



# Town of Colchester, CT

127 Norwich Avenue, Colchester, Connecticut 06415

## PLANNING & ZONING COMMISSION

Wednesday, May 3, 2023

7:00 pm – Town Hall Meeting Room 1

Regular Meeting

### MINUTES

RECEIVED  
COLCHESTER, CT  
2023 MAY -4 PM 4: 17  
Gayle Furman  
TOWN CLERK

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

**Also Present:** Planning Director D. Sorrentino, Land Use Assistant, S. Kilgus, Applicants, Public

1. **Call to Order** – Chairman Mathieu called the meeting to order at 7:00 pm.
2. **Additions or Deletions to the Agenda** – None
3. **Minutes of Previous Meeting**
  - a. **Regular Meeting 4/19/23** – Motion by M. Noniewicz to approve the minutes as written. 2<sup>nd</sup> by J. Novak. Motion carried with S. Smith and M. Kehogreen abstaining.
4. **Public Hearings**
  - a. **PZC 2023-005 of Mary J. McDonald (Applicant) and Gingerfield Associates (Mary J. McDonald & Fred J. Criscuolo, Owners) - Zone Change from Future Development (FD) to Rural Use (RU) for 90± acres of land located on Chestnut Hill Road (Assessor's ID 4E-05/004-011) Zoning District: Future Development (FD).** – Chairman Mathieu asked if those in the audience had any concerns with the commissioners seated for the public hearing. Hearing none, he asked if there was anything from staff. D. Sorrentino provided the commission with his staff report (attached to these minutes) The chairman then asked for those who would like to speak in favor beginning with the applicant. Mary McDonald presented her application to change the parcel on Chestnut Hill Rd from Future Development to Rural Use. She discussed the history of the parcel since she purchased it in the 1980's. She said the lack of public sewer and water has prevented development and would like to see it developed into a residential use keeping with the character of the surrounding parcels. She feels there is a lack of access to the area from Chestnut Hill Rd and the area is not suitable for commercial use. K. Hastings, 128 Chestnut Hill Rd asked about the opportunity for abutters to change the zoning of their parcels as well. Chairman Mathieu asked if there was anyone who wanted to speak in opposition. Hearing none, M. Noniewicz motioned to close the public hearing. 2<sup>nd</sup> by J. Novak. Vote was unanimous, motion carried.
  - b. **PZC 2023-006 of ASW, LLC (Applicant) and Roaring Brook Advisors, LLC, Kathleen B. Fabian, and Patrick M. Shugrue (Owners) – Zone Change from Future Development (FD) to Suburban Use (SU) for 57± acres of land located on Lake Hayward Road (Assessor's ID 03-09/049-000 - 19± acres; Assessor's ID 03-09/52B-000 - 18± acres, and Assessor's ID 03-09/52A-000 – 20± acres) Zoning District: Future Development (FD).** – D. Sorrentino provided the commission with his staff report (attached to these minutes). He stated an additional inquiry from a property owner

adjacent to these parcels was received after the public hearing notice went out. This owner wishes to change his zoning as well. Chairman Mathieu asked for those who wanted to speak in favor of the application to come forward beginning with the applicant. Attorney Dory Famiglietti spoke representing her client Alan Williams. She presented the details of the application to the commission. Two of the subject parcels are currently under contract for sale. She discussed the lack of commercial development in the area for several years. Engineering firm F.A. Hesketh has been working for 15 years on various plans for development and nothing has panned out. There is no good access to the rear lots in this application except for the old paper street, Shugrue Rd. She stated property owners have been unable to secure contracts for commercial development due to market conditions and restrictive regulations. She spoke of the town's Plan of Conservation and Development being an advisory document and the commission can help guide more appropriate uses for the property. Residential development will generate taxes and increase housing options. Alan Williams, ASW, LLC, discussed commercial development plans brought forth in the past. He stated residential development could drive commercial development in the area. He discussed tax revenue for the town, utility hookup fees and motor vehicle taxes paid to the town by residents of the rental units. He is planning to extend sewer and water to the area if approved.

Also speaking in favor was Mr. Fabian who spoke of the population density in the area that could support commercial development. He also gave a brief history of their ownership of the land. Alan Williams spoke again regarding the impacts of COVID-19. He said lenders do not like to finance mixed-use development.

Chairman Mathieu asked if anyone in attendance wished to speak in opposition to the application. Maryann Lewis, Lake Hayward Rd, spoke about the town changing the zoning where she lives to the Future Development District. She believes the town should change the zoning back for anyone who wanted to not just the applicants' parcels. In rebuttal, Attorney Famiglietti stated they only have control over those in the application.

James Seger, 148 Prospect St, asked about residential density and access to the property.

Motion by M. Noniewicz to close the public hearing. 2<sup>nd</sup> by B. Hayn. Vote was unanimous, motion carried.

- 5. Five Minute Session for the Public** – Gary Pinkham, 32 Skyview Dr, discussed the ongoing dispute over a large accessory building at 46 Skyview Dr. Provided typed comments (attached). D. Sorrentino provided an update on the situation. Permits for previously unpermitted work have been issued and inspections have been conducted. Outstanding issues include the land clearing and the compliance of the building via proper application approvals.

Susan Pinkham, 32 Skyview Dr, discussed the Zoning Enforcement Official vacancy in the town. She asked how the town is planning to do enforcement until another ZEO can be hired. D. Sorrentino explained that he will be handling zoning issues in the interim. She asked if he was CAZEO certified. D. Sorrentino explained that he is not CAZEO certified and the previous ZEO was not yet certified either, however was in the process of becoming certified. She questioned his qualifications for acting in that capacity on an interim basis and he explained his qualifications and experience.

**6. Pending Applications**

Commission members discussed the Future Development District. Chairman Mathieu said the zone was developed when new house construction was booming in town. He believes it is best to look at

the zone as a whole, rather than changing it piecemeal when an application comes in. The next revision of the POCD is due in June 2025 and perhaps the plan should be amended. No further discussion.

- a. **PZC 2023-005 of Mary J. McDonald (Applicant) and Gingerfield Associates (Mary J. McDonald & Fred J. Criscuolo, Owners) - Zone Change from Future Development (FD) to Rural Use (RU) for 90± acres of land located on Chestnut Hill Road (Assessor's ID 4E-05/004-011) Zoning District: Future Development (FD).** – Motion by M. Noniewicz to table until next regularly scheduled meeting to give the commission time to discuss the zone. 2<sup>nd</sup> by B. Hayn. Vote was unanimous, motion carried.
- b. **PZC 2023-006 of ASW, LLC (Applicant) and Roaring Brook Advisors, LLC, Kathleen B. Fabian, and Patrick M. Shugrue (Owners) – Zone Change from Future Development (FD) to Suburban Use (SU) for 57± acres of land located on Lake Hayward Road (Assessor's ID 03-09/049-000 - 19± acres; Assessor's ID 03-09/52B-000 - 18± acres, and Assessor's ID 03-09/52A-000 – 20± acres) Zoning District: Future Development (FD).** – Motion by M. Noniewicz to table until next regularly scheduled meeting to give the commission time to discuss the zone. 2<sup>nd</sup> by B. Hayn. Vote was unanimous, motion carried.

## **7. New Applications**

## **8. Preliminary Reviews**

Galaxy Development, LLC for preliminary discussion of commercial project at 131 Linwood Avenue (Assessor's ID 11-00/027-000). Zoning District: Town Center (TC) – Prospective applicant discussed a Chipotle restaurant with pick up window lane. The access to the restaurant would be in the Keystone Shoppes parking lot, rather than onto Linwood Ave. All food orders would be placed on the mobile app. The customer would pull up to the window, show their QR code and they would be given their order. This varies from a traditional drive through restaurant model because there would be no ordering at a menu board, no monetary transactions processed at the window and the food is already pre-prepared not made to order. It would shorten the time a customer spends at the pickup lane to less than one minute. 95% of Chipotle restaurants use this model. Commissioners, knowing the restriction on drive throughs in the Town Center (TC) district, would like to specifically define a drive through restaurant and determine if this fits the definition, or is something else.

## **9. Old Business**

## **10. New Business**

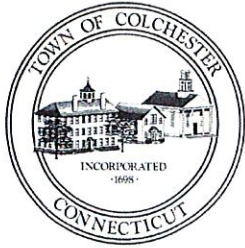
## **11. Planning Issues and Discussions**

- a. Zoning Enforcement Status Report – D. Sorrentino went over a list of enforcement cases that was left by the previous ZEO. Filling of the vacant position and CAZEO certification requirements were discussed.

## **12. Correspondence – None**

- 13. Adjournment** – Motion by B. Hayn to adjourn at 9:07 pm. 2<sup>nd</sup> by J. Novak. Vote was unanimous, motion carried.

Respectfully submitted by: Stacey Kilgus, Land Use Assistant



# *Town of Colchester, Connecticut*

127 Norwich Avenue, Colchester, Connecticut 06415

## **PLANNING DIRECTOR STAFF REPORT REGULAR MEETING 5/3/2023**

**DATE:** May 2, 2023

**TO:** Planning & Zoning Commission Membership

**FROM:** Demian A. Sorrentino, AICP, CSS, Planning Director

**RE:** Planning Director Staff Report – Regular Meeting 5/3/23

**PZC 2023-005** of Mary J. McDonald (Applicant) and Gingerfield Associates (Mary J. McDonald & Fred J. Criscuolo, Owners) – Zone Change from Future Development (FD) to Rural Use (RU) for 90± acres of land located on Chestnut Hill Road (Assessor's ID 4E-05/004-011) Zoning District: Future Development (FD).

- Legal Notice of this public hearing was posted in the *Riverast News Bulletin* on 4/7/23 and 4/14/23.
- Public Hearing was opened on 4/19/23 with no testimony provided and continued at the request of the applicant to this meeting of 5/3/23. Public Hearing must be closed by 5/24/23 (35 days) if not extended by consent of the applicant. Decision must be rendered within 65 days of close of Public Hearing.
- Email received from Martin Squire 4/14/23, on behalf of Jerome and Sondra Squire (POA provided) indicating support of the McDonald application and interest in changing their property located at 148 Chestnut Hill Road to RU, as well.
- Change may only be approved by affirmative vote of a majority of all Commission members (currently 7 members, requires 4 affirmative votes to pass)
- In making its decision, the Commission shall take into consideration the Plan of Conservation & Development and shall state on the record its findings on consistency of the proposed change of such boundaries with such Plan.

### **Colchester Land Development (Zoning) Regulations**

#### **Sec. 18.2 PROCEDURES FOR CHANGE OF ZONE**

1. Submit application, required number of plans, and fee to the Planning Department.
2. The plan showing the property and the proposed change must be certified as a minimum to Class D map standard.
3. The applicant shall submit a copy of the assessor's map showing all properties and zones within 500 feet of the proposed change and shall provide a list of the property owners within the proposed zone change and within 500 feet of the boundaries of the proposed zone change per the latest Parcel assessment record of the Town of Colchester.
4. All property owners within the area of the proposed zone change and within 500 feet of the area of the proposed zone change shall be notified with a copy of the staff prepared Legal Notice by the applicant by certificate of mailing or certified mail. The applicant shall bring proof of such notification to the Commission prior to the public hearing.
5. The provisions of Section 18.2.4 shall not apply in the case of amendments to the Town's Zoning Regulations and/or Zoning Map initiated by the Commission.

**CT General Statutes Sec. 8-3. Establishment and changing of zoning regulations and districts. Enforcement of regulations. Certification of building permits and certificates of occupancy. Site plans. District for water-dependent uses.** (a) Such zoning commission shall provide for the manner in which regulations under section 8-2 or 8-2j and the boundaries of zoning districts shall be respectively established or changed. No such regulation or boundary shall become effective or be established or changed until after a public hearing in relation thereto, held by a majority of the members of the zoning commission or a committee thereof appointed for that purpose consisting of at least five members. Such hearing shall be held in accordance with the provisions of section 8-7d. A copy of such proposed regulation or boundary shall be filed in the office of the town, city or borough clerk, as the case may be, in such municipality, but, in the case of a district, in the offices of both the district clerk and the town clerk of the town in which such district is located, for public inspection at least ten days before such hearing, and may be published in full in such paper. The commission may require a filing fee to be deposited with the commission to defray the cost of publication of the notice required for a hearing.

(b) Such regulations and boundaries shall be established, changed or repealed only by a majority vote of all the members of the zoning commission, except as otherwise provided in this chapter. In making its decision the commission shall take into consideration the plan of conservation and development, prepared pursuant to section 8-23, and shall state on the record its findings on consistency of the proposed establishment, change or repeal of such regulations and boundaries with such plan. If a protest against a proposed change is filed at or before a hearing with the zoning commission, signed by the owners of twenty per cent or more of the area of the lots included in such proposed change or of the lots within five hundred feet in all directions of the property included in the proposed change, such change shall not be adopted except by a vote of two-thirds of all the members of the commission.

(c) All petitions requesting a change in the regulations or the boundaries of zoning districts shall be submitted in writing and in a form prescribed by the commission and shall be considered at a public hearing within the period of time permitted under section 8-7d. The commission shall act upon the changes requested in such petition. Whenever such commission makes any change in a regulation or boundary it shall state upon its records the reason why such change is made. No such commission shall be required to hear any petition or petitions relating to the same changes, or substantially the same changes, more than once in a period of twelve months.

(d) Zoning regulations or boundaries or changes therein shall become effective at such time as is fixed by the zoning commission, provided a copy of such regulation, boundary or change shall be filed in the office of the town, city or borough clerk, as the case may be, but, in the case of a district, in the office of both the district clerk and the town clerk of the town in which such district is located, and notice of the decision of such commission shall have been published in a newspaper having a substantial circulation in the municipality before such effective date. In any case in which such notice is not published within the fifteen-day period after a decision has been rendered, any applicant or petitioner may provide for the publication of such notice within ten days thereafter.

#### **Public Hearing**

Sample Motion to Close: To close the public hearing for application PZC 2023-005.

Sample Motion to Continue: To continue the public hearing for application PZC 2023-005 to Wednesday, May 17, 2023.

### **Pending Application**

Sample Motion to Continue: To table consideration of application PZC 2023-005 to the next regularly scheduled meeting of Wednesday, May 17, 2023.

Sample Motion to Approve: To approve application PZC 2023-005 of Mary J. McDonald (Applicant) and Gingerfield Associates (Mary J. McDonald & Fred J. Criscuolo, Owners) and hereby change the zoning designation of 90± acres of land located on Chestnut Hill Road (Assessor's ID 4E-05/004-011) from Future Development (FD) to Rural Use (RU) with an effective date of May 19, 2023. The Commission finds that this change is consistent with Colchester's 2015 Plan of Conservation & Development.

**PZC 2023-006 of ASW, LLC (Applicant) and Roaring Brook Advisors, LLC, Kathleen B. Fabian, and Patrick M. Shugrue (Owners)** – Zone Change from Future Development (FD) to Suburban Use (SU) for 57± acres of land located on Lake Hayward Road (Assessor's ID 03-09/049-000 - 19± acres; Assessor's ID 03-09/52B-000 - 18± acres, and Assessor's ID 03-09/52A-000 – 20± acres) Zoning District: Future Development (FD).

- Legal Notice of this Public Hearing was posted in the *Rivereast News Bulletin* on 4/21/23 and 4/28/23.
- This meeting of 5/3/23 is the opening of this Public Hearing. Public Hearing must be closed by 6/7/23 (35 days) if not extended by consent of the applicant. Decision must be rendered within 65 days of close of Public Hearing.
- One inquiry about the proposal that I received was an in-office visit from Stephen Fedus, owner of properties to the northwest across Lake Hayward Road, who indicated interest in changing his properties to SU, as well.
- Zone change may only be approved by affirmative vote of a majority of all Commission members (currently 7 members, requires 4 affirmative votes to pass)
- In making its decision, the Commission shall take into consideration the Plan of Conservation & Development and shall state on the record its findings on consistency of the proposed change of such boundaries with such Plan.

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#### **Public Hearing**

Sample Motion to Close: To close the public hearing for application PZC 2023-006.

Sample Motion to Continue: To continue the public hearing for application PZC 2023-006 to Wednesday, May 17, 2023.

### **Pending Application**

Sample Motion to Continue: To table consideration of application PZC 2023-006 to the next regularly scheduled meeting of Wednesday, May 17, 2023.

Sample Motion to Approve: To approve application PZC 2023-006 of ASW, LLC (Applicant) and Roaring Brook Advisors, LLC, Kathleen B. Fabian, and Patrick M. Shugrue (Owners) and hereby change the zoning designation of 57± acres of land located on Lake Hayward Road (Assessor's ID 03-09/049-000 - 19± acres; Assessor's ID 03-09/52B-000 - 18± acres, and Assessor's ID 03-09/52A-000 – 20± acres) from Future Development (FD) to Suburban Use (SU) with an effective date of May 19, 2023. The Commission finds that this change is consistent with Colchester's 2015 Plan of Conservation & Development.

**Galaxy Development, LLC** for preliminary discussion of commercial project at 131 Linwood Avenue (Assessor's ID 11-00/027-000). Zoning District: Town Center (TC)

- Representatives for Galaxy Development will present preliminary plans for proposed new commercial building and associated site improvements intended for co-location of two (2) new restaurants.
- Proposed development will be accessed via the internal access drive for Keystone Shoppes, not via Linwood Avenue.
- This proposal qualifies as "Commercial Development" which is permitted in the TC district in accordance with Sec. 5.3.1.2, and will require approval of a Site Plan – Class 2 by the Commission.
- The subject property is not located in the APA, nor the APOZ.
- In addition to providing the Commission with an introduction to the overall project, applicants will be seeking feedback on the "Chipotlane" concept for order-ahead pick-up window which can be drive-up (preferred) or walk-up (alternative).



## Addendum - violations

RECEIVED  
5/13/22

### One R60 Homeowner

\* installed these items in 2021, but with threat of legal action, is just now obtaining the permits to do so:

- two ductless AC units
- pool deck, pool
- retention wall, shed

\* has the following ongoing violations of Colchester Land Development Regulations

- more than one commercial vehicle, not screened from street view (8.6.1.G)
- dismantled a 576 barn, trespassing with heavy equipment (3.1.1 and 3.5.5)
- disturbance of >10,000 sq ft area, adjacent to a Greenway Protected area, logging of over 200 trees, stumps removed, wood chipper, excavation, rock crusher, retention wall, multiple truckloads of fill, trespassing, use of easement requiring fill which covers the town's drainage clean outs, placing fill on the easement and regrading (3.1.3, 3.5.1, 3.5.3, 6A, 8.6.1.B, 14.3, 15.8)
- delivery by 18 wheeler trucks of heavy materials, stored on driveway in violation of "home occupancy" regulations (8.6.E)
- cease and desist order by town 12/9/22
- 3 day loud construction until 3 am (there apparently is no noise ordinance)
- occupancy of a warehouse while there is no certificate of occupancy, exceeding "home occupancy" criteria (8.6)
- changing the rural character of a neighborhood by deforestation and erecting a warehouse (3.1, 3.5)

April 26, 2023

KKC, LLP  
45 Hartford Turnpike  
Vernon, CT 06066

Attn: Attorney Dory Famiglietti

Re: ASW, LLC  
Zone Change - Lake Haywood Road

RECEIVED  
5/3/23



Dear Attorney Famiglietti:

Our firm has provided land surveying, site planning and civil & traffic engineering services for various clients dating back to 2008 for the 18.7 ac. +/- parcel of land located at the southeasterly intersection of Lake Haywood Road and CT Route 11. During this time period, we have explored numerous development scenarios that have included residential, commercial, medical, hotel and retail uses, as described in more detail below. All of the plans did not proceed past the design phase for various reasons involving such issues as prospective tenant marketing decisions, ever changing market and financing constraints and the general high cost associated with the development of this property.

The 18.7 ac. +/- parcel is mostly wooded and slopes moderately from the Route 11 ROW westerly towards Lake Haywood Road. There are two distinct wetland corridors on the property associated with intermittent watercourses. These wetlands have been identified in the field by a soil scientist and included on our A-2 survey of the property. In order to serve the property with public water and sanitary sewer, extensions of both systems would be required from the site along Haywood Lake Road to the vicinity of the intersection with New London Road. Once installed, these extensions could serve the other properties included in the zone change application.

Below is a brief summary of our various past planning and design efforts dating back to 2008. The referenced Exhibits are attached.

1. Exhibit A – This concept included a mixed use of smaller office/retail spaces and multi-family residential units, some of which would be constructed over the office and retail spaces, day care and medical uses.
2. Exhibit B – This concept included a mixed use of smaller office/retail spaces, bank branch, restaurants, hotel and multi-family units. The primary tenant driver here was the hotel use.
3. Exhibit C – This proposal included a mixture of commercial, retail, wholesale space, office and medical laboratory/office uses. One of the commercial uses proposed would have been for commercial sale propane storage and local distribution. Another building

Attorney Famiglietti  
April 26, 2023  
Page 2

would have been for numerous small contractor work and storage spaces.

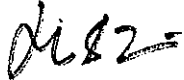
4. Exhibit D – This plan was the most ambitious and proposed the development of a large supermarket based retail center along with a 75 unit hotel. This would have been a large traffic generator and the concern was overwhelming the Lake Haywood Road corridor during peak traffic periods.

Despite 15 years of effort to design, develop and make this property productive in a manner consistent with the goals of the current FD zone, none of these previous planning efforts have come to fruition for our clients. As noted above, lack of tenants, market fluctuations and financing constraints and general high costs of construction, including required infrastructure extensions, have been unsurmountable impediments for commercial and mixed use development efforts to date.

If you have any questions, please feel free to contact me.

Very truly yours,

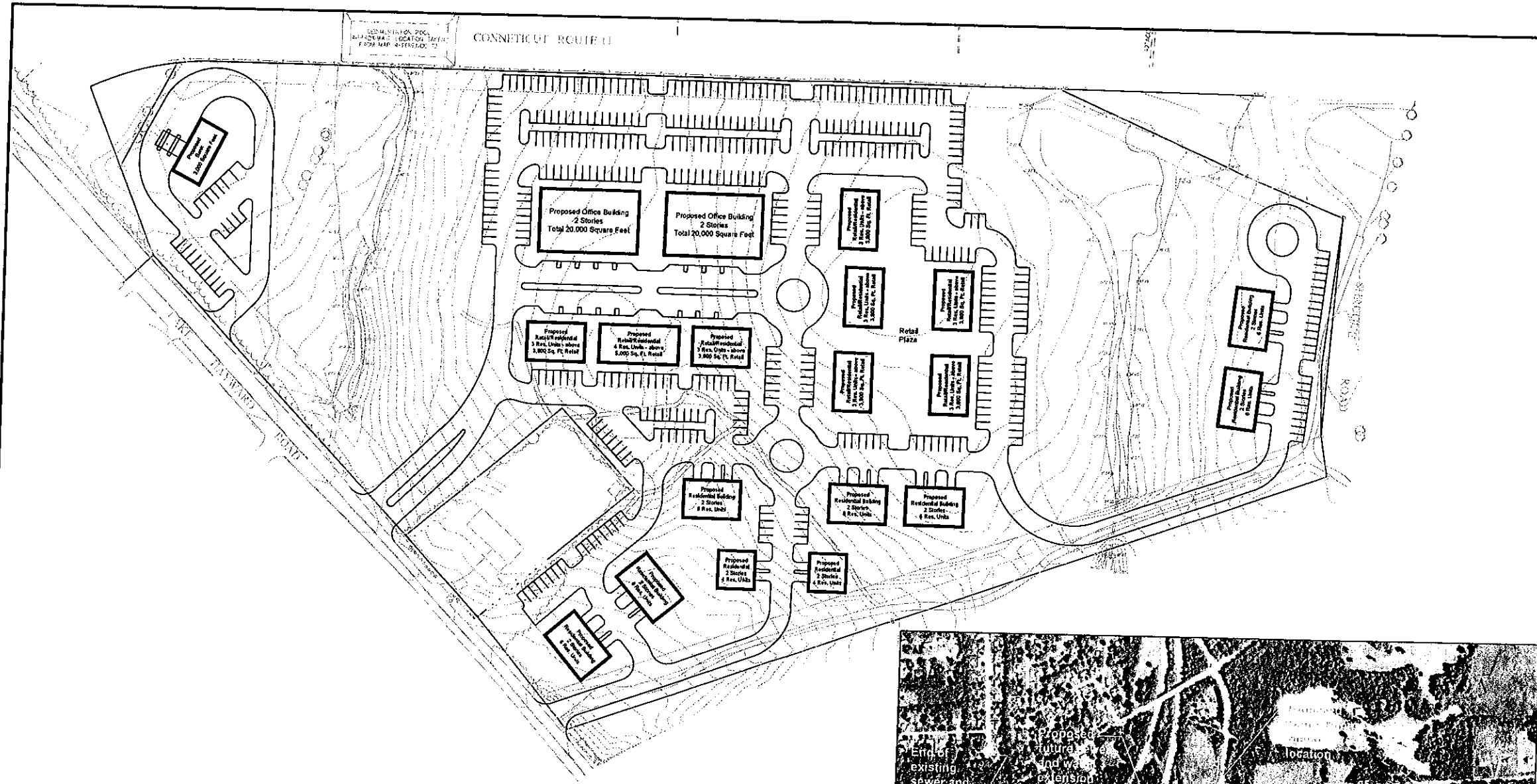
**F. A. Hesketh & Associates, Inc.**



David S. Ziaks, PE  
President

Attachments

T:prj/08146/dfam042623



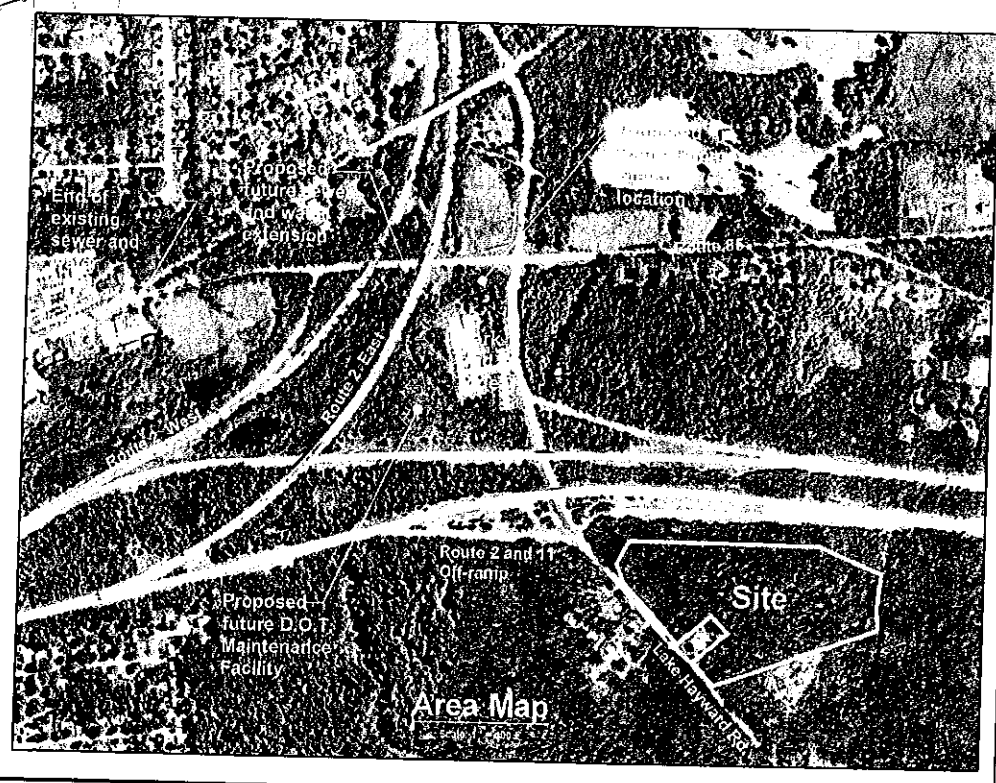
**DEVELOPMENT DATA**

Non- Residential Development

Office Buildings = 42,000 Square Feet (includes Bank)  
 Retail Buildings with Residence above = 31,600 Square Feet

Residential Development

Residential Units above Retail = 25 Units  
 Residential Units = 50 Units  
 Total Residential Units = 75 Units



No.	Date	Description	Revisions
1	01-08-09	Area Map	

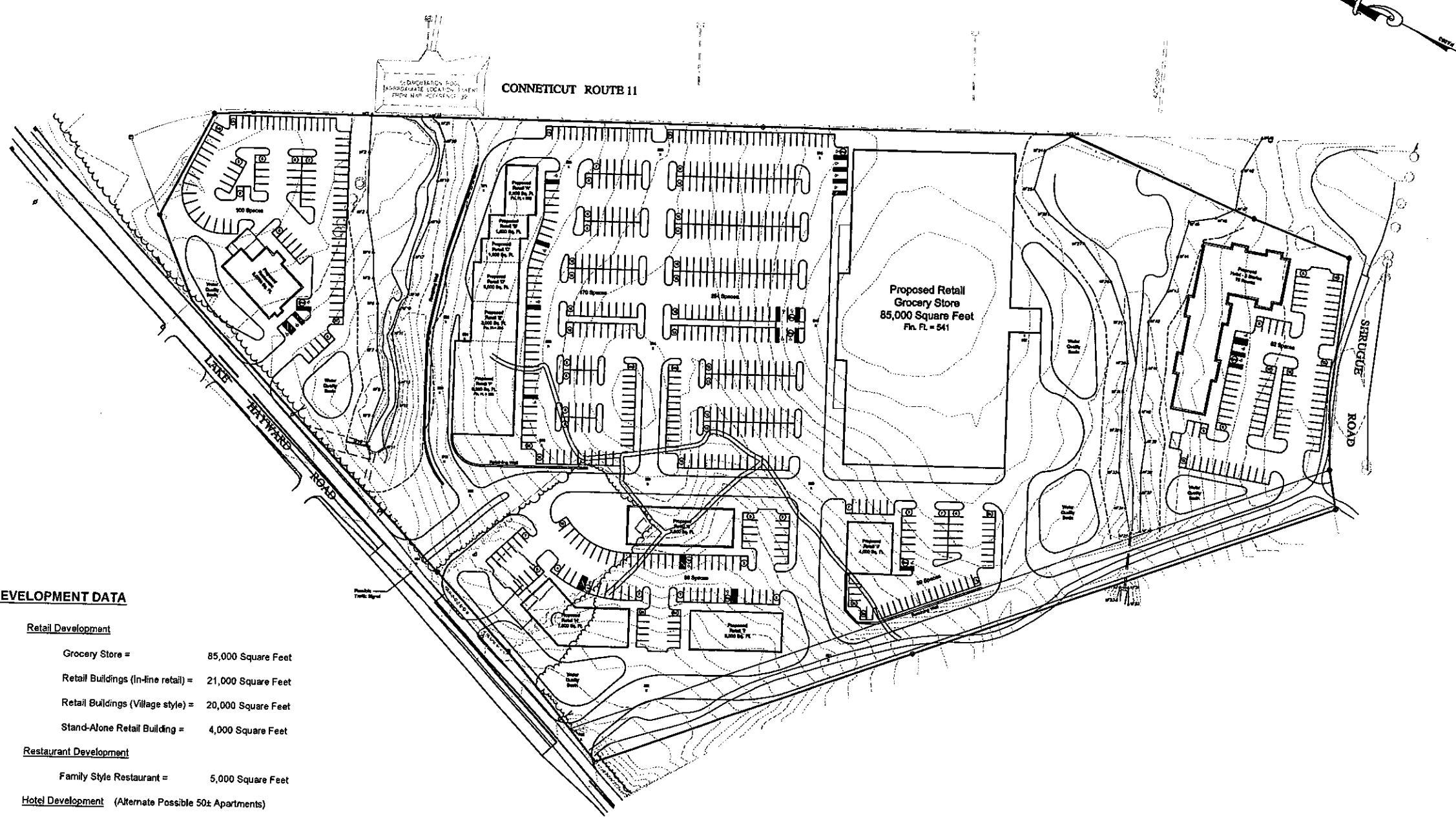
  

PROJECT: MARY ESTER PLAN	DATE: 12/2/08	DRAWN BY: KLL	JOB NO: 0816
CLIENT: JAY HAYWARD ROAD	CHECKED BY: DSZ	SHEET NO: 1 OF 1	SCALE: 1"=60'
LOCATION: COLCHESTER, CONNECTICUT	DATE: 12/2/08		

**FAH** F. A. Hesketh & Associates, Inc.  
 6 Crossway Park, East Granby, CT 06026 · 146 N Broad Street, Southern Pines, NC 28387  
 Phone: (860) 832-4300 · Fax: (860) 844-9000 · Phone: (813) 692-2644 · Fax: (813) 692-3333  
 www.fahinc.com · info@fahinc.com







**DEVELOPMENT DATA**

- Retail Development**
  - Grocery Store = 85,000 Square Feet
  - Retail Buildings (In-line retail) = 21,000 Square Feet
  - Retail Buildings (Village style) = 20,000 Square Feet
  - Stand-Alone Retail Building = 4,000 Square Feet
- Restaurant Development**
  - Family Style Restaurant = 5,000 Square Feet
- Hotel Development (Alternate Possible 50± Apartments)**
  - Hotel = 75 Rooms
- Proposed Parking**
  - Retail Parking = 572 Spaces
  - Restaurant Parking = 100 Spaces
  - Hotel Parking = 84 Spaces
  - Total Proposed Parking = 756 Spaces

No.	Date	Description

PRELIMINARY MASTER PLAN  
**BOB MCGOVERN**  
 LAKE HAYWARD ROAD  
 COLCHESTER, CONNECTICUT  
 Date: 07-28-2014 Drawn By: RLL Job No: 09148  
 Scaled by: 202 Sheet No: 7 OF 7  
 Scale: 1" = 80'  
 © 2014 F.A.H. All Rights Reserved. Designated as Preliminary Drawing.

**PD-1**

**FAH**

**F. A. Hesketh & Associates, Inc.**

6 Creamery Brook, East Granby, CT 06028 · 146 N.W. Broad Street, Southern Pines, NC 28387  
 Phone (800) 853-9000 · Fax (860) 844-8000 · Phone (810) 652-2844 · Fax (810) 652-0528  
 Cell & Text: 860-844-8000 · www.fahinc.com · fah@fahinc.com