's Rocky River Substation :
on Kent Road in New Milford, Connecticut. :
Court-ordered remand regarding visibility. :

MAY 1, 2019

**TOWN OF NEW MILFORD'S OBJECTIONS AND RESPONSES TO
CONNECTICUT SITING COUNCIL'S INTERROGATORIES (SET ONE)
REGARDING COURT-ORDERED REMAND ON VISIBILITY**

On April 11, 2019 the Connecticut Siting Council issued Interrogatories to the Town of New Milford on the court-ordered remand regarding visibility and buffers. The following are the Town of New Milford's objections and responses to the Siting Council's questions included in Interrogatories (Set One) dated April 11, 2019:

1. What is the maximum building height permitted in a Major Planned Residential Development District (MPRDD) zone?

Response: The Town of New Milford objects to this interrogatory because it goes beyond the scope of the remand, which is, as defined by the Court, "solely to clarify whether the findings and the opinion of the Siting Council on visibility agree with the agency record." Subject to the objection, the maximum building heights permitted in the MPRDD zone are set forth in § 117-040.4 of the New Milford Zoning Regulations ("Zoning Regulations") (Tab A). The setbacks for buildings greater than 35 feet in height are increased by five feet for each one foot of height above 35 feet.

2. What are the buffer area requirements for a MPRDD zone?

Response: The Town of New Milford objects to this interrogatory because it goes beyond the scope of the remand, which is, as defined by the Court, "solely to clarify whether the findings and the opinion of the Siting Council on visibility agree with the agency record." Subject to the objection, the buffer area requirements for a MPRDD zone are set forth in Section 117-040.7 of the New Milford Zoning

Regulations (Tab A) and Section 130-040 of the New Milford Zoning Regulations (Tab B).

3. Is it permissible to utilize the existing topography or landscaping of a site as a natural screening buffer? If so, what criteria is used to determine the sufficiency of a natural screening buffer and in what zones is this permissible?

Response: The Town of New Milford objects to this interrogatory because it goes beyond the scope of the remand, which is, as defined by the Court, “solely to clarify whether the findings and the opinion of the Siting Council on visibility agree with the agency record.” Subject to the objection, pursuant to Section 130-040.3 of the Zoning Regulations, the Zoning Commission has discretion to utilize the existing topography to satisfy the buffer requirements if the existing topography provides natural screening which satisfies the purpose of the buffer area regulation. The zones in which buffer areas are required are set forth in Section 130-040 of the Zoning Regulations.

4. Referencing the Town of New Milford’s denial of Application A07-003/Dunham Farm (see Petition No. 1312, Pre-Filed Testimony of Carl Dunham, September 19, 2017; Petition No. 1312, RCM’s Responses to Council Interrogatories, October 24, 2017; and Petition No. 1312, Town of New Milford Inland Wetlands Commission correspondence, September 18, 2017), did the Town explore visibility of the Dunham Farm development? If so, what were the proposed buffer areas?

Response: The Town of New Milford objects to this interrogatory because it goes beyond the scope of the remand, which is, as defined by the Court, “solely to clarify whether the findings and the opinion of the Siting Council on visibility agree with the agency record.” Subject to the objection, the resolution of denial of the Dunham Farms development by the New Milford Inland Wetlands and Watercourses Commission (“Wetlands Commission”) is attached at Tab C. The Wetlands Commission has no jurisdiction over visibility of a proposed development and the resolution of denial does not address visibility.

The resolution of denial of the application for special permit and site plan approval of the Dunham Farms development by the New Milford Zoning Commission (“Zoning Commission”) is attached at Tab D. Reason No. 11 for denial references encroachment onto a neighboring property at the north end of the development and “elimination of a vegetated buffer.” The resolution of denial otherwise does not address the visibility of the development.

5. In the September 11, 2017 Town of New Milford Zoning Commission correspondence to the Siting Council, there is a recommendation to “require a 100’ landscape buffer along the property’s frontage on Candlewood Mountain Road and along any common property boundaries with single family homes.” In the September 18, 2017 Town of New Milford Conservation Commission correspondence to the Siting Council, there is a recommendation to “require the

establishment of a 60' buffer zone surrounding the entire 80 acre project." Please explain and/or reconcile these differing recommendations.

Response: The Zoning Commission's September 11, 2017 letter and the New Milford Conservation Commission's September 18, 2017 letter do not refer to each other. The Zoning Commission's recommendation of a 100' buffer area is based on Section 130-040.1.d of the Zoning Regulations, which requires a minimum buffer depth of 100 feet when an industrial or business zone use in excess of five acres abuts a residential zone where dwellings are located less than 150 feet to the adjoining property line. The proposed electricity generating plant would be classified as an industrial use under the Zoning Regulations, thus triggering this provision.

The Conservation Commission is an advisory body focused primarily on preservation of open space and areas of historical importance. The record of the Conservation Commission's deliberations on recommendations to the Siting Council for this solar project do not indicate the basis for its recommendation of a 60' buffer.

TOWN OF NEW MILFORD

By:



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I, Daniel E. Casagrande, hereby certify that a copy of the foregoing was sent on May 1, 2019, by electronic mail to the following parties on the Service List in this matter:

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Daniel E. Casagrande, Esq.

TAB A

CHAPTER 117
MAJOR PLANNED RESIDENTIAL DEVELOPMENT DISTRICT
NUMBER 1
(MPRDD#1)

Section 117-010 Purpose

It is the intent of this Chapter of the Zoning Regulations to provide an opportunity for flexibility of development for large parcels of land, consisting of no fewer than 150 acres, through the option of a Major Planned Residential Development District (MPRDD).

This zone may only be allowed on property currently zoned R-60 or R-80 and located within the following area of New Milford, described/bounded as follows:

North	By Route 37
East	By Route 7
South	By the highway to Greenpond and Jerusalem Hill Road
West	In part by the Town of New Fairfield, and in part by the Town of Sherman

No MPRDD shall be located within one (1) linear mile of another MPRDD. The separation distance of 5,280 feet is to be measured in a direct line from the closest point of the lot on which an MPRDD is located to the closest point of the lot on which a new MPRDD is proposed to be located.

The residential dwellings in the MPRDD shall be in the form of a cluster development with open space requirements as indicated under this Chapter.

The MPRDD shall consist of a variety of dwelling unit types to accommodate active adults who have different desires and requirements.

Section 117-020 Procedures for Establishment of a MPRDD

Request for the establishment of a Major Planned Residential Development District constitutes an application to amend the Zoning Regulations and the Zoning Map, and the approval of a general development plan, and shall be signed by the owner or owners of all lots within the proposed zone provided, however, that the zone may also include existing street, highway and utility rights-of-way not owned by the petitioner. Simultaneously with the filing of said application, the applicant shall file a general development plan, which plan may, but need not necessarily, show the degree of detail required by the provisions of Chapter 175 of these regulations, but which shall include at a minimum the following maps, plans and data:

1. A Boundary Survey meeting the A-2 accuracy standards;

2. A Topographic Survey having not less than 10-foot contour intervals based on a 40-scale two-foot intervals meeting the T-2 or T-3 accuracy standards, such survey showing the location of such features as stone walls, identification of areas of significant vegetation, and sufficient other information demonstrating the character of the property;
3. A map showing the boundaries of the inland wetlands identified by a certified soil scientist and field surveyed by a licensed surveyor;
4. A map showing slopes over 25%;
5. A traffic impact report prepared by a professional engineer experienced in traffic engineering;
6. An open space plan;
7. A recreational facilities plan;
8. A preliminary plan showing location of buildings, streets including the graphic delineation of the relocated Rocky River Road, sidewalks and other pedestrian routes and other similar information;
9. Conceptual plans showing the design and general character of the proposed buildings and structures;
10. A zoning data table showing the proposed number of units; number of bedrooms for each unit; height, area and yard requirements; coverage and floor area ratio; and other similar data;
11. Information and reports showing the methods for supplying water and the general location of water mains, the method for disposing of sanitary wastes including the general location of the proposed on-site subsurface sewage system or sewer mains, as applicable; and the method for managing the stormwater quantity and quality.
12. Other maps, plans and data the Zoning Commission may request in order to determine the appropriateness of the proposed development.

Upon receipt of an application, the Zoning Commission shall refer a copy of the application and accompanying documents to the New Milford Planning Commission for a report pursuant to Section 8-3a of the Connecticut General Statutes and shall hold a public hearing and act thereon in the same manner as required for an amendment of these Regulations.

If the application and general development plan are approved, or are approved with modifications, the applicant shall place on file with the Commission prior to the effective

date of the MPRDD revised general development plans incorporating all standards and conditions that have been approved by the Commission.

Within one (1) year from the effective date of the MPRDD or at such other time period that the Commission may establish, the applicant shall submit an application for a final site plan to the Commission for approval pursuant to the provisions of Chapter 175 of these Regulations, along with whatever other information may be requested by the Commission, including but not limited, a report from the DEP indicating whether there are known existing populations of Federal or State Endangered, Threatened or Special Concern Species on the property and a wildlife habitat survey.

The final site plan shall be consistent with the approved general development plan. In the event the Commission, in its sole discretion, determines that the final site plan is inconsistent with general development plan, the applicant shall either revise the final site plan to be consistent with the general development plan or shall reapply to amend the Zoning Map and seek approval of a revised general development plan in the same manner as described in this section.

Section 117-030 Permitted Uses

The following uses shall be permitted in the MPRDD:

1. Single-family detached dwellings.
2. Townhouse dwellings not to exceed 30% of the total number of residential units for the MPRDD.
3. Multi-family dwellings not to exceed 24 residential units per building and not to exceed 40% of the total number of residential units for the MPRDD.
4. Accessory uses as referred to in section 117-040-10.
5. Each dwelling unit in the MPRDD shall be occupied by:
 - a. Persons who are 55 years of age or older.
 - b. A spouse of an occupant who is 55 years of age or older.
 - c. An occupant pursuant to b. above who is survived by his or her spouse.
 - d. An occupant pursuant to b. above whose spouse has entered into a long-term continuing care facility.
 - e. In c. and d. above, remaining spouses who remarry or cohabitate shall meet all occupancy requirements.
 - f. One child 21 years of age or older may reside with his or her parent(s).
 - g. In no event may a dwelling unit be occupied by more than three (3) residents.

Nothing in this section may excuse compliance with the "Housing for Older Person" requirements of 42. U.S.C. State Statute 3607 (including any amendments thereto after

Commission determines that the existing topography or landscaping provide natural screening. The buffer area shall conform to the standards for buffer areas as set forth in Section 130-040 of these Regulations.

8. Conditions: The Commission may impose conditions to require the applicant to take such actions as it deems necessary to ensure that the housing meets and will continue to meet the age restriction requirements of this Chapter. Such conditions may include, without limitation, deed restrictions, periodic reporting, affidavits of purchasers, renters, authorized representatives of any homeowners' or unit owners' association, stipulated ownership and management policies and procedures, and appropriate association governance. The Commission may require the applicant to submit any or all of this documentation either as part of the application to establish the MPRDD or as part of the final site plan.
9. Village Green: The following Accessory Uses are permitted within the MPRDD in order to create a Village Green designed to complement active adult residential uses and to exist primarily for the benefit of the residents of said community. The accessory uses in total shall not exceed 22,000 square feet. These uses may include the following:
 - a. Postal area (post office)
 - b. Coffee shop
 - c. Meeting hall/clubhouse
 - d. Nondenominational chapel
 - e. Library
 - f. Barbershop/hairdresser
 - g. Caning and potting sheds
 - h. General store
 - i. Amphitheater
 - j. Arts and crafts gallery
10. Community Areas for Recreation: The developer shall provide an area or areas for passive and/or active recreation for the residents of the MPRDD. Such areas may include the following:
 - a. Sitting areas (covered or uncovered)
 - b. Walking paths and trails
 - c. Croquet lawn
 - d. Other dedicated public lawns and green space
 - e. Tennis courts
 - f. Exercise room and equipment
 - g. Swimming pool
 - h. Billiards room
 - i. Bicycle racks
11. Passive Recreation Areas: The passive recreation areas shall consist of no less than 1/3 of the total site.

12. **Water Supply:** The MPRDD shall be served by a water supply system that shall be designed and installed at the applicant's expense and shall be approved by the New Milford Director of Health and, if required, the Connecticut Department of Public Health. Fire hydrants or other fire suppression devices shall be installed in locations approved by the New Milford Fire Marshal.
13. **Sewage Disposal:** The MPRDD shall be served by a municipal sanitary sewer system or by an on-site subsurface sewage disposal system(s) that is designed and installed at the applicant's expense and approved by the Connecticut Department of Environmental Protection and the New Milford Water Pollution Control Authority. If the MPRDD is to be served by an on-site subsurface sewage disposal system, it shall be for the exclusive use of the subject MPRDD and no other uses shall be connected to the system.
14. **Road Access:** The principal access to the MPRDD shall be from Route 7 via Rocky River Road. Rocky River Road shall be reconstructed to conform to the construction methods and requirements, material specifications, administration process, requirements for as-built road plans, and any other applicable standards or procedures outlined in Chapter 18, Article II of the Code of the Town of New Milford in effect at the time of approval of the final site plans. During the Rocky River Road construction, a water main, a gravity sewer line and a force main sewer line for possible future use, and all other public utilities shall be installed to serve the proposed Dunham Farm MPRDD.
15. **Zoning Permits Prior to Construction:** No zoning permits will be issued until such time as either a permit for an on-site sewage disposal system has been issued by the Department of Environmental Protection or the New Milford Water Pollution Control Authority has issued a permit to connect to the municipal sewer system. In addition, the reconstruction of Rocky River Road shall be completed to a level that will permit safe passage to the MPRDD as determined by the Director of Public Works and the Zoning Commission.
16. **Progress Reports:** Reports shall be submitted to the Zoning Enforcement Officer beginning within one (1) month following the approval of the MPRDD and each subsequent month thereafter providing an update as to the progress made toward the submission of the final site plan application. In addition, interim design plans shall be submitted for review and comment by the Commission's staff and consultants.
17. **Submission of Final Site Plan:** The final site plan application shall be submitted to the Zoning Commission within six (6) months of either (a) the date of Department of Environmental Protection approval for the on-site subsurface sewerage disposal system or (b) the date of the issuance of a permit from the New Milford Water Pollution Control Authority to connect to the municipal sewer system. The Commission, in its sole discretion, may grant an extension of the

time for the submission of the final site plan for an additional six (6) months or other reasonable period of time.

18. **Submission of Legal Documents:** Simultaneous with the submission of a final site plan application, the applicant shall submit documentation satisfactory to the Commission's attorney, demonstrating compliance with the requirements for establishing an age-restricted development; the preservation, maintenance and control of open space; and the creation of the common interest ownership community.
19. **Reimbursement of Town Expenses:** The applicant shall reimburse the Town of New Milford for any expenses incurred for unusual costs by Town staff for the administration of the MPRDD and reasonable expenses of consultants and attorneys retained by the Town to review the application, general development plans, final site plans, and to undertake site inspections related to the MPRDD.
20. **Phasing Plan:** A phasing plan shall be included with the final site plan application.
21. **Operations Plan:** An operations plan shall be included with the final site plan application and that said operations plan shall specifically address the management of construction traffic associated with the development with the goal of limiting traffic on Candlewood Mountain Road.
22. **Bonding:** The Commission may require the applicant to post bonds for the completion of public improvements and other site improvements prior to the sale or offering for sale of any residential unit in the MPRDD. If the development is to occur in phases, only the improvements within a phase shall be subject to a bond.

Section 117-050 Open Space Ownership and Preservation

Not less than 60 percent of the total site shall be preserved as open space. The open space shall consist of "Conservation Open Space" and "Other Open Space".

1. **Conservation Open Space Areas:** Fifty percent (50%) of the total area of the MPRDD shall be maintained in its natural state as Conservation and Open Space Areas subject to sound forest management, agricultural and wildlife management practices and shall be used only for the following purposes:
 - a. Protection of areas with unique or environmentally sensitive features.
 - b. Protection of the quality and quantity of underground and surface waters.
 - c. Conservation of soils, wetlands or marshes.
 - d. Protection of natural drainage systems for assurance of safety from flooding.
 - e. Conservation of forest, wildlife, agricultural and other natural resources.
 - f. Pedestrian paths and horseback riding trails.

5. Deed Restrictions: Any land dedicated for open space purposes shall contain appropriate covenants and deed restrictions (approved by the Town Attorney for Town dedicated property) ensuring that:
- a. The use of open space will continue in perpetuity for the purpose specified.
 - b. Appropriate provisions will be made for the maintenance of the open space.
 - c. Rights of public access to the open space are provided when appropriate.
 - d. All open space shall be restricted by a conservation restriction pursuant to Section 47-42a of the Connecticut General Statutes which shall be duly recorded with the Town Clerk.

Section 117-060 Contribution In Lieu of Affordable Housing

In lieu of ten percent (10%) of the proposed dwelling units in the MPRDD qualifying for affordable housing under Connecticut General Statutes, the developer shall gift to New Milford Affordable Housing, Inc., the sum of \$10,000.00 per dwelling unit for the first ten percent (10%) of said dwelling units, to be paid prior to the issuance of a certificate of zoning compliance for each dwelling unit.

Section 117-070 Zoning Map

After a public hearing, the Commission may approve or deny the request for establishing an MPRDD zone. If a MPRDD zone is established, the official zoning map shall be amended accordingly following the effective date of such change.

Section 117-080 Time for Completion and Reversion to Prior Zone

The Zoning Commission, in connection with the establishment of a Major Planned Residential Development District, may specify a time period within which a final site plan must be submitted for the development of the MPRDD. If not so specified, such final site plan shall be submitted within two (2) years from the effective date of establishment of the zone. The Zoning Commission may extend such time period for good cause shown. In the event of failure to meet such time period, as may be extended, the Zoning Commission is deemed authorized by the owner of the land in the zone to amend these Regulations and the Zoning Map, deleting the MPRDD and establishing in its place the previous or another zoning district in its sole discretion the Commission deems appropriate.

(Regulation Approved: January 27, 2005; Effective: March 1, 2005)

TAB B

Section 130-040 Buffer Areas

The purpose of a buffer area is to provide privacy from noise, headlight glare, and visual intrusion onto any lots currently used for single family and multiple-family residential uses located in a Single Family or Multiple-Family Residential Zone. A buffer area shall be provided by the owner/developer of any property located in the Industrial (I), Industrial Commercial (IC), Restricted Industrial (RI), Restricted Business Zone (B-1), General Business Zone (B-2), B-4 Zone, Lake Business Zone (B-3), Multiple-Residence District (MR) and the Airport District where any parcel in any of these zones is used for a use other than a single family residence and abuts a residentially zoned parcel containing a single family dwelling or a multi-family dwelling. Such buffer shall be implemented and located along the interior perimeter of a parcel utilized for non-residential uses where the property line adjoins a parcel zoned and utilized for residential purposes. A multi-family residence located within a Multiple Residence Zone shall be required to provide said buffer when abutting a parcel which is used for residential purposes and is located in a Single Family Residential Zone.

In addition, any special permit use outlined in Chapter 25 under sections 025-080, 025-100, and 025-070 which requires parking for more than 8 motor vehicles, and which parcel is located in a single family residential zone with abutting residential uses shall be required to provide the buffer described above.

1. The minimum depth of buffer areas shall be as follows:
 - a. Special Permit Uses in all Residential zones which will require parking for more than 8 motor vehicles: 60 feet
 - b. Business Zones (B-1, B-2, B-3, B-4): 60 feet. Properties 5 acres or less in the B-1 Zone may, subject to Site Plan Approval from the Zoning Commission, reduce the buffer to 40 feet if the number of evergreens required below in subsection (2) is doubled for each required "plant unit".
 - c. Industrial Zones (I, I/C, RI): 60 feet
 - d. When an industrially zoned (I, I/C, RI) or business zoned (B-1, B-2, B-3, B-4) parcel in excess of 5 acres abuts a residential zone where single family or multiple-family dwellings are currently located less than 150' to the adjoining property line, the required minimum buffer depth shall be 100' and the required number of plantings shall be proportionately adjusted.
 - e. Airport Zone: 60 feet
2. The buffer area shall be left in a natural condition or planted in lawn and/or ground cover and contain one (1) plant unit for each one hundred feet (100') of buffer length, or a portion thereof. For the purposes of this paragraph, "one plant unit" consists of:
 - a. Four (4) canopy trees
 - b. Six (6) understory trees

- c. Twenty four (24) shrubs
 - d. Twelve (12) evergreens
 - e. A berm
3. At the Commission's sole discretion, where the existing topography and/or landscaping provide natural screening, which satisfies the purpose of this regulation, no additional screening will be required.
 4. No structures, including but not limited to septic systems, stormwater detention basins, stormwater retention basins, water quality basins or infiltration systems may be located in any required buffer areas. The Commission may allow fencing or walls in the required buffer area if erection of such would assist in achieving the purpose of the buffer area.

(Section Amended Effective: June 8, 2018)

Section 130-050 Bonding

When a bond is required, it must be presented prior to the issuance of a zoning permit for all approved site plans. This bond shall be in an amount equal to the full value of the plant material and installation. The form of bond shall be a bank check, cash, or savings or certificate passbook account. All landscaping bonds shall be held for a period of three (3) growing seasons. Prior to the release of the landscaping bond, a licensed arborist shall inspect all plant material and certify that all plants will survive and are healthy.

Section 130-060 Definitions

Unless specifically defined below, words or phrases used in the landscaping regulations shall be interpreted so as to give them the meaning they have in other parts of the Zoning Regulations, or where not otherwise defined, the meaning they have in common usage.

1. **Canopy Tree:** A deciduous shade tree planted at least two and one half inches (2 ½") in caliper measured at three feet (3') off the ground with a mature height of at least thirty-five feet (35').
2. **Understory Tree:** A deciduous shade tree or fruit tree planted at least two inches (2") in caliper measured at three feet (3') off the ground with a mature height of twelve feet (12').
3. **Evergreen Tree:** A coniferous species tree planted at least six feet (6') in height at the time of planting.
4. **Shrub:** A plant of either deciduous species planted at two and one half feet (2 ½') in height with a mature height of at least six feet (6') or a coniferous species planted at two and one half feet (2 ½') in spread. Shrubs must be at least five (5) gallons in size at the time of planting.

TAB C

Town of New Milford - Inland Wetland & Watercourse Agency

Adopted Resolution of Denial
Dunham Farm - Application A07-003

Background

1. The New Milford Inland Wetlands and Watercourse Commission (Commission) received an application (A07-003) on January 22, 2007 for regulated activities in conjunction with a 508 unit active adult community, construction and relocation of approximately 7,600 linear feet of access road and an extensive stormwater management system. The applicant modified the project in an effort to reduce the wetland related impacts of the project. The original application proposed 1.89 acres of direct wetland impacts, 45 linear feet of watercourse disturbance and 8.27 acres of upland review area disturbance. Following modification, the application requested authorization for 445 units necessitating 1.64 acres of direct wetland impact, 45 linear feet of watercourse disturbance and 9.04 acres of upland review area disturbance. The applicant proposed 1.75 acres of wetland mitigation.
2. The Wetlands Commission determined that the proposal was a significant activity and set a public hearing as required by the Inland Wetlands and Watercourses Act (the "Act") and the Town of New Milford Inland Wetland and Watercourses Regulations with the latest revision date of February 14, 2000 (the "Regulations").
3. The public hearing commenced on Thursday, March 29, 2007, was continued to April 19, 2007; May 17, 2007; May 31, 2007; June 7, 2007 and closed on June 21, 2007 after a time extension was granted in accordance with Regulations Section 10.2.
4. The Planned Development Alliance of Northwestern Connecticut, Inc (PDA) intervened in this proceeding pursuant to CGS Section 22a-19 on March 26, 2007, (exhibit 46) and participated in the public hearing as intervenors.
5. Relevant testimony and evidence submitted at the Public Hearing has been documented and considered. Information received for the record is noted in exhibits 1 through 156 for application A07-003.
6. The applicant, expert witnesses retained by the applicant, the intervenors expert witnesses retained by the intervenors, the Commission, the Commission's professional staff, Town-employed consultants, and interested public parties participated in the public hearing.
7. Commission members and professional staff conducted visual inspections of the proposed activities on the subject properties. Commission members who have visited the property include Roger Moretz, Cathy Setterlin, Kathleen Nelson, Jim Anderson, Thomas Lappala,

Richard Rosiello, and Angela Dimmitt.

8. The applicant had the opportunity to address, in detail, the issues and concerns raised by the Commission, Commission professional staff, Town-employed consultants, intervenors, intervenors' experts, and concerned citizens, so as to develop a project that met or exceeded the requirements for the protection and preservation of wetlands and watercourses and general health and safety of the residents of the Town as set forth in the Act and Regulations.

COMMISSION FINDINGS AND REASONS FOR DENIAL

The Commission finds that given the project design, an increase in impervious surface, the piping of stormwater, localized water diversion, slope of the land, soils conditions, and first hand knowledge of the site, via visits to the property, the potential for impacts to wetlands and watercourses reaches far into, and beyond, the regulated area and is thus subject to regulatory jurisdiction. This project is a significant activity with a serious potential to degrade and/or damage the wetlands, watercourses, wildlife habitat, vegetative habitat, and water quality within the project's regulated area and on adjacent areas. These regulated areas will inevitably be impacted by the proposed regulated activities unless proper measures are taken to manage the construction and post construction phases of this development and all feasible and prudent alternatives are taken to minimize impact to wetlands and watercourses.

Based on a thorough review of all application materials initially submitted and as supplemented during the course of the public hearing, the New Milford Inland Wetland and Watercourses Commission hereby denies application A07-003 for the reasons stated below. The Commission's decision to deny the project is based primarily upon three global concerns. The Commission finds that the application contains (A) a procedural defect, (B) incomplete and insufficient information, and (C) finds that additional prudent and feasible alternatives need to be addressed. The Commission finds that the applicant has not satisfied its burden of proof showing that there are no feasible and prudent alternatives that would minimize the project's impact on wetlands and watercourses located on the property, adjacent to the property and downgradient from the properties that are effected by the proposed regulated activities.

A) Procedural Defect

A procedural error exists with the application because a portion of the proposed work occurs within a Town right-of-way and on Town property. No letter of permission was provided for work on the Town's property. Section 7.7 of the Regulations states "At a minimum all applicants shall include the following information in writing on maps or drawings" and requires in section 7.7(A)(3) "The owner's name, address and telephone number and written consent if the applicant is not the owner of the land upon which the subject activity is proposed." A letter of permission for all property upon which a project is proposed must be provided with the application.

B) Incomplete and Insufficient Information

In view of the project's magnitude and nature, the Commission finds that the application, inclusive of all supporting documentation, does not contain complete or sufficient information to render an approval for one or more of the reasons, including but not limited to, those listed below. It is the opinion of the Commission that, as a result of these deficiencies, the applicant did not fully explore options, alternatives and design requirements essential to ensuring that wetlands and watercourses are protected to the maximum extent possible while allowing for reasonable development of the property.

The Commission concurs with the Milone & MacBroom, consulting engineers and wetland specialists, findings in their report dated July 19, 2007 where they state "We believe that there are both wetland impact and engineering issues that have not been satisfactorily addressed to date." The Commission acknowledges that the applicant has significantly revised the proposed development in response to the Commission's concerns and is rendering its decision based upon the project plans submitted June 8, 2007 (exhibits 123 and 124) (exhibit 123) and latest reports associated with this submission. More specifically the following list identifies some of the issues that must be addressed to determine the potential impact to wetlands and watercourse systems.

- 1) Not all the activities regulated by the Commission have been identified by the applicant, and the site plans are inconsistent. As one example, the Soil Erosion Sediment Control Phasing Plan (Sheets 6 and 8 of 54) shows a proposed employee parking lot, equipment, material storage and fueling area that are within 100 feet of the intermittent watercourse that was not included in the upland review area computations. In addition, stormwater Basin #1 is proposed partially within a wetland area, but no maintenance access to the forebay is presented. Provision of such access will necessitate a direct wetland impact that is not represented in the application materials.
- 2) Construction of stormwater basins #2 and #3 will require rock excavation and blasting that will alter the ground water flow regime and surface water runoff patterns of the area. The applicant's experts provided testimony that these hydrologic modifications will not alter these wetlands. It is the opinion of the Commission's experts that impacts will occur and that sufficient technical detail has not been provided to support the applicant's opinion or convince the Commission to disregard the opinion of its own experts. Moving the basins farther away from the wetlands would reduce the potential for adverse wetland impacts.
- 3) A 20 to 30-foot high retaining wall is proposed at the southwestern boundary of the project. The construction of this wall will alter ground water and surface water flow patterns, which would inevitably and adversely impact the downgradient wetlands. In addition, the applicant proposes to change this wetland's watershed by redirecting surface flows that currently feed this wetland to stormwater basin #1. This will reduce the contributing watershed area to the wetland and lessen its hydroperiod. Such changes

typically generate negative long term impacts. The applicant's experts did not provide sufficient technical detail to prove that such impacts will not occur. Alternative arrangements include splitting this basin into two systems (i.e. one at the base of the wall and one within the existing upland open field) or relocating the wall to the east and constructing a basin in an area that is outside of the Commission's upland review area.

- 4) The ratio of proposed wetland impacts to proposed wetland mitigation is very low (roughly 1:1), leaving no margin for suboptimum success rates. The Commission's experts provided testimony questioning the long-term viability of the wetland mitigation site A1 (enhancement). At mitigation area A1, planting of the upland field with wetland vegetation without changing the grades is of concern because the existing ground water table has been measured at depths greater than 30 inches below grade, which is well below the typical wetland vegetation rooting zone (e.g., 0 to 24 inches). The applicant's experts did not provide the hydrologic data necessary to document that this wetland creation will be successful, or convince the Commission to disregard the opinion of its own experts.
- 5) The Commission finds that the proposed mitigation for the wetlands is conceptual in nature and is insufficient mitigation for the significant impacts associated with the proposed development. The applicant's plans and design team considerations were not finalized at the close of the public hearing. Several ideas and concepts were mentioned, but are not depicted on the plan set.
- 6) An invasive species control plan was requested, particularly for basin #7 and mitigation site B1 and B2. This plan was not provided by the applicant.
- 7) Design of the wetland crossing calls for construction of a 34-foot high gabion wall at the crossing location. Structural design details for this crossing have not been provided. It is not clear how the gabion baskets will be pinned to the existing grade and how this structure will be stabilized to prevent slippage or movement during the freeze/thaw cycle. The expected service life and long term maintenance requirements of this structure were not documented, and the Commission has experience with this type of structure suggesting it has a service life of substantially less than required to protect wetlands and watercourses in this context.
- 8) The applicant provided a generalized detention basin monitoring plan. The Commission and its experts requested additional information that was not provided by the applicant. Specifically, the plan does not address the following: (a) control of invasive species within the stormwater basins; (b) methods for preventing clogging of the through pipes to the level spreader systems; (c) methods of ensuring that basin #1 effectively distributes water to support both the proposed wet meadow plus the existing off-site basins to the north; and (d) the long-term maintenance of the proposed ground water recharge galleries.
- 9) The applicant's environmental consultants have not provided a detailed analysis of the

potential adverse wetland impacts associated with the conversion of the existing quarry sediment pond and wetland into a detention pond (Detention Pond #7). Analyses regarding the potential impacts to hydroperiod, duration of inundation, both short and long term water surface levels, and the existing wetland vegetation have not been provided.

- 10) The applicant has proposed the use of conservation easements along several of the wetlands and watercourses on site. However, no formal language has been submitted by the applicant regarding the specific uses allowed and restricted within the proposed conservation easements. The specific language of such easements is vital for the protection and preservation of the significant wetlands and watercourses on this site.
- 11) Design of the stormwater management system incorporated both water quality measures and methods for controlling peak flow from the site. Modifications were made to this system throughout the hearing process. However, the design remained deficient for the following reasons:
 - a. Stormwater infiltration galleries are proposed within 15 feet of the proposed building slabs and the proposed retaining walls. The separation distance to buildings as recommended by the 2004 Connecticut Stormwater Quality Manual is 100 feet. Loading of stormwater behind the retaining walls could result in structural impacts to the wall. The applicant did not provide technical information to support the significantly smaller separation distances proposed nor was the opinion of a licensed structural engineer provided as to the acceptability of this arrangement.
 - b. Design of the detention basin berms was not complete. Additional detail and design consideration regarding the impervious core berms is needed to ensure the basin will remain stable under the loading that will inevitably result when the basin is full of stormwater.
 - c. The project plans contain errors with respect to elevations and grading that impact the proposed drainage system. For example, Sheets 2 and 3 of 25 (exhibit 123) depict a proposed detention gallery system with a top elevation of 698.0, while the surrounding ground elevation ranges from 695 to 696 indicating the basins would protrude above the ground.
 - d. The applicant's experts did not document the constructability of the cross-country drainage pipe runs discharging from basin #6 and from the proposed access road to basin #7. No construction access was depicted on the plans to facilitate this work and the existing slopes appear too steep for construction equipment to work without additional regrading.
 - e. A 38 percent volumetric increase in stormwater runoff is proposed within the Bullymuck Watershed #1 (from 6.59 acre-feet to 9.12 acre-feet). The

Commission's experts testified that Bullymuck Brook is a critical resource because it is an active channel that is subject to bed and bank erosion under current conditions and the proposed volumetric increase will exacerbate this current condition. The applicant failed to address this issue and to discuss potential downstream impacts that may occur as a result of the proposed increases.

- f. Project plans call for the outlet structure from Basin 7 to be reconstructed, providing a 36-inch discharge pipe. An existing 18-inch pipe downstream of this discharge is not proposed to be modified, nor is the outlet structure from the existing downstream basins. No hydraulic analysis was provided to document that the 18-inch pipe and the outlet structures are adequately sized.
- 12) Sediment and Erosion Control Plans, a Sediment and Erosion Control Narrative and Project Phasing Plans were presented to the Commission. The plans were schematic in nature and incomplete for the following reasons:
- a. No provisions were included for protecting catchbasins from silting during construction or for proper dust control over what is expected to be a 10-year construction cycle.
 - b. Slope stabilization and grading was also incomplete as evidenced by the lack of reverse slope benching on the plans. Detailed construction sequencing was requested for the proposed slope areas and the Commission found the applicant's response did not adequately address potential impacts to wetlands that may occur.
 - c. The plans lack detailed provisions for the movement of stormwater during the construction period. Specifically, temporary channels and swales are lacking.
 - d. Computations supporting the design of temporary sediment traps, temporary sediment basins, and temporary lined channels were not provided.
 - e. The plans and narrative do not define completion of any phase. A clear definition is needed to control when subsequent phases commence.
- 13) The Commission finds that the proposal will increase impervious surface and reduce infiltration and transpiration of stormwater by tree removal and re-grading of the property. This intercepting and collecting of stormwater that currently disperses as sheet flow will now be collected and concentrated to defined outlet points. The Commission finds that the design of the project intensifies the stormwater runoff. The proximity of the development to wetlands and the concentration of the stormwater from development are detrimental factors with regard to the potential impacts to wetland and watercourse systems. The Commission's consulting engineers indicate that the proposal will alter drainage and have submitted specific information about reducing stormwater flows, velocity dissipation, and

retention of storm flows. The applicant has other options that may further improve water quality, reduce thermal impacts, and reduce chemical pollution to the receiving waters. These options have not been fully addressed to the satisfaction of the Commission.

C) Prudent and Feasible Alternatives

The Commission finds that the applicant has not fully addressed prudent and feasible alternatives that could reduce adverse impacts to wetlands and watercourses. The Commission finds that the applicant is required to address, in detail, prudent and feasible alternatives that could reduce both direct and secondary adverse impacts to wetlands and watercourses. The following list includes some, but not necessarily all of the prudent and feasible alternatives that may be available to the applicant.

- a. The applicant could review the locations of detention basin 2 and 3 to see if other locations and/or design alternatives would reduce potential impacts to wetlands and watercourses.
- b. The applicant could review other design options for detention basin 1. An option could be to splitting the basin into two systems or relocation of the basin to an area that has fewer impacts to wetlands and watercourses.
- c. The applicant could review an alternative for the direct impacts associated with detention basin 7. The applicant could create a separate detention basin near Route 7 on property owned by the owner and not utilize the existing wetlands as a sedimentation basin, water quality basin and runoff storage area for the applicant's proposed road.
- d. The applicant could address the possibility of diverting increased runoff from other watersheds to a basin on the applicant's property that is more level, has better drained soils and has a topographic location that is better able to handle runoff concerns. The Commission finds that the proposed 38% increase in volumetric runoff within the upper reaches of the Bullymuck River watershed is unwarranted and unacceptable impact to wetlands, watercourses and neighboring properties.
- e. The applicant could consider relocation of the proposed employee parking lot, equipment storage, material storage and fueling area on the phasing plan (exhibit 123) to areas not within 100 feet of the intermittent watercourse.
- f. The applicant can relocate or redesign, and increase the size of the proposed mitigation areas.
- g. The applicant can utilize structural components at the Wetlands Crossing area that do not utilize gabion baskets, but have a longer-term service life.
- h. The applicant could modify the stormwater management systems in a manner that is more

protective of water quality and adequately handles peak flows and volumetric flows, such as increasing distances between stormwater infiltration units and wetlands, watercourses or slabs and walls.

- i. Efforts can be made to reconfigure the development plan to reduce impervious surface to minimize runoff.
- j. The applicant could alter the stormwater discharge points to minimize impacts on wetlands and watercourses that will be impacted by the proposed project.

Although a great deal of information was submitted during the course of the public hearing process, the applicant failed to satisfy the burden of proof that the project would not cause unnecessary harm to wetlands and watercourses. There is potential for adverse impacts to the wetland and watercourse systems both on and off of this environmentally sensitive property from the implementation of this project. The Commission finds that based on their knowledge of wetland systems, reports from professional staff and the Commission's consulting engineers, information submitted by the applicant, and input from concerned parties, the applicant has not fully addressed or introduced design criteria or alternatives that satisfy the wetlands regulatory requirements, and as such the proposed Dunham Farm Active Adult Community application A07- 003 is denied.

TAB D

**TOWN OF NEW MILFORD
ZONING COMMISSION
RESOLUTION OF DENIAL**

**Application for Final Site Plan Approval of MPRDD#1
Special Permit #2007-01 Application for Special Permit for a use which will
generate more than 500 trips per day
Special Permit #2007-02 Application for Special Permit under Chapter 140
for earth removal**

**Applicant: Bernard A. Pellegrino, Attorney for Owners
Property Owners: Dunham Farm, LLC; Candlelight Farm, LLC; Carl M.
Dunham Jr.
Property Addresses: Candlewood Mountain Road, Rocky River Road/Kent Road,
Candlewood Mountain Road
Assessor's Map and Lot Numbers: Map 26, Lot 67.1; Map 34, Lots 15, 15.1 and 16;
Map 26, Lot 67.**

Background of MPRDD#1

In 2004 the applicant submitted a proposed regulation amendment and zone change application to create a Major Planned Residential Development District on a 163 acre parcel, which is now identified as Map 26, Lot 67.1. On 1-27-05 the Commission adopted the regulation amendment which was drafted by the applicant, as well as a zone change to MPRDD#1 which included approval of a General Development Plan. The initial General Development Plan (GDP) allowed for 508 residential dwelling units on the parcel along with ancillary uses. The primary access to the development was to be via a reconstructed Rocky River Road from Kent Road/Route 7.

Two current Commission members, Florio and Paduano, visited the site during a duly warned special meeting held on October 8, 2004 during the 2004 public hearing process. In accordance with Subsection 117-040(16) of the Zoning Regulations the Commission received and reviewed copies of progress reports and minutes from meetings of the applicant with consultants and staff over the time period of May 10, 2005 through January 19, 2007.

Application History:

On January 23, 2007 the New Milford Zoning Commission (the "Commission") received three applications with regard to development of Dunham Farm Active Adult Community, Major Planned Residential Development District #1 (MPRDD#1). The applications included: 1) an application for a special permit and site plan approval under Chapter 180 to allow a use which will generate more than 500 trips per day; 2) an application for a special permit and site plan approval under Chapter 140 for earth removal in conjunction with construction of a 508 unit active adult community and appurtenant facilities, including roadways and septic systems; and 3) a site plan application for final site plan approval under Chapters 117 and 175.

An extension was granted by the applicant and the public hearing opened on May 1, 2007. At this meeting a staff report was read outlining the proposed project as well as the history of the Major Planned Residential Development District #1 (MPRDD#1). The applicant then presented a brief overview of the project. An intervenor's petition was submitted on behalf of the Planned Development Alliance under Connecticut General Statutes §22a-19(a). A brief presentation was given by the legal counsel for the intervenor. Consultants hired by the Commission gave a brief overview of their concerns with the application and submitted a written report. Several members of the public spoke with regard to their concerns with the proposed development. Legal counsel for the Commission discussed the Commission's concerns with regard to timeframes and the standing of an intervenor. The applicant granted another extension and the hearing was recessed and continued to May 30, 2007.

At the May 30, 2007 continued public hearing it was noted that revised plans and additional information had been received from the applicant in response to staff and consultant reports. Several written communications from members of the public were also received. It was noted the total residential unit count had been reduced from 508 to 445. Several experts presented on behalf of the applicant. The intervenor's attorney as well as experts hired by the intervenor presented testimony in opposition to the applications. Consultants hired by the Commission stated their concerns with the revised plans and submitted additional written comments. The attorney for the Commission discussed legal concerns. Several members of the public spoke for and against the application. The hearing was recessed to the June 12, 2007 regular meeting.

At the June 12, 2007 continued public hearing it was noted that new information had been submitted by the applicant in response to the Commission's consultants' comments and that written communications from the public had been received into the record. Several representatives and experts attended and presented on behalf of the applicant. Representatives and experts presented on behalf of the intervenor. Consultants for the Commission discussed their concerns. Several members of the public spoke with regard to the application. The applicant and intervenor were afforded the right to cross examine. The applicant presented rebuttal, both delivered final arguments, and the hearing was closed.

A majority of Commission members visited the property and the neighborhood, individually, at various times before the conclusion of the public hearing.

On June 19, 2007 the Commission held a duly warned special meeting with technical and legal consultants to discuss the application. Subsequent discussions occurred at the June 26, 2007 and July 10, 2007 regular meetings.

At the close of the public hearing a total of 344 exhibits had been submitted to the record. It was noted that a large number of the exhibits submitted by the applicant were duplicates and were, in some cases, submitted multiple times with each set of revised plans, and duplicated with subsequent submissions.

After duly considering the evidence submitted as part of the public hearing record and subsequent reports from consultants and staff and comments from legal counsel, the applications submitted by Bernard A. Pellegrino, Attorney for Owners, with regard to Dunham Farm Active Adult Community, MPRDD#1 for a final site plan approval under Chapters 117 and 175; Application for a Special Permit for a use which will generate more than 500 trips per day under Chapter 180; and Application for a Special Permit for earth removal under Chapter 140 are denied for the following reasons:

1. The applicant has failed to satisfy the conditions of Subsection 117-040(17), Submission of Final Site Plan, which requires either timely approval from the Department of Environmental Protection for the on-site sewerage disposal system or timely issuance of a permit from the New Milford Water Pollution Control Authority to connect to the municipal sewer system.
2. The applicant has failed to satisfy the requirements of Subsection 175-020(3) and (9) which require the plan to show the final location of sewage disposal facilities. Further, the applicant has failed to satisfy the requirements of Subsection 175-030(5) in that the availability and adequacy of sewerage disposal has not been proven. The plan also fails to comply with Subsection 117-020(11).
3. The applicant has failed to design the proposed reconstructed Rocky River Road in accordance with the provisions of Subsection 117-040(14) Road Access which requires the reconstruction of Rocky River Road to conform to the construction methods and requirements outlined in Chapter 18, Article II of the Code of the Town of New Milford. The Director of Public Works as well as Planning and Engineering consultants hired by the Commission have determined the reconstructed Rocky River Road must be classified as a collector road due to the projected traffic volume as well as the purpose it will serve. As per the Director of Public Works, Planning and Engineering consultants, and the Code of the Town of New Milford Subsection 18-23 et. seq., Table 1, a collector road cannot exceed an 8% gradient. The proposed reconstructed and partially relocated road exceeds this gradient and is as steep as 9.75%.
4. The applicant has indicated that the proposed reconstructed Rocky River Road is to be a public roadway, however, no right-of-way has been designated on the plans submitted, and a significant portion of the proposed roadway is to be constructed outside of the existing right of way.
5. The Commission finds that the horizontal and vertical geometry of some internal roadways create unsafe conditions in violation of Subsection 175-030. Examples of this include Roads K and R being proposed with 10% or greater downslopes into 90 degree or sharper bends.
6. The applicant has failed to prove compliance with Subsection 117-040(5) and Subsection 180-040(5) in that proposed driveways do not consistently meet the required minimum length of 20 feet and that the applicant has not demonstrated how the 890 parking space requirement has been met. Given the narrow widths of the proposed alleyways, a parking deficiency may result in

- obstructed access throughout the site, including access required for emergency vehicles. This creates a condition that would materially adversely impact the health, safety and welfare of the residents under the provisions of Subsection 175-030(3) and (4).
7. The applicant has not demonstrated how the public parking needs of the accessory uses such as the retail and retail services buildings and the community buildings and community areas for recreation will be met as per Subsections 175-030(3) and 180-040(5).
 8. The Commission finds that the proposed number of multifamily dwelling units of 51.7% of the total number of residential dwelling units does not comply with the provisions of Subsection 117-030(3) in that the maximum number of multi-family dwellings cannot exceed 40% of the total number of residential units.
 9. The applicant has failed to comply with the provisions of Subsection 117-040(21) which requires an operations plan which specifically addresses the management of construction traffic associated with the development with the goal of limiting traffic on Candlewood Mountain Road. The applicant has not documented how traffic on Candlewood Mountain Road will be minimized throughout the construction cycle. Candlewood Mountain Road is a local road that was not designed to carry a large traffic load. The safety of the intersection of Candlewood Mountain Road and Route 37 is also questionable. Construction access on Candlewood Mountain Road must be limited to protect worker and public safety.
 10. The applicant has failed to adequately address how the requirements of Subsection 140-050(2)L will be met which require that truck access to the excavation operation be arranged so as to minimize danger to traffic and nuisance to surrounding properties. As stated above, the applicant has failed to address the management of construction traffic associated with the development and its impact on Candlewood Mountain Road.
 11. The Commission finds that the applicant has proposed encroachments onto the neighboring property at the north end of MPRDD#1 and elimination of a vegetated buffer, which is inconsistent with the General Development Plan, and in violation of Subsection 117-020.
 12. The applicant has failed to provide sufficient details with regard to the proposed site grading to prove feasibility, even though these details have been requested throughout the application process. In many locations, grading as depicted on the project plans would force runoff toward the buildings, which would result in flooding problems that create concern for the health, safety and welfare of the residents.
 13. The applicant has failed to provide sufficient details and documentation with regard to retaining wall design to prove feasibility, structural stability and safety, even though these details have been requested throughout the application process. The appropriateness of the proposed Versa-Lok system for this application was not proven. In many locations construction of the proposed wall and the required geosynthetic would conflict with the required site utilities. For example, the wall supporting Road G at the western side of

the property is up to 35 feet in height. Project plans depict storm drainage and sanitary sewer lines under Road G (other utilities such as water, cable, telephone, and gas may be installed in this road as well; however, these are not presented on the project plans.) It is not clear that the wall can be properly constructed with the necessary geosynthetic given the utility locations presented. Failure of this wall would create a significant safety risk, as it supports not only the roadway, but also the fill upon which nearby buildings will be constructed.

14. The applicant has failed to provide sufficient design and construction details with regard to proposed roads to prove feasibility and safety, even though these details have been requested throughout the application process. In particular, the sightline at some alleyways and internal intersections appears limited due to the proximity of buildings to the intersections. The applicant did not provide supporting data to verify the available sight distances as requested. Deficient sight lines generate concerns for public safety and so their adequacy must be documented.
15. The applicant has failed to provide sufficient information in the Sediment and Soil Erosion Control Plan so as to comply with the provisions of Chapter 125. Specifically, the plans do not provide adequate measures to effectively control construction phase runoff such as temporary sediment basins and swales. Computations supporting the design of the limited sediment and erosion controls depicted on the plans were not provided.
16. The applicant has failed to provide sufficient landscaping details with regard to the common areas and street tree locations as required by Subsection 175-020(7).
17. A separate site layout plan indicating dimensions, curve radii, driveway, alley, parking area dimensions, etc. has not been provided, as requested, to prove compliance with Subsection 175-030(10) regarding adequacy of design of the interior vehicular circulation system to provide safe and convenient access to all structures, uses, parking spaces and loading spaces.
18. Furthermore, in view of the fact that the applicant does not have an approved final site plan for all of the reasons set forth in this Resolution, the Application for Special Permit for a use which will generate more than 500 trips per day must be denied under the provisions of Chapter 180.
19. Furthermore, in view of the fact that the applicant does not have an approved final site plan for all of the reasons set forth in this Resolution, the Application for Special Permit for earth removal must be denied under the provisions of Chapter 140.

Resolution of Denial adopted by the New Milford Zoning Commission August 7, 2007.



Eleanor Florio, Chairperson