

# *Town of Colchester, CT*

127 Norwich Avenue, Colchester, Connecticut 06415

PLANNING & ZONING COMMISSION

WEDNESDAY, January 19, 2022

MEETING AT 7:00 P.M.

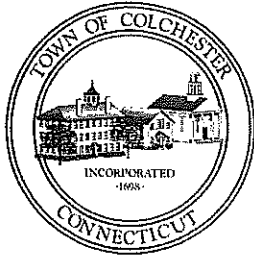
Virtual Meeting to be held via ZOOM. For a link to the ZOOM meeting please visit the Town of Colchester Public Meetings Calendar at [www.colchesterct.gov](http://www.colchesterct.gov)

## AGENDA

1. **Call to Order**
2. **Additions to the Agenda**
3. **Minutes of Previous Meeting**
  - a. January 5, 2022
4. **Public Hearings**
  - a. Niantic Bay Group LLC – 347 Cabin Rd – Resubdivision (2021-015)
5. **Five Minute Session for the Public**
6. **Pending Applications**
  - a. 75 Lebanon Ave LLC – Regulation Amendment (2021-014)
7. **New Applications**
8. **Preliminary Reviews**
  - a. 31 Parum Road – Development Alternatives in SU District
  - b. 260 Norwich Ave – Regulation of Multi-Family in SU and TC
9. **Old Business**
10. **New Business**
  - a. Niantic Bay Group LLC – 347 Cabin Rd – Resubdivision (2021-015)
11. **Planning Issues and Discussions**
12. **Correspondence**
13. **Adjournment**

*M. J. [Signature]*

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COLCHESTER, CT  
2022 JAN 14 PM 1:45



# Town of Colchester, CT

127 Norwich Avenue, Colchester, Connecticut 06415

PLANNING & ZONING COMMISSION

WEDNESDAY, January 5, 2022

7:00 P.M.

Virtual Meeting held via ZOOM.

**Members Present:** Chairman J. Mathieu, Vice Chair J. Novak, B. Hayn, M. Kehoegreen, S. Smith, M. Noniewicz

**Others Present:** Planning Director M. Bordeaux, ZEO D. Schaub

## MINUTES

1. **Call to Order – Vice Chair Novak called the meeting to order at 7:06 pm.**  
Chairman Mathieu joined the meeting at 7:08 pm
2. **Additions to the Agenda – None**
3. **Minutes of Previous Meeting**
  - a. December 1, 2021 – Motion to approve minutes by B. Hayn, 2<sup>nd</sup> by M. Kehoegreen. *Vote was unanimous, motion carried.*
4. **Public Hearings**
  - a. 75 Lebanon Ave LLC – Regulation Amendment (2021-014) – B. Hayn is applicant and recused himself from this portion of the meeting. D. Schaub read the legal notice of the public hearing. Planning Director M. Bordeaux introduced the application before the Commission. He stated that the applicant is proposing a change to the current regulations for the Future Development District to allow development of a parcel with only a private well and septic system, removing the requirement for the developer to pay for the cost of extending the public water and sewer to the site. This will allow low-intensity use to begin to develop the area. Charles Dutch, Dutch & Associates, spoke on behalf of the applicant. Chairman Mathieu asked if there was anyone who would like to speak in favor of the application. Hearing none, he asked if anyone would like to speak in opposition to the application. J. Fedus spoke in opposition due to potential violation of state statutes. Water and Sewer Chairman S. Coyle spoke in opposition to the application, stating that he believes this creates a disincentive to connect to public utilities once they are available unless there is a mandate added. G. Transue spoke about the history of the public utility area in town. J. Fedus questioned the Commission's ability to modify the application rather than just approve/deny. Motion by M. Noniewicz to close Public Hearing, 2<sup>nd</sup> by J. Novak. *Vote was unanimous, motion carried.* Public Hearing closed. B. Hayn rejoined the meeting.

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2022 JAN 10 PM 2:37  
M. Kehoegreen

5. **Five Minute Session for the Public** – None
6. **Pending Applications** – None
7. **New Applications**
  - a. 75 Lebanon Ave LLC – Regulation Amendment (2021-014) – Motion to move deliberation/action to next meeting by M. Noniewicz, 2<sup>nd</sup> by J. Novak. B. Hayn abstained. *Vote was unanimous, motion carried.*
  - b. Niantic Bay Group LLC – 347 Cabin Rd – Resubdivision pursuant to CGS 8-30g (2021-015) – application received for the development of affordable housing.
8. **Preliminary Reviews**
  - a. Senior Center Building Committee – Lebanon Avenue – Site Plan Review – Senior Center Building Committee Chairman T. Tarnowski and C. Nardi, Silver Petrucelli, discussed the site plan for the new Senior Center building on Lebanon Ave. Designs for traffic flow, parking and foot traffic were discussed.
9. **Old Business** – None
10. **New Business**
  - a. 75 Lebanon Ave LLC – Regulation Amendment (2021-014) – Deliberation tabled, no action taken.
11. **Planning Issues and Discussions** – M. Bordeaux stated his preference to continue virtual meetings until the COVID numbers improve. A survey for community input on the Affordable Housing Plan is being developed. It will run for three weeks. There will also be a community workshop.
12. **Correspondence** – None
13. **Adjournment** – Motion to adjourn by M. Noniewicz, 2<sup>nd</sup> by B. Hayn. *Vote was unanimous, motion carried.* Meeting adjourned at 8:56 pm.

Respectfully submitted by,

Stacey Kilgus, Clerk

**TOWN OF COLCHESTER  
LEGAL NOTICE**

The Planning and Zoning Commission will hold a virtual public hearing on January 19th, at 7:00 P.M. to hear and consider the following petitions:

**NIANTIC BAY GROUP LLC – Resubdivision (2021-015) – 347 Cabin Rd – 24-lot  
Resubdivision pursuant to CGS 8-30g**

At this hearing interested persons may be heard and written communications received. A copy of this petition is in the Planning Department, Town Hall, 127 Norwich Avenue, and may be inspected during regular business hours (8:30 a.m. – 4:30 p.m., Monday through Friday).

Planning and Zoning Commission  
Joseph Mathieu, Chair

**TOWN OF COLCHESTER  
PLANNING AND ZONING DEPARTMENT**

**TO:** Planning and Zoning Commission

**FROM:** Daphne C. Schaub, Assistant Planner & ZEO *DS*  
Matthew R. Bordeaux, Planning Director *MRB*

**DATE:** January 14, 2022

**RE:** Niantic Bay Group, LLC – 347 Cabin Road  
Resubdivision (2021-015)

***Introduction***

The applicant, Niantic Bay Group, LLC, is proposing a 24-lot resubdivision of the 6.61-acre property on the east side of Cabin Road in the Suburban Use District (SU). The proposal is subject to the provisions of Connecticut General Statutes Section 8-30g. 30% of the proposed units will be “affordable”.

The proposal is the resubdivision of Lot 5 of a previously approved subdivision referred to as JORDAN ALLEY SUBDIVISION. 15.11 acres of open space was dedicated to the Town to satisfy the requirements of the anticipated future resubdivision of Lot 5.

For reference, the Planning and Zoning Commission approved a six-lot, single-family residential resubdivision application of this parcel for the same applicant at the October 6, 2021 regular meeting.

As depicted on the subdivision plan attached, proposed lots range in size from 6,538 sf (0.15 acres) to 15,842 sf (0.36 acres). The proposed plan depicts the conceptual layout of a house, paved driveway apron, gravel or paved driveway dependent upon final grades, stormwater rain gardens, trees, underground public water and sewer services, and underground electrical and cable services for each of the units, as well proposed grading and easements. Regulated inland wetlands and associated upland review areas are highlighted as well.

***Stormwater Management***

The proposed stormwater management system has been designed to manage different elements of the proposal. The proposed off-site detention is provided to attenuate peak flows equal to or less than existing conditions. The proposed road layout and drainage facilities remain as previously approved and are not subject to change as result of the current proposal. The applicant has proposed to direct clean roof runoff to rain gardens located on each lot. Specifications for the sizing and layout of the rain gardens were provided by the applicant and review to the satisfaction of the Town Engineer.

### ***Inland Wetlands & Open Space***

There are no wetlands on the subject property. There are extensive wetlands on the abutting open space. Both the Conservation Commission and the Open Space Advisory Committee reviewed the applicant's previous 6-lot resubdivision application and made positive endorsements of the proposed activity. The Open Space Advisory Committee recommended the Board of Selectmen approve the use of Town-owned property for the construction of a stormwater detention basin and the extension of the public sewer system. The Conservation Commission issued a wetlands permit (#W2021-3064) for the construction of a stormwater detention basin, as well as a modification (#W2021-3066) for the proposed public sanitary sewer extension.

There are no significant changes from the previous approval to the current proposal with respect to the use of Town-owned open space and the potential impacts to regulated resources. The Conservation Commission approved the inland wetlands permit (#W2021-3070) at their meeting of 1/12/2022 which includes the increased number of lots. Jay Gigliotti, Wetlands Enforcement Officer, has prepared a memo summarizing the concerns of the Conservation Commission (please see attached).

### ***Use of Town-owned Open Space***

The Town of Colchester Board of Selectmen approved the use of Town-owned open space for temporary disturbances and permanent encroachments associated with the extension of the public sanitary sewer system and the construction of the proposed detention basin.

### ***Utility Improvements***

The proposed project includes the provision of public water and sewer services. The Water and Sewer Commission has reviewed and approved the extension.

The sanitary sewer extension will traverse the abutting open space located to the north of the subject parcel. The proposed sewer service will require a stream crossing beneath Cabin Brook. The crossing will be executed via directional boring at a minimum of 42" below the existing surface. A sewer pump station is proposed in an easement adjacent to Lot 1 and will be the responsibility a Homeowner's Association. Agreement and maintenance documentation has been reviewed to the satisfaction of the Town Engineer and Water & Sewer Department staff.

The water main will extend from the hydrant at Cabin Road.

### ***Traffic Impact***

A traffic report provided by Hesketh Traffic Engineers dated 12/20/2021 provides data collected by the Institute of Transportation Engineers' *Trip Generation Report*. The 24 proposed units are projected to generate a total of 271 vehicles trips on a daily basis, with a total of 20 trips during the morning commuter peak hour, and 26 trips during the afternoon commuter peak hour. The anticipated peak hour generation would result in an increase of less than one trip every two

minutes on average compared to the 6-unit approved subdivision. The traffic engineer has stated it is his professional opinion “that the proposed development will not have a significant impact on the local roadway network. The proposed development will result in a minor increase in traffic during peak hours, approximately one every other minute on average.

### ***Landscaping***

The proposal includes the planting of 28 street trees of four different varieties including red maple, sugar maple, black gum and red oak. The trees will be planted approximately 40 to 50 feet on center on both sides of the street. Any changes to the landscaping plan as proposed shall be reviewed and approved by the Town’s Zoning Enforcement Officer.

### ***Sidewalks***

Previously, in anticipation of a six-lot subdivision, the Commission waived the requirement for the installation of sidewalks. The applicant has again requested that sidewalks be waived.

In accordance with Section 6.3.12.1 of the Subdivisions Regulations, every subdivision shall make provision for pedestrian accessibility and circulation, principally in the form of sidewalks. The applicant is requesting that no sidewalks be required to be installed in accordance with Section 6.3.12.1.5 (b). This section provides that the Commission may waive the requirements of Section 6.3.12.1, per Section 1.2, after finding that pedestrian access in the prescribed locations would not be beneficial to the community.

Section 1.2 states that “In accordance with Section 8.26 of the Connecticut General Statutes, the Commission may waive certain requirements under the regulations by a three-quarters vote of all the members of the Commission in cases where conditions exist which affect the subject land and are not generally applicable to other land in the area, provided that the regulations shall specify the conditions under which a waiver may be considered and shall provide that no waiver shall be granted that would have a significant adverse effect on adjacent property or on public health and safety. The Commission shall state upon its records the reasons for which a waiver is granted in each case.”

### ***Connecticut General Statutes Section 8-30g***

Section 8-30g of the Connecticut General Statutes, the “Connecticut Affordable Housing Land Use Appeals Procedure,” promotes the development of low-cost housing with long-term protection of the affordability of the units. 8-30g includes an appeals procedure that allows developers who satisfy certain affordability standards to override local zoning denials without just cause. 8-30g ensures that municipalities cannot deny an affordable housing proposal unless there are specific significant health or safety concerns. The burden of proof for this concern is placed on the municipality.

Municipalities can exempt themselves of vulnerability to this appeals procedure when the State Department of Housing (CT DOH) has determined that at least 10% of a community’s housing stock is “affordable.” According to the latest data available from the CT DOH’s [Affordable](#)

Housing Appeals List, the Town of Colchester has 552 qualifying affordable housing units of its 6,182 total housing units. This figure represents 8.93% of Colchester's housing stock that satisfies the State's requirement of "affordable housing." Therefore, the Town of Colchester is a not exempt from the appeals procedure pursuant to 8-30g.

Development proposals pursuant to 8-30g must provide that at least three (3) of every ten (10) units in the development are priced so that people earning less than 80 percent or 60 percent of the state or area median income need not pay more than 30 percent of their income in rent or mortgage payment. In Colchester's case, because the area median income exceeds that of the state's, the lesser applies. The applicant proposal satisfies this requirement by providing four (4) units dedicated to families earning less than 80 percent of state median income and four (4) units to families earning less than 60 percent of state median income (see "Affordability Plan" attached).

8-30g does not allow developers carte blanche to ignore local zoning. Municipalities may deny an application if they can show that the development would significantly threaten public health or safety. Municipal appeals of application pursuant to 8-30g have been ruled upon favorably when significant issues regarding wastewater, traffic or other substantial objections were proven.

The proposed application does not comply with various bulk standards applicable in the Suburban Use District. Notably, the number of units proposed exceeds the maximum density of the district, and likewise, proposed lot sized are smaller than the minimum required. Compliance with other dimensional standards follow suit; minimum lot frontage, minimum front yard and minimum side yard do not meet applicable site development criteria. Other standards such as minimum rear yard, building height and maximum lot coverage all satisfy the requirements for the zone.

### ***Staff Review***

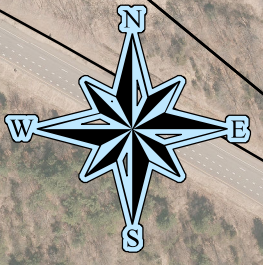
Town staff has been working closely with the applicant to address a number of concerns. The applicant continues to make minor revisions to the plans even as this memo is being drafted. Due to the holiday, and the unfamiliar nature of an application pursuant to Section 8-30g of the Connecticut General Statutes, it was staff's desire to provide the Commission with a project summary in advance of the long weekend. Further information including a detailed staff review, recommendation and draft motion will be prepared prior to the meeting

DCS

R:\Boards and Commissions\PZC\2022\01-2022\01-19\2021-015 Memo.docx

Attachments.





Mapping Prepared  
by the Town of Colchester  
Planning and Zoning  
Department

Scale:  
1 inch = 300 feet

**Jordan Alley Resubdivision  
Site Location Map**

**CURVE DATA**

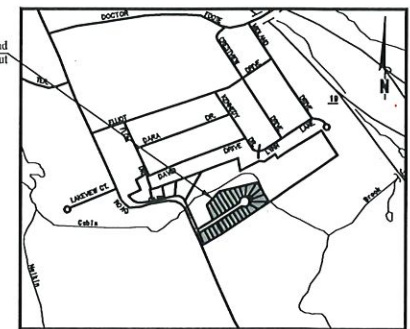
<b>C1</b> R=25.00' L=41.96' CL=37.20' Δ=96°09'46"	<b>C2</b> R=1975.00' L=98.08' CL=98.07' Δ=25°50'43"	<b>C3</b> R=25.00' L=23.55' CL=22.69' Δ=53°58'05"	<b>C4</b> R=60.00' L=56.38' CL=56.53' Δ=54°01'34"	<b>C5</b> R=60.00' L=56.57' CL=54.50' Δ=54°01'09"	<b>C6</b> R=60.00' L=20.63' CL=22.55' Δ=19°41'53"
<b>C7</b> R=60.00' L=25.18' CL=25.00' Δ=24°02'58"	<b>C8</b> R=60.00' L=28.26' CL=28.00' Δ=17°34'22"	<b>C9</b> R=60.00' L=28.33' CL=28.07' Δ=27°01'22"	<b>C10</b> R=60.00' L=41.36' CL=40.54' Δ=55°51'49"	<b>C11</b> R=60.00' L=37.17' CL=36.58' Δ=35°29'52"	<b>C12</b> R=25.00' L=23.55' CL=22.69' Δ=53°58'05"
<b>C13</b> R=2025.00' L=43.24' CL=43.24' Δ=1°13'24"	<b>C14</b> R=2025.00' L=54.01' CL=54.01' Δ=1°31'41"	<b>C15</b> R=2025.00' L=2.97' CL=2.97' Δ=0°05'03"	<b>C16</b> R=25.00' L=36.56' CL=33.39' Δ=83°47'55"		

**UNIT AREA TABLE**

1) 11,800 SF	2) 11,028 SF	3) 11,743 SF	4) 12,459 SF	5) 12,458 SF	6) 11,402 SF
7) 15,751 SF	8) 14,856 SF	9) 13,072 SF	10) 11,950 SF	11) 15,842 SF	12) 8,661 SF
13) 6,538 SF	14) 7,044 SF	15) 7,554 SF	16) 7,554 SF	17) 7,554 SF	18) 7,555 SF
19) 7,55 SF	20) 8,346 SF	21) 9,974 SF	22) 7,794 SF	23) 7,572 SF	24) 10,745 SF

- Property boundary 347 Cabin Rd.
- Town-owned Open Space
- Regulated Inland Wetlands

Town-owned Open Space



**Location Map**  
Scale: 1"=1000'

**Legend**

EXISTING	
SYMBOL	DESCRIPTION
□	MONUMENT
○	EX. IP / REBAR
⊙	DRILL HOLE
⊕	UTILITY POLE W/ LIGHT
⊖	STONEWALL
—x—x—	FENCE LINE
⊕	WATER VALVE
—o—o—	OVERHEAD WIRES
---	PROPERTY LINE
---	ADJACENT PROPERTY LINE
---	INDEX CONTOUR
---	CONTOUR
---	WETLANDS BOUNDARY/FLAG
---	MEAN LOW WATER LINE
---	MEAN HIGH WATER LINE
---	HIGH TIDE LINE
---	COASTAL JURISDICTIONAL LINE
---	ZONE LINE
---	EASEMENT LINE
---	BUILDING SETBACK LINE
---	EXISTING WATER LINE
---	EXISTING SEWER LINE
---	N/O/F
---	CATCH BASIN
(TYP.)	TYPICAL
5.8	SPOT ELEVATION
DH	DRILL HOLE
(POB)	POINT OF BEGINNING
①	UNIT NUMBER
⊕	UTILITY POLE
⊕	DRAINAGE MANHOLE
⊕	SEWER MANHOLE
⊕	HYDRANT
⊕	WATER SHUTOFF
PROPOSED	
SYMBOL	DESCRIPTION
⊕	IRON PIN TO BE SET
---	SILT FENCE
---	WATER SERVICE
---	SANITARY SERVICE
(ELEV.)	SPOT ELEVATION
INV.	INVERT
GAL.	GALLON
SCHED.	SCHEDULE
⊕	HAY BALE BARRIER
⊕	WATER SHUTOFF
⊕	IRON PIN TO BE SET
⊕	MONUMENT TO BE SET

**Reference Maps:**

- "RECORD RE-SUBDIVISION PLAN OF LOT-5 JORDAN ALLEY, 347 CABIN ROAD, COLCHESTER, CONNECTICUT", SCALE: 1"=40'; DATE: JUNE 10, 2021, REVISED 10/21/21 BY: FEDUS ENGINEERING, LLC ANTHONY HENDRIKS, LS #10834.
- EASEMENT MAP, MAP DEPICTING A PROPOSED SANITARY SEWER EASEMENT ACROSS LOT-5 JORDAN LANE, 347 CABIN ROAD, COLCHESTER, CONNECTICUT", SCALE: 1"=20'; DATE: OCTOBER 13, 2021; BY: FEDUS ENGINEERING, LLC ANTHONY HENDRIKS, LS #10834.
- EASEMENT MAP, MAP DEPICTING A PROPOSED SANITARY SEWER EASEMENT ACROSS TOWN OF COLCHESTER, CABIN ROAD, COLCHESTER, CONNECTICUT", SCALE: 1"=20'; DATE: OCTOBER 13, 2021; BY: FEDUS ENGINEERING, LLC ANTHONY HENDRIKS, LS #10834.
- EASEMENT MAP, MAP DEPICTING A PROPOSED DRAINAGE EASEMENT ACROSS A PORTION OF PROPERTY OF TOWN OF COLCHESTER, CABIN ROAD, COLCHESTER, CONNECTICUT", SCALE: 1"=20'; DATE: OCTOBER 21, 2021; FEDUS ENGINEERING, LLC ANTHONY HENDRIKS, LS #10834.

**Subject Parcel Information**

**OWNER:** NIANTIC BAY GROUP, LLC  
**PARCEL ADDRESS:** 347 CABIN RD, COLCHESTER, CT  
**APPLICANT:** NIANTIC BAY GROUP, LLC, 1967 N ROSE HUE PATH, HERNANDO, FL 34442  
**MBL:** 03-00/001-005  
**AREA:** 287,995 SF = 6.61 ACRES  
**FLOOD ZONE:** ZONE X PER FIRM MAP # 09011C0165G  
**EFFECTIVE DATE:** 7/18/2011  
**ZONING DISTRICT:** SU

**Survey Notes:**

- THIS SURVEY PLAN HAS BEEN PREPARED IN ACCORDANCE WITH SECTIONS 20-300B-1 THROUGH 20-300B-20 OF THE CONNECTICUT STATE AGENCIES - "MINIMUM STANDARDS OF ACCURACY, CONTENT AND CERTIFICATION FOR SURVEYS AND MAPS," AS AMENDED OCTOBER 26, 2018 AND ENDORSED BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS, INC.
  - A. TYPE OF SURVEY: PROPERTY SURVEY/EXISTING CONDITIONS SURVEY
  - B. BOUNDARY DETERMINATION: RE-SURVEY.
  - C. THIS SURVEY CONFORMS TO THE STANDARDS AND THE ACCURACY OF CLASS: A-2 HORIZONTAL.
  - D. THIS SURVEY CONFORMS TO THE STANDARDS AND THE ACCURACY OF CLASS: T-2 VERTICAL.
  - E. BEARINGS AS DEPICTED ARE BASED UPON REFERENCE MAP #1 (CERTIFIED CLASS A-2 THEREON)
- BOUNDARY LINES OF ADJOINING PROPERTIES ARE SHOWN FOR GENERAL INFORMATIONAL PURPOSES ONLY AND ARE NOT TO BE CONSTRUED AS BEING ACCURATELY LOCATED OR DEPICTED.
- THE WORD "CERTIFY" AS USED IS UNDERSTOOD TO BE AN EXPRESSION OF PROFESSIONAL OPINION BY THE SURVEYOR. IT IS A DECLARATORY STATEMENT, WHICH IS BASED ON HIS BEST KNOWLEDGE, INFORMATION AND BELIEF, AS SUCH IT CONSTITUTES NEITHER GUARANTEE NOR WARRANTY, EXPRESSED OR IMPLIED, OF ANY INFORMATION CONTAINED HEREON. NO CERTIFICATION IS EXPRESSED OR IMPLIED ON ANY ORIGINAL OR ANY DUPLICATE OF THIS MAP UNLESS IT BEARS AN ORIGINAL STAMP OR SEAL AND ORIGINAL SIGNATURE OF THE INDIVIDUAL WHOSE REGISTRATION NUMBER APPEARS HEREON.
- THIS MAP IS THE PROPERTY OF FEDUS ENGINEERING, LLC AND HAS BEEN SPECIFICALLY PREPARED FOR THE OWNER OF THIS PROJECT OR PROPERTY. IT IS NOT TO BE DUPLICATED OR USED IN PART OR WHOLE FOR ANY OTHER PURPOSE, PROJECT, LOCATION, OR OWNER WITHOUT THE EXPRESS WRITTEN CONSENT OF FEDUS ENGINEERING, LLC.
- UNDERGROUND UTILITY, STRUCTURE AND FACILITY LOCATIONS DEPICTED AND NOTED HEREON HAVE BEEN COMPILED, IN PART, FROM RECORD MAPPING AND LIMITED FIELD MEASUREMENTS. THESE LOCATIONS MUST BE CONSIDERED AS APPROXIMATE IN NATURE. ADDITIONALLY, OTHER SUCH FEATURES MAY EXIST ON THE SITE, THE EXISTENCE OF WHICH ARE UNKNOWN TO FEDUS ENGINEERING, LLC. THE SIZE, LOCATION AND EXISTENCE OF ALL SUCH FEATURES MUST BE FIELD DETERMINED AND VERIFIED BY THE APPROPRIATE AUTHORITIES PRIOR TO CONSTRUCTION. CALL BEFORE YOU DIG 1-800-922-4455.
- THE STONEWALLS, TIDAL DITCHES AND/OR FENCES SHOWN AS BOUNDARIES MAY HAVE IRREGULARITIES OF COURSE BETWEEN PRINCIPAL POINTS OF COURSE INDICATED.
- TREES SHOWN ON THIS MAP WERE FIELD LOCATED BUT ARE NOT SHOWN TO SCALE.

**Soil Resource Consultants**

I have reviewed the 2016 site plans for "Jordan Alley" and visited the subject property shown for Lots 5-10 along Cabin Road in Colchester. It is my professional opinion that there are no inland wetlands or watercourses on the areas proposed lots 5 through 10.

*David H. Lord*  
 David H. Lord - Certified Soil Scientist

THE COLCHESTER CONSERVATION COMMISSION, ACTING AS THE INLAND WETLANDS AGENCY FOR THE TOWN OF COLCHESTER, APPROVES THE PLAN AS DEPICTED. ANY CHANGES IN THE PLAN THAT MAY HAVE AN IMPACT UPON REGULATED WETLANDS OR WATERCOURSES ARE SUBJECT TO REVIEW BY THE COMMISSION AND MAY REQUIRE ADDITIONAL PERMITS.

APPROVED BY THE COLCHESTER CONSERVATION COMMISSION:

CHAIRMAN: \_\_\_\_\_  
 DATE: \_\_\_\_\_ EXPIRATION DATE: \_\_\_\_\_

THE SUBDIVISION REGULATIONS OF THE COLCHESTER ZONING AND PLANNING COMMISSION ARE PART OF THIS PLAN AND APPROVAL OF THIS PLAN IS CONTINGENT UPON COMPLETION OF ALL THE REQUIREMENTS OF SAID SUBDIVISION REQS. EXCEPT ONLY VARIANCES OR MODIFICATIONS IN WRITING BY THE COLCHESTER ZONING & PLANNING COMMISSION AND ATTACHED RESOLVE.

APPROVED BY THE COLCHESTER ZONING & PLANNING COMMISSION:

CHAIRMAN: \_\_\_\_\_  
 DATE: \_\_\_\_\_ EXPIRATION DATE: \_\_\_\_\_

**Note:**  
 IN ACCORDANCE WITH SECTION 8.26.C OF THE CONNECTICUT GENERAL STATUTES, FAILURE TO COMPLETE ALL WORK BY FIVE YEARS FROM DATE OF APPROVAL OF THIS MAP SHALL RESULT IN EXPIRATION OF SUBDIVISION PLAN.

NO.	DATE	REVISIONS

**Record Re-Subdivision Plan**  
 of  
 Lots 5-10 Jordan Alley  
 347 Cabin Road  
 Colchester, Connecticut  
 Prepared For:  
**JOHN DORAN**  
 November 29, 2021

DRAWING SCALE: 1"=40'

**FEDUS ENGINEERING, LLC**  
 CIVIL ENGINEERS  
 Mailing Address: 70 Essex Street Mystic, Connecticut 06355  
 Office: (860) 536-7390 Fax: (860) 536-1644

SHEET NO. 2 OF 20 JOB NO. 21-001063 DRAWN BY: dc

TO MY KNOWLEDGE AND BELIEF, THIS MAP IS SUBSTANTIALLY CORRECT AS NOTED HEREON.

*Anthony Hendriks*  
 ANTHONY HENDRIKS LS  
 CT. LICENSE NUMBER







**Tree Notes:**

- PRIOR TO THE START OF EXCAVATION FOR THE PROJECT BOTH ON AND OFF THE SITE, THE CONTRACTOR SHALL NOTIFY "CALL BEFORE YOU DIG" OF CONNECTICUT TO LOCATE AND MARK ALL EXISTING UTILITIES.
- CONTRACTOR SHALL BEGIN MAINTENANCE IMMEDIATELY AFTER PLANTING AND WILL CONTINUE UNTIL FINAL ACCEPTANCE.
- CONTRACTOR SHALL MAINTAIN POSITIVE DRAINAGE AWAY FROM ALL BUILDING FOUNDATIONS, STRUCTURES, AND PLANTING BEDS.
- MAXIMUM SLOPE WITHIN DISTURBED AREAS SHALL NOT EXCEED 3:1 UNLESS SPECIFIED OTHERWISE.
- THE LANDSCAPE CONTRACTOR SHALL SUPPLY ALL PLANT MATERIALS IN QUANTITIES SUFFICIENT TO COMPLETE ALL PLANTINGS SHOWN ON DRAWINGS.
- ALL MATERIALS SHALL CONFORM TO THE GUIDELINES ESTABLISHED BY THE AMERICAN ASSOCIATION OF NURSERYMEN.
- ALL PLANT MATERIAL IS SUBJECT TO THE APPROVAL OF THE LANDSCAPE ARCHITECT, AT THE NURSERY, AND AT THE SITE.
- ALL PLANTS TO BE BALLED IN BURLAP OR CONTAINERIZED UNLESS SPECIFIED OTHERWISE.
- PLANTING SOIL MIX SHALL BE A TOPSOIL, SAND, PEATMOSS AND MANURE OR BONE MEAL MIXTURE AS FOLLOWS: 3 CUBIC YARDS TOPSOIL, 1 CU. YD SAND, 1 BALE PEATMOSS, 1 CU. YARD MANURE OR 15 LBS. BONE MEAL.
- ALL PLANTS SHALL BEAR THE SAME RELATIONSHIP TO FINISH GRADE AS TO ORIGINAL GRADES PRIOR TO DIGGING.
- FINISH FOR PLANTED AREAS TO BE SHREDDED HARDWOOD, PARTIALLY DECOMPOSED, DARK BROWN IN COLOR.
- THE LANDSCAPE CONTRACTOR SHALL GUARANTEE ALL PLANT MATERIAL A MINIMUM OF 1 FULL YEAR FROM DATE OF ACCEPTANCE.
- ALL AREAS OF THE SITE WHICH HAVE BEEN DISTURBED AND NOT OTHERWISE DEVELOPED SHALL BE LOAMED WITH A MINIMUM OF 6" DEPTH OF TOPSOIL AND SEED.
- PLANT LIST TO INCLUDE:
  - 7 ACER RUBRUM (RED MAPLE)
  - 7 ACER SACCHARINUM (SUGAR MAPLE)
  - 7 FRAXINA SYLVATICA (BLACK OAK)
  - 7 QUERCUS RUBRA (RED OAK)
- FUTURE EYEWASOURCE DISTRIBUTION EASEMENT AND UNDERGROUND UTILITIES, ETC, MAY CHANGE QUANTITY AND LOCATION OF STREET TREES.

CABIN RD  
 TOWN OF COLCHESTER  
 N/V/L 03-0001-000  
 V1204/17  
 MAILING ADDRESS  
 127 NORWICH AVE  
 COLCHESTER, CT 06415

365 CABIN RD  
 N/F  
 ANDREW R AND SHEILA MALONE  
 N/V/L 03-0002-025  
 V1204/17  
 MAILING ADDRESS  
 365 CABIN RD  
 COLCHESTER, CT 06415

363 CABIN RD  
 N/F  
 DANIEL S CORWELL & LAURA E MCNALLY  
 N/V/L 03-0002-025  
 V1204/17  
 MAILING ADDRESS  
 363 CABIN RD  
 COLCHESTER, CT 06415

THE COLCHESTER CONSERVATION COMMISSION, ACTING AS THE INLAND METROPOLITAN AGENCY FOR THE TOWN OF COLCHESTER, APPROVES THE PLAN AS SHOWN. ANY CHANGES IN THE PLAN THAT MAY HAVE AN IMPACT UPON REGULATED WETLANDS OR WATERCOURSES ARE SUBJECT TO REVIEW BY THE COMMISSION AND MAY REQUIRE ADDITIONAL PERMITS.

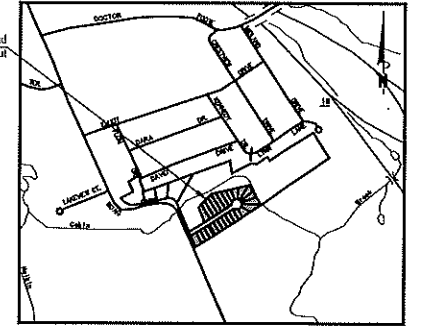
APPROVED BY THE COLCHESTER CONSERVATION COMMISSION:

CHAIRMAN: \_\_\_\_\_  
 DATE: \_\_\_\_\_ EXPIRATION DATE: \_\_\_\_\_

THE SUBDIVISION REGULATIONS OF THE COLCHESTER ZONING AND PLANNING COMMISSION AND PART OF THIS PLAN, AND APPROVAL OF THIS PLAN IS CONTINGENT UPON COMPLETION OF ALL THE REQUIREMENTS OF SAID SUBDIVISION REGS. EXCEPTING ONLY VARIANCES OR MODIFICATIONS IN WRITING BY THE COLCHESTER ZONING & PLANNING COMMISSION AND ATTACHED HERETO.

APPROVED BY THE COLCHESTER ZONING & PLANNING COMMISSION:

CHAIRMAN: \_\_\_\_\_  
 DATE: \_\_\_\_\_ EXPIRATION DATE: \_\_\_\_\_



Location Map  
 Scale: 1"=1000'

**Legend**

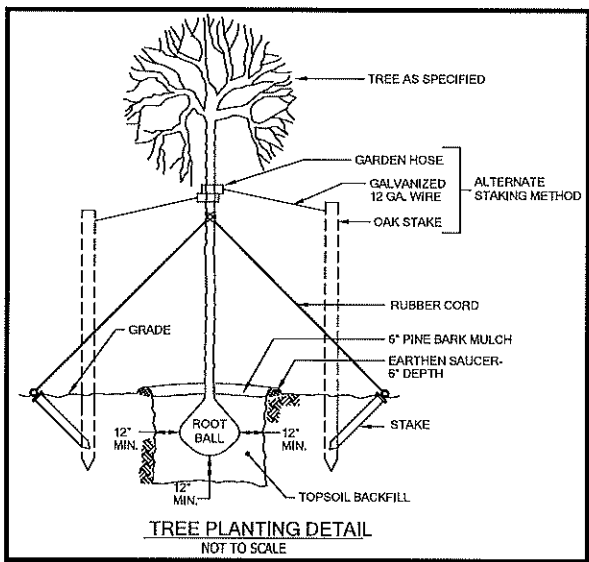
EXISTING	
SYMBOL	DESCRIPTION
□	MONUMENT
○	EX. TP / REBAR
⊙	DRILL HOLE
⊕	UTILITY POLE W/ LIGHT
⊖	STONEWALL
⊗	FENCE LINE
⊘	WATER VALVE
⊙	OVERHEAD WIRES
---	PROPERTY LINE
---	ADJACENT PROPERTY LINE
---	INDEX CONTOUR
---	WETLANDS BOUNDARY/FLAG
---	MEAN LOW WATER LINE
---	MEAN HIGH WATER LINE
---	HIGH TIDE LINE
---	COASTAL JURISDICTIONAL LINE
---	ZONE LINE
---	EASEMENT LINE
---	BUILDING SETBACK LINE
---	EXISTING WATER LINE
---	EXISTING SEWER LINE
N/F	NOV OR FORMERLY CATCH BASIN
(TYP.)	TYPICAL
±.8	SPOT ELEVATION
⊙	DRILL HOLE
(FOB)	POINT OF BEGINNING TEST PIT
⊕	PERCOLATION TEST
⊕	UTILITY POLE
⊕	DRAINAGE MANHOLE
⊕	SEWER MANHOLE
⊕	HYDRANT
⊕	WATER SHUTOFF
PROPOSED	
○	IRON PIN TO BE SET
⊕	MONUMENT TO BE SET

**Reference Maps:**

- "PROPOSED JORDAN ALLEY SUBDIVISION CABIN ROAD, COLCHESTER, CT", DATE: FEBRUARY 6, 2007 REVISED TO JANUARY 9, 2008; SCALE 1"=100'; BY: STANTEC 188 NORWICH ROAD, COLCHESTER, CT 06415 SHEET #2 OF 14.
- "PROPOSED JORDAN ALLEY SUBDIVISION LOT #5 CABIN ROAD, COLCHESTER, CT" DATE: JULY 15, 2016; SCALE: 1"=100'; BY: FRANCIS E HAMM LICENSE SURVEYOR.

**Subject Parcel Information**

OWNER: MIANTIC BAY GROUP, LLC  
 PARCEL ADDRESS: 347 CABIN RD, COLCHESTER, CT  
 APPLICANT: MIANTIC BAY GROUP, LLC, 1967 N ROSE HUE PATH  
 HERNANDO, FL 34442  
 HBL AREA: 03-0001-005  
 FLOOD ZONE: ZONE X PER FIRM MAP # 09011C0165G  
 EFFECTIVE DATE: 7/18/2011  
 ZONING DISTRICT: SU



NO.	DATE	REVISIONS

**Tree Plan**  
 of  
 Lots 5-10 Jordan Alley  
 347 Cabin Road  
 Colchester, Connecticut  
 Prepared For:  
 JOHN DORAN  
 November 29, 2021

DRAWING SCALE: 1"=40'

Gregg T. Fedus P.E.  
 CT. License No. 21231



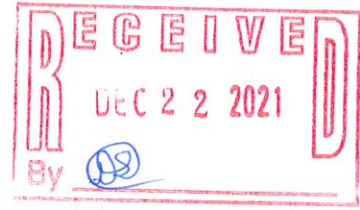
**FEDUS ENGINEERING, LLC**  
 CIVIL ENGINEERS  
 Mailing Address: 70 Essex Street Mystic, Connecticut 06355  
 Office: (860) 536-7390 Fax: (860) 536-1644

**AFFORDABILITY PLAN**

**NIANTIC BAY GROUP, LLC**

**December 7, 2021**

**347 CABIN ROAD  
COLCHESTER, CT 06415**



## **INTRODUCTION**

Niantic Bay Group, LLC (the “Developer”) is submitting this Affordability Plan in conjunction with its application to the Planning and Zoning Commission of the Town of Colchester, Connecticut for approval of an affordable housing subdivision site plan review, consisting of 26 lots at 347 Cabin Road, Colchester, Connecticut (hereinafter “Units”). The Developer intends to construct houses on the Affordable Unit lot and sell the finished Units to Buyers as set forth herein. This Affordability Plan shall be binding upon the current owner, and its successors and assigns for the Affordability Period described herein.

### **I. Units Designated for Affordable Housing and Purchaser and Tenant Eligibility**

At least thirty (30%) percent of the 24 Units in the project will be designated as affordable housing units, in accordance with Connecticut General Statutes Section 8-30g (hereinafter "Affordable Unit"). Of the 24 total Units, 4 Units will be sold to persons and families whose income is less than sixty (60%) percent of the median income for the area as defined by Connecticut General Statutes Section 8-30g(a)(7) and 4 Units will be sold to persons and families whose income is less than eighty (80%) percent of the median income, and the other 16 Units will be market units.

### **II. Projected Sequence of Construction**

The 24 Units are proposed to be ready for sale and construction in one phase, which phase will last approximately 24 months.

### **III. Table of Units**

The Affordable Units are the following Units:

1. Unit 1
2. Unit 3
3. Unit 5
4. Unit 16



5. **Unit 18**
6. **Unit 20**
7. **Unit 22**
8. **Unit 24**

The Affordable Units will be established by the Developer in accordance with Connecticut General Statutes Section 8-30g as set forth above. In the event the Developer, or its successors and assigns, desires to re-allocate the Affordable Units, it shall file the updated affordability plan with the Town of Colchester, but in no event shall the Affordable Units be less than 8 units.

#### **IV. Designated Entity Responsible for Administration and Compliance**

The Affordable Units shall be designated as Affordable and subject to the restrictions and covenants in Article VI for a period of forty (40) years. This affordability period shall be calculated separately for each Affordable Unit, and the period shall begin on the date of the sale of the first Affordable Unit.

The initial Administrator shall be DeMarco Management or designee. The Administrator shall submit a status report to the Colchester Zoning Enforcement Officer (ZEO) with compliance with this plan annually, no later than January 31<sup>st</sup> of each year. The Developer or its successors and assigns may appoint a qualified successor third party to serve as Administrator. Notice of a vacancy in the position of Administrator and of the appointment of a new or successor Administrator shall be reported to the ZEO within five (5) business days of the occurrence. Failure to have a qualified Administrator in place for a period of more than thirty (30) successive days shall be considered a violation of the terms of this plan and of the site plan approval and shall entitle the Town of Colchester to obtain any and all appropriate legal or equitable remedies necessary to obtain a qualified Administrator for the development, to recover any damages incurred on account of the vacancy of the position and also including all remedies provided by Connecticut General Statutes §8-12. The Developer, or its

successors and assigns, shall be responsible for securing and paying all fees, costs and/or other expenses associated with and charged by an Administrator, and for any damages resulting to any person or entity including the Town of Colchester or any of its officers, employees or representatives on account of the failure to have an Administrator in place at any time or for any violation of the plan, including violations of this Article IV.

#### **V. Enforcement**

Upon notification or discovery of a reasonable belief of non-compliance with the Plan set forth in Section VII of this Plan, either the Administrator or the Town of Colchester, acting through its Zoning Enforcement Officer or otherwise, shall have the power, at any reasonable time, to inspect the property and to determine compliance of the Affordable Units with this Plan and the affordable housing regulations of the State of Connecticut. Should the Administrator or the Town of Colchester determine that the Affordable Units do not comply with this Plan or said housing regulations, it shall have all powers granted to it by the Connecticut General Statutes, including Section 8-12, to assure compliance with the Plan and with the affordable housing regulations. The Town of Colchester shall be entitled to attorney's fees and costs associated with any action it takes to enforce the terms of this Article V. Notwithstanding any of the above, the Developer will be responsible for all advertising and marketing requirements for initial sales under this plan.

#### **VI. Restrictions and Covenants**

An enforceable restriction will be recorded on the land records and will substantially contain the following:

Niantic Bay Group, LLC, Owner of the applicable units located at 347 Cabin Road, Colchester, Connecticut, (hereinafter "parcel") does hereby declare the following restrictions and covenants to apply and be binding upon said parcel. Said restrictions and covenants shall be incorporated in and made part of any deed of conveyance related to said parcel by reference to this Declaration:

A. This development is a set-aside development as defined in Section 8-30g of the Connecticut General Statutes and in accordance with the applicable regulations for state

agencies that were in effect on the date of the original application for initial local approval dated 10-6-21, as may be amended, the Affordable Units are therefore subject to limitations on the maximum annual income of the household that may sell the designated Affordable Units, and on the maximum sale price that may be charged for such Affordable Units. These limitations shall be strictly enforced and may be enforced by the zoning enforcement authority of the Town of Colchester against the record owner of the development or the person identified in the affordability plan as responsible for the administration of these limitations. The covenant or restriction shall be in place for 40 years from the date of the initial occupancy of each of the Affordable Units.

B. For the duration of this covenant or restriction, no less than thirty (30%) percent of the Units in this development reserved as Affordable Units, with at least half of the Affordable Units being shall be sold to persons and families whose annual income is less than or equal to sixty (60%) percent of the median income as defined in subsection 8-30g-1(10) of the Regulations of Connecticut State Agencies and the remaining Affordable Units being shall be sold to persons and families whose annual income is less than or equal to eighty (80%) percent of the median income as defined. Such Affordable Units may be sold only at a sale price equal to or less than the sale price determined using the formula for maximum sale price stated in Section 8-30g-8(d) of the Regulations of Connecticut State Agencies.

C. As to All Affordable Units:

1. For the duration of these restrictions and covenants, in the event the owner desires to sell this Affordable Unit, it shall notify, in writing, the Administrator as set forth in the Affordability Plan, or such other successor entity as is approved by the Colchester Planning and Zoning Commission as the Administrator under the Affordability Plan to enable it to assure compliance with the foregoing requirements.

2. Any sale for this Unit, whether written or oral, shall be subject to the requirements that the lease or sale is contingent upon a determination by the Administrator that the potential buyer meets the eligibility criteria set forth in the Affordability Plan. Prior

to entering into said sale, the owner shall immediately notify the Administrator in writing. The Administrator shall have thirty (30) days from such notice to determine the eligibility of a potential buyer in accordance with the Affordability Plan. The Administrator shall notify said owner and the potential buyer of its determination of eligibility in writing within said thirty (30) day period. If the Administrator determines that the potential buyer is not eligible, any purchase and sale agreement shall be void, and said owner may solicit other potential buyers. If the Administrator determines that the potential buyer is eligible, the Administrator shall provide the potential buyer and said owner with a signed certification to the effect that the purchase and sale of this Unit has complied with the foregoing restrictions and covenants and the Affordability Plan. The certification need not be recorded. To avoid the potential dislocation of initially qualified buyers, a buyer that is deemed eligible for an Affordable Unit at the time of move-in shall remain eligible until the buyer sells the Unit.

3. These restrictions and covenants shall be strictly enforced and may be enforced by the Administrator or such other successor entity as is approved by the Colchester Planning and Zoning Commission and by the Town of Colchester, acting through its zoning enforcement authority, or otherwise.

4. The Developer, for itself, its successors and assigns, assumes and agrees to comply with all of the terms, conditions and obligations of the restrictions and covenants contained herein, which shall run with the land for the forty (40) year term described herein.

#### **VII. Affirmative Fair Housing Marketing Plan**

The sale of Affordable Units shall be accomplished using the State regulations for affirmative fair housing marketing programs as guidelines. The Administrator shall have the responsibility of monitoring compliance with this section.

Marketing outreach for the Affordable Unit shall include:

1. Analyzing census and other data to identify racial and ethnic groups least represented in the population;

2. Publication of advertisements / commercials in print and other media that will reach the populations identified in 1, including a newspaper, such as the Hartford Courant, reaching the Colchester area and other cities or towns located in the nearest metropolitan statistical area and the local regional planning area.

3. Flyers and/or announcements to social service agencies and other community contacts serving low-income minority families in the region (including churches, civil rights organizations, housing organizations and legal services organizations);

4. Assistance to minority applicants in processing applications;

5. Beginning marketing efforts prior to general marketing of Affordable Units, and repeating again during initial marketing and at fifty (50%) percent completion, and thereafter at reasonable period intervals with respect to re-sales;

6. Collection of basic racial and ethnic information for all residents and persons on the wait list for the development; and

7. A point system will be awarded for applications, including priority for individuals who live or work in the Town of Colchester.

The content of any marketing effort shall at least include a description of the Affordable Unit(s) available, eligibility criteria of potential purchasers, the Maximum Sale Price, and contact information regarding where to obtain application forms and additional information.

Preferences in application procedures or occupancy for existing residents of the Town of Colchester shall not be utilized unless members of racial and ethnic groups identified as least likely to apply receive equally-weighted preferences.

#### **VIII. Income Eligibility**

Person or family eligibility shall be determined from the date of application. Annual family income shall be determined using the criteria set forth by HUD, attached hereto as Schedule "B". The requirements for documentation of income are attached hereto as Schedule "C".

#### **IX. Maximum Sale Price Calculations**

The Maximum Sale Price shall be established with the procedures set forth in Conn. Gen. Stat. §8-30g and shall utilize data published by HUD in effect on the day a Purchase and Sale Agreement is accepted by the owner of an Affordable Unit. Sample price calculations are attached to this plan as Schedule "D" and utilize Fiscal Year 2020 data published by HUD.

#### **X. Zoning Regulations**

The following zoning regulations are proposed to apply to 347 Cabin Road, Colchester, Connecticut only and not generally to the underlying zoning districts within which it is located. The site for the proposed development occurs within the SU Zoning District in the Town of Colchester.

The development is located in the SU Zoning District. The draft regulations applicable to this development are provided in Schedule E.

**SCHEDULE A**

**PROPERTY DESCRIPTION**

**347 Cabin Road  
Colchester, CT 06415**

**SCHEDULE B****DEFINITIONS AND ELEMENTS OF ANNUAL FAMILY INCOME**

1. Annual income shall be calculated with reference to 24 C.F.R. §609, and includes, but is not limited to, the following:
  - a. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips, bonuses and other compensation for personal services.
  - b. The net income from operations of a business or profession, before any capital expenditures but including any allowance for depreciation expense.
  - c. Interest, dividends and other net income of any kind from real or personal property.
  - d. The amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, or other similar types of periodic payments.
  - e. Payments in lieu of earnings, such as unemployment and disability compensation, workers' compensation and severance pay.
  - f. Welfare assistance. If the welfare assistance payments include an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance to be included as income consists of the following:
    - (i) The amount of the allowance exclusive of the amounts designated for shelter or utilities; plus
    - (ii) The maximum amount that the welfare assistance agency could, in fact, allow the family for shelter and utilities;
  - g. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing with the Applicant (e.g., periodic gifts from family members, churches or other sponsored group, even if the gifts are designated as rental or other assistance).
  - h. All regular pay, special pay and allowances of a member of the armed forces.
  - i. Any assets not earning a verifiable income shall have an imputed interest



income using a current average annual savings interest rate.

2. Excluded from the definition of family income are the following:
  - a. Income from employment of children under the age of 18;
  - b. Payments received for the care of foster children;
  - c. Lump-sum additions to family assets, such as inheritances, insurance payments, capital gains and settlement for personal or property losses;
  - d. Amounts received that are specifically for, or in reimbursement of, the cost of medical expense for any family member;
  - e. Amounts of educational scholarships paid directly to the student or to the educational institution and amounts paid by the government to a veteran in connection with education costs;
  - f. Amounts received under training programs funded by HUD;
  - g. Food stamps; and
  - h. Temporary, nonrecurring or sporadic income (including gifts that are not regular or periodic).
  
3. Net family assets for purposes of imputing annual income include the following:
  - a. Cash held in savings and checking accounts, safety deposit boxes, etc.;
  - b. The current market value of a trust for which any household member has an interest;
  - c. The current market value, less any outstanding loan balances of any rental property or other capital investment;
  - d. The current market value of all stocks, treasury bills, certificates of deposit and money market funds;
  - e. The current value of any individual retirement, 401K or Keogh account;
  - f. The cash value of a retirement or pension fund with the family member can withdraw without terminating employment or retiring;
  - g. Any lump-sum receipts not otherwise included in income (i.e., inheritances, capital gains, one-time lottery winnings and settlement on insurance claims);

- h. The current market value of any personal property held for investment (i.e., gems, jewelry, coin collections); and
  - i. Assets disposed of within two (2) years before the Application Date, but only to the extent consideration received was less than the fair market value of the asset at the time it was sold.
4. Net family assets do not include the following:
- a. Necessary personal property (clothing, furniture, cars, etc.);
  - b. Vehicles equipped for handicapped individuals;
  - c. Life insurance policies;
  - d. Assets which are part of an active business, not including rental properties; and
  - e. Assets that are not accessible to the Applicant and provide no income to the Applicant.

**SCHEDULE C****DOCUMENTATION OF INCOME****1. Employment Income.**

Verification forms must request the employer to specify the frequency of pay, the effective date of the last pay increase, and the probability and effective date of any increase during the next twelve (12) months. Acceptable forms of verification (of which at least one must be included in the Applicant file) include:

- a. An employment verification form completed by the employer.
- b. Check stubs or earnings statement showing Applicant's gross pay per pay period and frequency of pay.
- c. W-2 forms if the Applicant has had the same job for at least two years and pay increases can be accurately projected.
- d. Notarized statements, affidavits or income tax returns signed by the Applicant describing self-employment and amount of income, or income from tips and other gratuities.

**2. Social Security, Pensions, Supplementary Security Income, Disability Income.**

- a. Benefit verification form completed by agency providing the benefits.
- b. Award or benefit notification letters prepared and signed by the authorizing agency. (Since checks or bank deposit slips show only net amounts remaining after deducting SSI or Medicare, they may be used only when award letter cannot be obtained.)
- c. If a local Social Security Administration ("SSA") office refuses to provide written verification, the Administrator should meet with the SSA office supervisor. If the supervisor refuses to complete the verification forms in a timely manner, the Administrator may accept a check or automatic deposit slip as interim verification of Social Security or SSI benefits as long as any Medicare or state health insurance withholdings are included in the annual income.

**3. Unemployment Compensation.**

- a. Verification form completed by the unemployment compensation agency.
- b. Records from unemployment office stating payment dates and amounts.

4. Government Assistance.

a. All Government Assistance Programs. Agency's written statements as to type and amount of assistance Applicant is now receiving, and any changes in assistance expected during the next twelve (12) months.

b. Additional Information for "As-paid" Programs: Agency's written schedule or statement that describes how the "as-paid" system works, the maximum amount the Applicant may receive for shelter and utilities and, if applicable, any factors used to ratably reduce the Applicant's grant.

5. Alimony or Child Support Payments.

a. Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.

b. A letter from the person paying the support.

c. Copy of latest check. The date, amount, and number of the check must be documented.

d. Applicant's notarized statement or affidavit of amount received or that support payments are not being received and the likelihood of support payments being received in the future.

6. Income from a Business.

The following documents show income for the prior years. The Administrator must consult with Applicant and use this data to estimate income for the next twelve (12) months.

a. IRS Tax Return, Form 1040, including any:

(1) Schedule C (Small Business).

(2) Schedule E (Rental Property Income).

(3) Schedule F (Farm Income).

b. An accountant's calculation of depreciation expense, computed using straight-line depreciation rules. (Required when accelerated depreciation was used on the tax return or financial statement.)

c. Audited or unaudited financial statement(s) of the business.

d. A copy of a recent loan application listing income derived from the business

during the previous twelve (12) months.

e. Applicant's notarized statement or affidavit as to net income realized from the business during previous years.

7. Recurring Gifts.

a. Notarized statement or affidavit signed by the person providing the assistance. Must give the purpose, dates and value of gifts.

b. Applicant's notarized statement or affidavit that provides the information above.

8. Scholarships, Grants, and Veterans Administration Benefits for Education.

a. Benefactor's written confirmation of amount of assistance, and educational institution's written confirmation of expected cost of the student's tuition, fees, books and equipment for the next twelve (12) months. To the extent the amount of assistance received is less than or equal to actual educational costs, the assistance payments will be excluded from the Applicant's gross income. Any excess will be included in income.

b. Copies of latest benefit checks, if benefits are paid directly to student. Copies of canceled checks or receipts for tuition, fees, books, and equipment, if such income and expenses are not expected to change for the next twelve (12) months.

c. Lease and receipts or bills for rent and utility costs paid by students living away from home.

9. Family Assets Currently Held.

For non-liquid assets, collect enough information to determine the current cash value (i.e., the net amount the Applicant would receive if the asset were converted to cash).

a. Verification forms, letters, or documents from a financial institution, broker, etc.

b. Passbooks, checking account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker.

c. Quotes from a stock broker or realty agent as to net amount Applicant would receive if Applicant liquidated securities or real estate.

- d. Real estate tax statements if tax authority uses approximate market value.
- e. Copies of closing documents showing the selling price, the distribution of the sales proceeds and the net amount to the borrower.
- f. Appraisals of personal property held as an investment.
- g. Applicant's notarized statements or signed affidavits describing assets or verifying the amount of cash held at the Applicant's home or in safe deposit boxes.

10. Assets Disposed of for Less Than Fair Market Value ("FMV") During Two Years Preceding Application Date.

- a. Applicant's certification as to whether it has disposed of assets for less than FMV during the two (2) years preceding the Application Date.
- b. If the Applicant states that it did dispose of assets for less than FMV, then a written statement by the Applicant must include the following:
  - (1) A list of all assets disposed of for less than FMV;
  - (2) The date Applicant disposed of the assets;
  - (3) The amount the Applicant received; and
  - (4) The market value to the asset(s) at the time of disposition.

11. Savings Account Interest Income and Dividends.

- a. Account statements, passbooks, certificates of deposit, etc., if they show enough information and are signed by the financial institution.
- b. Broker's quarterly statements showing value of stocks or bonds and the earnings credited the Applicant.
- c. If an IRS Form 1099 is accepted from the financial institution for prior year earnings, the Administrator must adjust the information to project earnings expected for the next twelve (12) months.

12. Rental Income from Property Owned by Applicant.

The following, adjusted for changes expected during the next twelve (12) months, may be used:

- a. IRS Form 1040 with Schedule E (Rental Income).

- b. Copies of latest rent checks, leases, or utility bills.
  - c. Documentation of Applicant's income and expenses in renting the property (tax statements, insurance premiums, receipts for reasonable maintenance and utilities, bank statements or amortization schedule showing monthly interest expense).
  - d. Lessee's written statement identifying monthly payments due the Applicant and Applicant's affidavit as to net income realized.
13. Full-Time Student Status.
- a. Written verification from the registrar's office or appropriate school official.
  - b. School records indicating enrollment for sufficient number of credits to be considered a full-time student by the school.

**SCHEDULE D****MAXIMUM INITIAL SALE AMOUNTS**

The Developer intends to offer the Affordable Units as or “for sale” lots and houses in a Common Interest Community. Calculation of the maximum sale price (Maximum Initial Sale Amount”) for an Affordable Unit, so as to satisfy Conn. Gen. Stat. §8-30g, shall utilize the lesser of the area median income data for Colchester / Lebanon and the statewide median income as published by HUD. The median income for Colchester /Lebanon is \$115,200.00. The median income for the State of Connecticut is \$102,600.00. Therefore, the lesser Connecticut median income of \$102,600.00 will be used, as adjusted for family size and utility deduction.

Based on the 2021 Connecticut median income of \$102,600.00, the Maximum Initial Sale Amount for the 60% Units and 80% Units, adjusted for family size and utility deductions is based on the following:



Step 1:	The lessor of State Median or Area Median Income		102600
	Identify the Number of Bedrooms in the Unit		3
	Adjustment for Family Size based on 1.5 Persons per Bedroom		4.5
Step 2:	Adjust Income for Family Size		106704
		<b>80% Units</b>	<b>60% Units</b>
Step 3:	Multiply Step 2 by Applicable Percentage	85363	64022
Step 4:	Multiply Step 3 by 30%	25609	19207
Step 5:	Divide Step 4 by 12 months	2134	1601
Step 6:	Determine Monthly Expenses and Sum:		
	Common Charges (Condo Fees)	10	
	Real Estate Taxes	350	
	Property Insurance	35	
	Heat/Hot Water/Electricity	338	733
Step 7:	Subtract Step 6 from Step 5: This is the maximum available for monthly debt service (P & I)	1401	868
Step 8:	Using an Amortization Table or Financial Calculator reverse amortize the value in Step 7 to determine maximum loan using commercially available mortgage term/rate	\$332,302.32	\$205,880.38
			3.000%
Step 9:	Divide Step 8 by 80% to determine Maximum Initial Sales Price. This assumes a 20% Downpayment.	\$415,377.90	\$257,350.48
If RESALE:			
Step 10:	Documented Depreciated Capital Improvements Since Initial Purchase	0	
Step 11:	Add Step 10 to Step 9 Maximum Resale Price	\$415,377.90	\$257,350.48

N:\WINWORD\Case Files\Niantic Bay Group, LLC - Colchester Development\Affordability Plan.rtf

**SCHEDULE E**

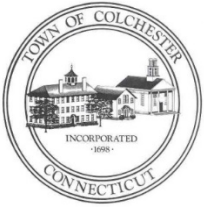
**PROPOSED ZONING REGULATION**

The following are the proposed regulations pursuant to General Statutes Section 8-30g which are applicable to the Development at 347 Cabin Road, Colchester, Connecticut.

1. Permitted Use: Set-Aside Mixed Use Affordable Housing Development, which is defined as: A development in which not less than thirty percent of the dwelling units will be conveyed by deeds containing covenants or restrictions which shall require that, for at least forty years after the initial occupation of the proposed development, such dwelling units shall be sold or rented at, or below, prices which will preserve the units as housing for which persons and families pay thirty percent or less of their annual income, where such income is less than or equal to eighty percent of the median income or sixty percent of the median income as required by law. Of the dwelling units conveyed by deeds containing covenants or restrictions, a number of dwelling units equal to not less than fifteen percent of all dwelling units in the development shall be sold or rented to persons and families whose income is less than or equal to sixty percent of the median income and the remainder of the dwelling units conveyed by deeds containing covenants or restrictions shall be sold or rented to persons and families whose income is less than or equal to eighty percent of the median income.

- 2. Lot Area Single-Family: 6500 square feet;
- 3. Minimum Buildable Area Single-Family: 6500 square feet;
- 4. Minimum Buildable Square: 45 feet;
- 5. Minimum Buildable Rectangle: 100 feet;
- 6. Density: 3.6 / buildable acre;
- 7. Frontage: 20 feet;
- 8. Front Yard: 40 feet;
- 9. Side Yard: 10 feet;
- 10. Rear Yard: 10 feet;
- 11. Building Height: 35 feet;
- 12. Lot Coverage: 20% of buildable area.

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# *Town of Colchester, Connecticut*

127 Norwich Avenue, Colchester, Connecticut 06415

Website: [www.colchesterct.gov](http://www.colchesterct.gov)

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To: Colchester Planning and Zoning Commission

Date: January 14, 2022

From: Jay Gigliotti, Wetlands Enforcement Officer

RE: Report on Inland Wetlands Permit #W2021-3070 and associated deliberations

On July 21, 2021, the Colchester Conservation Commission approved inland wetlands resubdivision permit #W2021-3064. The approval was given for a 6-lot resubdivision, including a new road and associated drainage facilities, at 347 Cabin Road. The commission subsequently approved modifications to permit W2021-3064 on September 8, 2021 and most recently on January 12, 2022. The 1/12/22 modification, permit W2021-3070, included an increase in the number of lots from 6 to 24. No changes to the road or the associated drainage facilities were proposed. The commission approved #W2021-3070 with the condition that any outstanding comments from the Town Engineer be satisfactorily addressed.

The approved 24-lot resubdivision proposal includes rain gardens on each lot, intended to mitigate the increase stormwater from impervious surfaces associated with the housing units. During the Conservation Commission's deliberations, the proposed rain gardens were discussed at length. The commission's primary inquiries and concerns revolved around the long-term functionality of the rain gardens.

Approved rain gardens are inspected during construction by the Wetlands Enforcement Officer, to certify the proper installation and planting prior to the issuance of a Certificate of Occupancy for each unit. The concern comes in after the Certificate of Occupancy has been issued. In many instances, new property owners either neglect or fill in the rain gardens, limiting or preventing their proper function. The rain gardens are a component of the development's stormwater management plan and if they do not function as intended, drainage and/or erosion issues may occur.

The applicant is proposing the creation of a Homeowner's Association. The Conservation Commission discussed the concept of the proposed Homeowners Association including provisions to ensure the rain gardens remain functional. The project applicant, who was present during these discussions, was amenable to this concept.

Alternatively, the commission discussed the potential to utilize underground infiltration systems instead of rain gardens. These systems would be installed below finished grade on each lot. The applicant stated they would be agreeable to the concept if the applicant's engineer could design the systems appropriately. By installing underground infiltration systems, the concern of neglect and filling of the rain gardens would be addressed, ensuring long-term viability. In addition, with such a dense development, the underground installations would provide for increased yard area, while ensuring no drainage issues result from the stormwater.

From staff's perspective, the use of underground infiltration systems for each unit is more desirable than rain gardens. Far too often rain gardens are installed outside the growing season, resulting in a high mortality of the plantings, erosion and difficult inspections. In addition, the applicant may be unable to purchase the required plantings off season, causing delays of inspection and approval. With the potential for neglect and fill of the rain gardens, the underground infiltration system would work to ensure long-term function of stormwater mitigation associated with the housing units.



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January 6, 2022

Planning and Zoning Commission  
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RE: 31 Parum Road

Dear Commissioners:

This office represents the Epstein Agency, Inc., owner of 31 Parum Road. Morris Epstein is the principal of Epstein Agency. We are requesting a pre-application review under §14.6.2 of the Colchester Zoning Regulations ("Regulations" or "ZR") regarding Mr. Epstein's plans for the property.

The parcel in question is 2.55 acres of undeveloped land in the Town's Suburban Use ("SU") Zoning District, located on Parum Road just before its intersection with Route 85. The Epstein Agency has owned the land since 1977, and the parcel is the remaining land from a subdivision that was approved in the 1970's. The south and western boundary of the property has ample frontage on Parum Road, approximately 445 feet. The property slopes upward significantly to the north/northeastern boundary of the property, where it abuts a residential development. A watercourse traverses the property along the southerly portion of the property. Due to these geographic features, the property is somewhat limited in the amount of area that would be practicable and permissible to build upon, likely requiring any development to be located along Parum Road and adjacent to other commercial uses, rather than on the upward slope closer to the residential development.

Mr. Epstein has been attempting to sell the property for some time now and has spoken with several interested buyers. However, the only interest to date has come from prospective purchasers who want to use the property for uses that are not currently allowed in the SU Zoning District. This has prevented any sales from being completed to date. The purpose of this pre-application request is to explain the difficulty our client has faced in marketing this property given the current zoning treatment of the property, and to seek the Commission's comments and suggestions regarding three solutions we are considering pursuing.

Mr. Epstein has had discussions with prospective purchasers that are contemplating uses that would require a change in zoning regulations or zone, but



which we believe could be beneficial additions to Colchester and worth the effort of amending the Regulations or zones.

One prospective buyer is seeking to build a drive through restaurant on the property and has conditioned any offer on Mr. Epstein providing assurances from the Town that such a use will be allowed. While such a use would be in harmony with other commercial uses along this area of Parum Road, it is not presently allowed in the SU Zoning District. Other prospective buyers have expressed interest in using the property for other commercial uses of the type that are allowed in the Arterial Commercial Use ("AC") zone (ZR § 7), which are not uses currently allowed in the SU. Nonetheless, such § 7 style commercial uses are consistent with the commercial uses in this area of Parum Road and would provide a useful service to nearby businesses and residential properties.

**Option 1: Apply Overlay Zone To Existing Zone.** As noted, 31 Parum is in the SU district. Per ZR § 4.2, permitted uses in the SU include single and two-family residences, family daycares and home occupations. Retail sales/service developments along Arterial or Collector Roads are allowed by Special Permit per ZR § 4.3. In addition, the nature of Parum Road as an arterial road opens up further possible uses, including a drive through restaurant or other § 7 style commercial uses facility, through the application of the existing overlay or floating zone: the AC zone.

An Arterial Road is defined in the Regulations as one that allows movement across and between towns and cities and specifically includes roads that fall under the jurisdiction of the Connecticut Department of Transportation ("DOT"). Per DOT Parum Road/CT Route 354 is a state highway. Because Parum Road is an Arterial Road, the AC zone can be applied to this property.

An overlay zone, also known as a floating zone is the product of legislative action. We understand from discussions with the Town Planner that the Commission has interpreted the AC Zone to apply only to the mapped area. However, state law provides for a broader application of overlay zones such as the AC: "A floating zone is a special detailed use district of undetermined location in which the proposed kind, size and form of structures must be preapproved. It is legislatively deemed compatible with the area in which it eventually locates if specified standards are met and the particular application is not unreasonable.... It differs from the traditional Euclidean zone in that it has no defined boundaries and is said to float over the entire area where it may eventually be established." (Emphasis added.) Heithaus v. Plan. & Zoning Comm'n of Town of Greenwich, 258 Conn. 205, 217, 779 A.2d 750, 759 (2001).

Section 7.1 provides that the AC Zone is both a fixed and overlay zone, i.e. a district that encompasses one or more underlying zones and imposes additional requirements than those required by the underlying zone. ZR § 20.4. Section 7.1 further states that the AC Zone is intended to provide for commercial use development along



Arterial Roads, such as Parum Road. One of the allowed Special Permit commercial uses in the AC Zone is drive through restaurants.

The Colchester Zoning Map shows an area along Route 85 designated as an Arterial/Commercial District. However, because the AC Zone is an overlay zone it applies to more than, and outside of, the mapped area pursuant to state law. Here, 31 Parum meets the requirements of ZR § 7 and would be subject to the AC Zone, where a drive through restaurant is allowed by Special Permit. Applying the AC Zone in this manner would be consistent with state law.

Under this option, a drive through restaurant or other § 7 commercial use would be allowed only by permit or special permit as specified in § 7. Where these uses require a special permit, such as with a drive through restaurant, this gives the Commission a greater degree of control and discretion over any such development proposal and allows the Commission to craft any conditions it deems necessary.

**Option 2: Amend Zoning Map to Extend the Mapped Area of the AC Zone.**

A second option that we have discussed with the Town Planner is to propose a zoning map amendment that would extend the mapped portion of the AC Zone in a way that helps achieve our client's goals as well as helps to promote development in the Future Development District ("FD"). The FD lies to the south of our client's property, and further to the south beyond the FD is a mapped portion of the AC Zone on Route 85 that ends around the southern end of the FD. Section 6 of the Regulations describes the FD zone as "intended to provide for non-residential development of a variety of business uses ... that are well served by transportation and utility infrastructure." Both our clients and the prospect of economic development in the FD would benefit from access to the AC Zone. Therefore, the second option we are considering is to propose a map amendment that would extend the mapped portion of the AC on Route 85 northward through the FD with a new northern terminus encompassing the intersection of Route 85 and Parum Road, including the portion of Parum Road that our client's property fronts.

Extending the mapped overlay zone to classify the roadway in front of 31 Parum Road as an AC Zone road is consistent with Colchester's current zoning plan. It would allow uses at 31 Parum Road, and in the FD along Route 85, that are consistent with the commercial nature of these areas and the spirit of the development the Commission is trying to foster in the FD. Such an extension of the mapped overlay zone would not encroach on residential zones and would give greater flexibility to businesses contemplating locating in the FD.

Under this option, as with option 1, a drive through restaurant or other § 7 commercial use would be allowed only by permit or special permit as specified in § 7. Where these uses require a special permit, such as with a drive through restaurant, this gives the Commission a greater degree of control and discretion over any such



development proposal and allows the Commission to craft any conditions it deems necessary.

**Option 3: Text Amendment to § 4.3 of the SU.** The final option we have considered and discussed with the Town Planner is a text amendment to the SU. Such an amendment would be narrowly crafted to allow drive through restaurants or another specific § 7 style commercial use in the SU, but limited to locating along arterial or collector roads and by special permit. This follows the example already set in the SU regulations, which allow retail sales/service but limited to locating along arterial or collector roads by special permit. This would have a broader effect on the SU than either Option 1 or 2 as it would allow these new uses by special permit anywhere the SU occurs on an arterial or collector road. Either Option 1 or 2 would limit such uses to south of the Town Center zone, while this option would potentially allow such uses in numerous other locations around town.

In consideration of state law and minimizing our overall impact on your regulations, we believe that Option 1, simply applying the AC Zone to any arterial road, is the best option. But we acknowledge that the Commission has a special interest in managing the lands in Town and shepherding future development and investment in Town. We look forward to discussing these options with the Commission and gaining the Commission's perspective on how best to foster investment in 31 Parum Road through zoning.

Very truly yours,

A blue ink signature of Mark S. Zamarka, consisting of stylized, overlapping loops and lines.

Mark S. Zamarka, of  
Waller, Smith & Palmer, P.C.

A blue ink signature of Timothy D. Bleasdale, featuring a prominent initial "T" and "D" followed by a cursive surname.

Timothy D. Bleasdale, of  
Waller, Smith & Palmer, P.C.