



TOWN OF BRANFORD PLANNING AND ZONING COMMISSION

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RESOLUTION

**SITE PLAN-COASTAL SITE PLAN MODIFICATION APPLICATION #19-8.11
under C. G. S. § 8-30g (Affordable Housing Appeals)
Adopted by the Planning and Zoning Commission on 11/21/2019**

**Revised by the Planning and Zoning Commission on 4/1/2021 in
compliance with the decision of the Superior Court of the State of
Connecticut in the matters of
Housing Authority of the Town of Branford, et al. v. Town of Branford
Planning and Zoning Commission (Docket Nos. HHD-CV19-6115394-S.
and HHD-CV-20-6122425-S) (the “Superior Court Decision”)**

WHEREAS, on June 13, 2019 the Town of Branford Planning and Zoning Commission (the “Commission”) approved Application #19-2.4 for a Site Plan/Coastal Site Plan modification (the “June 13th Approval”) to amend the previous approval granted on January 25, 2018 to Beacon Communities, LLC and the Branford Housing Authority (collectively the “Applicants”) for a Site Plan/Coastal Site Plan of a proposed development consisting of the construction of 67-units as an assisted housing development under Connecticut General Statutes § 8-30g, including construction of one new building and appurtenant site improvements such as a driveway, parking area, etc. (the “Project”) at 115 South Montowese Street, Branford, Connecticut owned by the Branford Housing Authority (the “Site”) in a resolution that enumerated all Conditions of this and the prior approval; and

WHEREAS, following the June 13th Approval, the Applicants, through their attorney Timothy Hollister, submitted a letter to the Commission, dated June 21, 2019 (the “Applicants’ 6/21/19 Letter”), which raised various questions regarding Conditions 2.a, 2.b, 2.n, 2.r, 5.c, 5.d, and 5.e of the June 13th Approval; and

WHEREAS, following the Applicants’ 6/21/19 Letter, the Applicants filed an appeal under Connecticut General Statutes § 8-30g regarding Conditions 2.a, 2.b, 2.n, 2.r, 5.c, 5.d, and 5.e of the June 13th Approval to the Connecticut Superior Court (the “Pending Appeal”); and

WHEREAS, on August 14, 2019, Town Counsel, on behalf of the Commission, responded to the questions raised in the Applicants’ 6/21/19 Letter (the “Commission’s Response Letter”); and

WHEREAS, on September 5, 2019, the Applicants submitted an application to the Commission seeking to modify the June 13th Approval in order to incorporate portions of the Commission’s Response Letter and to propose

changes to Conditions 5.c and 5.d of the June 13th Approval (the “Current Application”); and

WHEREAS, as part of the Applicants’ submission for the Current Application, counsel for the Applicants submitted a letter dated August 26, 2019 (the “Applicants’ 8/26/19 Letter”) in which was included an offer to withdraw those portions of the Pending Appeal related to Conditions 2.a, 2.b, 2.n, 2.r, and 5.e (collectively the “Withdrawn Conditions”) based on the Commission’s Response Letter as to those;

WHEREAS, Conditions 5.c and 5.d involve an Emergency Vehicle Pullover Area (the “Emergency Vehicle Pullover”) as shown on the plans included with the June 13th Approval and the requirement that those areas necessary for ingress and egress to the Emergency Vehicle Pullover that are located on the Town-owned property located adjacent to the Site (the “Town Property”) remain open and dedicated for such access; and

WHEREAS, in the Current Application, the Applicant proposed two (2) alternative modifications to Sheets C 1.01, C1.03, and C 1.07 regarding the Emergency Vehicle Pullover, including: (A) relocating and resizing the Emergency Vehicle Pullover, as shown on proposed revisions to previously approved Sheets C1.01A, C1.02A, and C1.07A, all as part of a set of plans prepared by TPA Design Group and Newman Architects both of New Haven, Connecticut and entitled “Proposed Site Plan Approval Revision, Parkside Village I, 115 South Montowese Street, Branford, Connecticut” dated September 25, 2017 with a revision date no later than 9/19/2019, except for Sheet C1.07A four versions of which were submitted and included with the record of the Current Application – the latest version (although it shares the same revision date as a previous version of Sheet C1.07A) is included with this Resolution as **Exhibit A** (the “Emergency Vehicle Pullover Relocation”); or (B) the elimination of the Emergency Vehicle Pullover as shown on proposed revisions to previously approved Sheets C1.01B, C1.02B, C1.07B, all as part of a set of plans prepared by TPA Design Group and Newman Architects both of New Haven, Connecticut and entitled “Proposed Site Plan Approval Revision, Parkside Village I, 115 South Montowese Street, Branford, Connecticut” dated September 25, 2017 with a revision date no later than 8/26/2019 (the “Emergency Vehicle Pullover Elimination”); or (C) an alternative option that would make no modifications to the previously approved location of the Emergency Vehicle Pullover but proposed to re-word/modify Conditions 5.c and 5.d as follows (the “Condition 5 Modification”):

The building and physical modifications to the area shown as the “Emergency Vehicle Pullover Area” and other Phase I improvements on Sheet C.103A, as well as any temporary measures within this area that would in any way impede access by emergency service personnel and vehicle, may not be modified without the written approval of the

Commission, after consultation with the Fire Marshal and the Town Police Chief, in form and content acceptable to the Fire Marshal and Town Counsel

; and

WHEREAS, in the matter of the Current Application the Commission considered the following:

- 1) Materials and documents submitted by the Applicants including the plans referred to above, and
- 2) Additional information and testimony provided at a duly noticed public hearing held on September 19, 2019 and October 3, 2019 (collectively the "Public Hearing"), and
- 3) All documents and materials in the record of Applications # 17-9.4, # 17-9.5, # 17-9.6, and # 19-2.4 which were incorporated into the record for the Current Application during the portion of the Public Hearing conducted on October 3, 2019; and

WHEREAS, the Fire Marshal/Asst. Fire Chief Shaun Heffernan (the "Fire Marshal") reviewed previous and current versions of the plans for the Project and other submitted materials and provided verbal testimony at the October 3, 2019 portion of the Public Hearing (and documents submitted then) and provided written comments in letters dated October 19, 2017, December 6, 2017, January 18, 2018, March 28, 2019, May 10, 2019, and September 18, 2019 regarding concerns with the provision of fire protection services, and the modifications thereto, to this Project as proposed, Exhibits # 31, #108, and #123 from Application # 17-9.6, Exhibits # 32 and # 47 from Application #19-2.4 and Exhibit # 14 from this Application (collectively the "Fire Marshal's Comments"), including, but not limited to, comments in regards to the Emergency Vehicle Pullover Relocation and the Emergency Vehicle Pullover Elimination and any modifications thereto; and

WHEREAS, the Town is not a co-applicant for the Current Application and the Town has not consented to the use of the Town Property for the Current Application, including for the purposes of providing access for emergency vehicles to the Emergency Vehicle Pullover or otherwise, etc.; and

NOW, THEREFORE, BE IT RESOLVED THAT the Commission finds that:

- 1) All Findings from the approvals of Applications # 17-9.4, # 17-9.5, # 17-9.6, and # 19-2.4 shall be considered to be incorporated into this approval of the Current Application as they may still apply except as hereby modified; and

- 2) The consistency of the Coastal Site Plan with the goals and policies of the Coastal Area Management Act (C. G. S. Section 22a-92) is unaffected by the modifications to the Site Plan proposed in the Current Application and the Current Application still incorporates as conditions or modifications all reasonable measures to mitigate adverse impacts on coastal resources and any future water dependent activities; and
- 3) The modifications in the location and size of the Emergency Vehicle Pullover as shown on Sheets C1.01A and C1.02A as well as **Exhibit A** are preferred based on the testimony presented and in particular the Fire Marshal's Comments; and
- 4) Contrary to the statements in the Applicant's 8/26/19 Letter on page 2, second paragraph, Conditions 5.c and 5.d of the June 13th Approval apply to the Emergency Vehicle Pullover and the adjacent areas shown on Sheet C1.03A (as revised through 4/19/2019) where the Phase 1 Improvements are to be constructed, including those proposed to be constructed on the Town Property, and these Conditions require both the Emergency Vehicle Pullover and the related Phase I Improvements to remain open and unencumbered for the life of the Project so that Emergency Vehicles can continue to have unobstructed access to the Emergency Vehicle Pullover; and
- 5) Contrary to statements set forth on page 2 of a letter from the applicant's attorney, Timothy Hollister, dated September 30, 2019, the Commission finds the following:
 - a) Paragraphs 1 and 2 represent an incomplete analysis of the future availability of the Town Property for emergency vehicle access in that there is no obligation on the Town (or any future successor in interest) to maintain the Town Property in its current condition which is presently open to the public and traversable by emergency vehicles;
 - b) Paragraph 3 refers to a requirement of the June 13th Approval that would provide the Town with the right, but not the obligation, to make that portion of Sliney Field Road located on the Site open for public access;
 - c) Paragraph 4 is inaccurate in that there is no evidence in the record before that Commission that Sliney Field Road is a public road or that there are any current easements or rights of way over that portion of Sliney Field Road that would prohibit the Town, or its successors or assigns, from closing or otherwise inhibiting access or from, constructing fencing, walls or any other improvement on that portion of the Town Property or that to do so would violate Section 6.2.E(8) of the Town of Branford Zoning Regulations;
 - d) Paragraph 5 is also incorrect in that neither the Fire Marshal nor the Commission have the authority to approve or disapprove of certain improvements located on the Town Property that would restrict access to the Emergency Vehicle Pullover; and

- 6) Modifications of the proposed Site Plan/Coastal Site Plan changes are **“necessary to protect substantial public interests in health, safety, or other matters the Commission may legally consider”** due to the following:
- a) The Fire Marshal’s Comments regarding the need for: (i) the Emergency Vehicle Pullover; (ii) the need for full emergency vehicle access to and from the Emergency Vehicle Pullover and the ability to fully maneuver and utilize such vehicles in the area shown on the Exhibit A; and (iii) access to and from and the ability to utilize those additional areas shown as the “Phase 1 Improvements” on Sheet C1.03A (as revised through 4/19/2019) to the extent not depicted on **Exhibit A** (collectively referred to as the “Emergency Vehicle Operations Area”) for the effective deployment of emergency vehicles and equipment in the event of a catastrophic fire or similar event requiring this area for deployment and staging of emergency vehicles and equipment, and
 - b) The applicability of these comments to both the Emergency Vehicle Pullover Relocation and the Emergency Vehicle Pullover Elimination.
- 7) Modifications to this application will be necessary because, without the modifications **“these interests clearly outweigh the need for affordable housing”** due to reasons including but not limited to the following:
- a) The potential negative safety impacts from the proposed Project, enumerated above, significantly outweigh the need for affordable housing in this case because the potential negative impacts as explained above relating to the ability of the Fire Marshal and the fire department and others emergency vehicle access are very significant and the amount of additional affordable housing (ten dwelling units) provided by this Project is minimal.
 - b) The Town has made progress in providing affordable units as follows:
 - i) Data included in the 2019 Plan of Conservation and Development (POCD) on page 94 document that more than 45% of the housing stock in Town is affordable, i.e. with rental or mortgage payments totaling no more than 30% of the income limit for a four-person low-income household in the New Haven region reported in 2017 by the US Dept. of Housing and Urban Development. The 2019 POCD also reports, based on data from the Connecticut Economic Resource Center (CERC) that, relative to other suburban communities of its size in Connecticut, Branford has a large percentage (32%) of its housing stock as rental properties.
 - ii) Branford has also made efforts to proactively address the need for affordable housing. One of the recommendations of the Town’s previous 2008 POCD was to consider the adoption of Incentive

Housing Zones as provided for in what is referred to as the “HOME Connecticut” legislation. The Town adopted Zoning Regulation amendments to provide for such zoning (Incentive Housing Overlay District) in 2012 and a Zoning Map Amendment establishing an Incentive Housing Overlay District (IHOD) in 2015. The first IHOD development (35 total new housing units – 7 deed restricted, affordable units) was approved and construction is nearing completion;

AND, BE IT FURTHER RESOLVED THAT the Commission approves Application # 19-8.11 modifying the approval of Application #19-2.4 for Site Plan/Coastal Site Plan with the following Conditions, as modified pursuant to the Superior Court Decision:

1. This development must qualify and be used as “assisted housing” as defined in C.G.S. Section 8-30g(a)(3).
2. Prior to the issuance of a Zoning Permit or the zoning authorization of the issuance of a Building Permit for the site work and construction authorized by this approval associated with the proposed building or the alteration or demolition of the existing buildings the following shall be completed to the satisfaction of the Zoning Enforcement Officer:
 - a. As described in a letter from the Fire Marshal dated March 29, 2019, design and construction of the “Phase 1” improvements on the adjacent Town property, as shown on Sheet C 1.03A as dated 9/25/2017, as revised through 4/11/2019, to the satisfaction of the Fire Marshal and Town Engineer. “Completion” of this work shall include the execution of a legally binding agreement, of form and content approved by the Town Counsel, between the Town and the Applicants regarding maintenance of the Phase 1 Improvements, including snow removal, to ensure “around the clock,” unrestricted year-round access for emergency vehicles, which agreement shall include that the Phase 1 Improvements shall not be modified without approval of the Commission and the Town as they may be advised by the Fire Marshal, the Town Planner, and the Town Engineer.
 - b. Any further changes to the Site Plans as revised through May 8, 2019 that may be requested by the Fire Marshal to address the Emergency Access Evacuation Plan (shown on Sheet C1.07), Proposed Emergency Access Revisions (to the extent that they are not superseded by the Emergency Access Evacuation Plan shown on Sheet C1.07, and the Fire Marshal’s Comments).
 - c. A construction easement or alternative legal instrument (“Construction and Temporary Access Easement”) approved by the Town Counsel, executed by the Town and the Applicants, to allow the use of Town property for the following: (i) the Applicants’ construction activities including any necessary parking for current residents of the Site and any construction vehicles,

- equipment and staging; (ii) to widen the portion of the Sliney Field Access Road improvements and construct the Emergency Vehicle Parking Area shown on Sheet C1.03A located on Town property and provision for construction related and temporary access (for service vehicles to the new Building during a Phase II of construction) across Town property to and from the Site according to the phases indicated on the approved Site Plans as such plans may be modified to address the requirements of the Construction and Temporary Access Easement.
- d. Submittal of revised plans modified, to the satisfaction of the Town Planner, to include appropriate adjustments to the landscaping plan shown on Sheet C.106 such as additional or alternative landscape buffering for the adjacent residential property to the south of the Site and the use of low level lighting in the deferred residential parking (reserve) area to limit the intrusiveness of this parking area to such adjacent residential property. The revised plans shall also include information necessary to comply with Sections 6.5.J.1 and 6.5.J.3 of the Zoning Regulations.
 - e. Submittal to the Zoning Enforcement Officer of an easement in favor of the Town confirming the right of vehicular, pedestrian and bicycle public access over Sliney Field Access Road, for review and approval by the Town Planner and the Town Counsel as to form and content (the “Sliney Road Easement”). Once approved and accepted by the Town, the Sliney Road Easement shall be filed on the Land Records of the Town Clerk and evidence of such recording provided to the Zoning Enforcement Officer. This condition shall be null and void if the Town fails to accept the proposed easement.
 - f. Evidence that a Phase IA/Phase IB Archaeological Assessment/Reconnaissance Survey has been completed with a finding that no additional investigation is warranted.
 - g. Submittal to the Zoning Enforcement Officer of a Conservation Easement to the Town of Branford, or other entity as it may direct, that will preclude additional development, regrading, or disturbance of existing vegetation (except for safety reasons to be agreed to by the Town or Conservation Easement holder) for the area at the northeast corner of the property more than twenty-five (25’) feet from the proposed building not indicated on Sheet C1.12 as revised through 5/8/2019, as to be modified as to its grade for review and approval by the Town Planner and the Town Attorney as to form and content. Once approved, the Conservation Easement shall be filed on the Land Records of the Town Clerk and evidence of such recording provided to the Zoning Enforcement Officer.
 - h. The conveyance of the approximately 8,251 square feet of property from Town to the Housing Authority for incorporation into the 115 South Montowese Street (a.k.a. Parkside Village I) property and the conveyance of approximately 21,720 square feet from the Housing Authority to the Town (the “Property Line Adjustment”), in accordance with the approval

- from the Branford Representative Town Meeting of September 13, 2017 shall be completed. Completion shall consist of submittal to the Zoning Enforcement Officer of proposed deeds effectuating the Property Line Adjustment and associated easements depicted on Sheet LL-01 for review and approval by the Town Engineer and Town Counsel as to form and content and provision of evidence to the Zoning Enforcement Officer that the deeds as approved and executed have been recorded on the Land Records of the Town Clerk.
- i. The 14' high mounting height for the pole lights shall include any cement base installed. Any proposed building mounted fixtures shall require the approval of the Planning and Zoning Commission and compliance with Section 6.7 and Section 5.9.I (PAH District) of the Zoning Regulations. Any missing information on all pole mounted and building mounted light fixtures including cut sheets with all model choices indicated and the photometric plan modified to include a schedule providing information on the different types of fixture (maker & model number, mounting height, lumens generated, etc.) and any other documentation required to demonstrate compliance of lighting fixtures with the Zoning Regulations shall be submitted for consideration for approval by the Town Planner or the Planning and Zoning Commission. Fixed, not adjustable, arm mounts shall be used for all lighting fixtures. The Correlated Color Temperature (CCT) of the light source shall be equal to or less than 3000 Kelvin (K).
 - j. All proposed soil and erosion controls shown on Sheet C-1.03A, C-1.03B, and C-1.04 have been installed for each phase of development indicated and a note added to Sheet C-1.05 stating that the contractor shall ensure that compliance with the requirements of Sections 6.8 and Section 5.9.L (PAH district) of the Zoning Regulations regarding soil and erosion control is maintained during construction.
 - k. Appropriate protection as directed by the Town Planner, as he may be advised by the Town Tree Warden, for the trees not indicated on the plans as to be removed shall be established including, but not limited to, the provisions described in a tree assessment from Geoffrey B. Harris of Independent Arborists and Consultants, LLC of Hamden, Connecticut dated April 12, 2019.
 - l. Designation on the site plans of an area consisting of 10% of the parcel area for Open Space purposes as required by proposed Section 5.9.F of the PAH district Zoning Regulations.
 - m. In so far as there are age restrictions on the occupancy of the Site by virtue of the prior contracts and/or funding agreements between the State of Connecticut and the Branford Housing Authority (or Housing Authority of the Town of Branford) (Exhibit #122 of Application # 17-9.6), the Applicants must obtain a release of the age restriction from CHFA, or the appropriate State of Connecticut agency for the project to be developed in accordance with this modified application.

- n. A Construction Phase Traffic Management Plan for management of construction and related activities, Parkside Village 1 resident parking, Sliney Field patron traffic, and uninterrupted access by emergency service vehicles and personnel (unless approved in writing by the Fire Marshal and the Police Chief) to be reviewed and approved by the Town Planner, Police Chief, and Recreation Director and memorialized in a legally binding instrument (approved as to form by Town Counsel) and satisfactory evidence of the execution thereof shall be submitted to the Zoning Enforcement Officer.
- o. The following revisions to Sheet C1.03A:
 - i. Add the words “Construction workers must park within designated areas only” back to the beginning of the third paragraph of the General Notes to maintain consistency with the specifications described in a letter and attached narrative from David A. Sacco, P.E. dated November 15, 2017 referenced in the original Resolution approving Application #17-9.6.
 - ii. Change “Construct Emergency Access Pull-out” to “Construct Emergency Vehicle Parking Area (dedicated)” in Note #6 under Phase 1 Activities.
 - iii. Change Note #11 under Phase 1 Activities to read “Mark clearing limits with Construction Fencing for review and approval by the engineer, Zoning Enforcement Officer and Town Tree Warden.”
 - iv. Any further changes to the General Notes and Notes under Phase 1 Activities to comply with the Construction and Temporary Access Easement required by Condition 2c and the Construction Phase Traffic Management Plan required by Condition 2n above.
- p. The following revisions to Sheet C1.03B:
 - i. Add a new Note #10 under Phase 2 Activities to read: “Delineate work limits as may be directed by the Town Building Official.”
 - ii. Any further changes to the General Notes and Phase 2 Activities to comply with the Construction and Temporary Access Easement required by Condition 2c and the Construction Phase Traffic Management Plan required by Condition 2n above.
- q. The following revisions to Sheet C1.04:
 - i. Change Note #7 under Phase 3 Activities to read “Mark clearing limits with Construction Fencing for review and approval by the engineer, Zoning Enforcement Officer and Town Tree Warden.”
 - ii. Any further changes to the General Notes and Phase 3 Activities shall comply with the Construction and Temporary Access Easement required by Condition 2c and the Construction Phase Traffic Management Plan required by Condition 2n above.
- r. Submittal of a legally binding Operations Plan (reviewed and approved by Town Counsel as to form) for the consideration and approval by the Town Planner as he may be advised by the Fire Marshal, Police Chief and/or the Town Engineer, and executed copy of the approved Operations Plan

- for the potential evacuation and control of patrons of the Sliney Field Recreational Complex (“Sliney Fields”) for an occurrence at the Site that requires the deployment of emergency services (police, fire, etc.) vehicles and personnel through the Sliney Fields Access Road during activities at Sliney Fields with presence of participants and spectators.
- s. A soil and erosion control bond shall be established per Section 6.10.E.4 and Section 9.6.G.2A of the Zoning Regulations.
 - t. Completion of the proposed relocation of the utility pole along Sliney Field Access Road by Applicants, at their sole cost and expense, to the route proposed on Sheet 1.03A to the satisfaction of the Fire Marshal with respect to its lack of interference with the access of Fire Department equipment and vehicles to the completed Project and the Emergency Vehicle Parking Area (dedicated) shown on Sheet C1.07 and evidence of a recorded easement accepted by Eversource/CL &P if required by Eversource/CL&P for the maintenance of the relocated utility poles and overhead power lines in the locations shown on Sheet C1.03A.
 - u. Any additional changes to the Site Plans to address the Town Engineer’s Comments to his satisfaction.
 - v. All sheets of the plan set included with the June 13, 2019 approval of Application #19-2.4 that depict the reconfigured and relocated Emergency Vehicle Parking (or Pullover) Area as shown on Sheets C1.01A and C1.02A (both as revised through 9/19/2019), and Sheet C1.07A included with this Resolution as **Exhibit A**.
3. With respect to the requested deferral of immediate installation of thirteen (13) of the ninety-eight (98) parking spaces shown on the excerpt from the site plans attached to a letter from the Applicants’ Engineer dated October 26, 2017, pursuant to § 6.5.J of the Zoning Regulations, the applicant shall construct the thirteen (13) deferred parking spaces within six months if the Commission, as they may be advised by the Town staff (including the Town Engineer, Town Planner, and Zoning Enforcement Officer), determines that the eighty-five (85) spaces shown as the reduced number to be constructed are inadequate for the redevelopment.
 4. Construction on site shall follow the most recently revised “Phasing Plan” presented by the Applicants as modified to address the Fire Marshal’s Comments
 5. The zoning authorization for the issuance of Certificates of Occupancy for units in the redeveloped building or the issuance of Certificates of Zoning Compliance shall require the following:
 - a. Compliance with the resident relocation plan set forth in the Applicants’ October 16, 2017 Supplemental Materials, Tab 9, as further amplified by the Memorandum dated November 10, 2017 set forth at tab 6 of Applicants’ Third Supplemental Materials dated November 14, 2017

- (collectively referred to as the “Resident Relocation Plan”). The Resident Relocation Plan shall also be adhered to as an on-going requirement of this approval.
- b. The submittal of a Final Affordability Plan with exact Declaration and Agreement of Restrictive Covenants for Parkside Village I completed to the satisfaction of the Town Attorney.
 - c. The applicants are prohibited from making any physical modifications or alterations to the Phase I improvements including the Sliney Field Access Road that would in any way impede access by emergency service personnel and vehicles without the written approval of the Commission, after consultation with the Fire Marshal and the Town Police Chief.
 - d. Documentation that an offer of a post-blast survey was made to owners of all structures any part of which is within 250 feet of the property boundary of the Site to document any changes in conditions from the pre-blast survey required in Condition 10d below and a remediation plan proposed, approved and executed to address any conditions altered by the blasting.
 - e. Documentation to demonstrate compliance with Section 6.8.F.3 (2) of the Zoning Regulations certifying the stability of any rock slopes established.
 - f. Reporting of the results of the monitoring of the Town’s 27” reinforced concrete sanitary sewer pipe of a plan during blasting to the satisfaction of the Town Engineer and the Wastewater Pollution Control Facility Superintendent.
6. The maximum occupancy per bedroom is limited to two people, subject to the fair housing laws’ obligation to provide “reasonable accommodation” in circumstances temporarily justifying greater occupancy.
 7. No additional signage or new or replacement lighting shall be installed without Planning or Zoning Commission approval, or that of its staff whichever may be appropriate, for compliance of the proposed signage or lighting with the Zoning Regulations.
 8. To ensure compliance with Section 6.8 and proposed Section 5.9.J (PAH district) of the Zoning Regulations, necessary measures to control any dust generated by fill brought into the site or movement of earth material on site shall be implemented as may be directed by the Zoning Enforcement Officer.
 9. All landscaping must be maintained as an on-going requirement of this approval to ensure survival of the landscaping. Any landscaping element that does not survive or that becomes significantly damaged must be replaced in-kind.
 10. The following shall be addressed to the satisfaction of the Zoning Enforcement Officer prior to any Phase 1 construction activity on the Site:

- a. Evidence shall be submitted to the satisfaction of the Zoning Enforcement Officer that the soil and erosion controls have been installed as shown on Sheet C1.03A.
 - b. Evidence of the completion of a pre-construction meeting held between the Zoning Enforcement Officer, Applicants' engineer, Fire Marshal, site contractor and the Town Engineer or his designee to review the work to be done and the compliance with the conditions of this approval, Conservation Easement required by Condition 2g above, the Construction and Temporary Access Easement required by Condition 2c above, and the Construction Phase Traffic Management Plan required by Condition 2n above.
 - c. In the event the Applicants propose establishing rock slopes in lieu of all or any portion of the proposed retaining wall shown on Sheet C 1.03A along the south side of the widened "Sliney Field Access Road", submission of information demonstrating full compliance with Section 6.8.F.3 (subsections 1, 3, and 5) of the Zoning Regulations shall be submitted to the Town Planner and written approval from him for the proposed rock slopes obtained.
 - d. To comply with Section 6.8 of the Zoning Regulations, the Applicants shall submit the following for the review and approval of the Zoning Enforcement Officer, as she may be advised by the Fire Marshal, prior to beginning any work on site requiring a Blasting Permit:
 - i. Submittal of additional information to specify the amount of blasting and location of blasting as required by Section 6.8.F.10 of the Zoning Regulations.
 - ii. Documentation that a pre-blast survey was made to owners of all structures any part of which is within 250 feet of the property boundary of the Site.
 - iii. All blasting shall comply with any Blasting Permit issued as well as the approved Blasting Plan and all blasting shall be limited to Monday through Friday 9:00 am to 3:00 pm.
 - iv. Evidence of and documentation satisfactory to the Town Engineer and the Wastewater Pollution Control Facility Superintendent of the video taping of the existing condition of the Town's 27" reinforced concrete sanitary sewer pipe of a plan to monitor this pipe during blasting and report the results of said monitoring.
 - v. An additional sheet showing the amount and location of blasting proposed to take place on the Site in compliance with Section 6.8.G shall be submitted for the review and approval of the Town Planner prior to the commencement of any work requiring a Blasting Permit.
11. The on-site use of fixed machinery or rock crushing equipment for the processing of excavated or blasted rock or earth material (or other earth material brought into the site) is prohibited.

12. The modifications to the previously approved Site Plans, as further modified by the Conditions of the June 13th Approval, and as shown on the following plans, showing the Emergency Vehicle Pullover Relocation are approved: Sheets C1.01A and C1.02A (both as revised through 9/19/2019), and Sheet C1.07A included with this Resolution as **Exhibit A [this condition previously was condition 4 on Application #19-8.11].**

13. The modifications to the previously approved Site Plans, as further modified by the conditions of the June 13th Approval of Application #19-2.4, as shown on the following plans, showing the Emergency Vehicle Pullover Elimination are not approved: Sheets C1.01B, C1.02B, and C1.07B (all as revised through 8/26/19) [this condition previously was condition 5 on Application #19-8.11].

14. The Withdrawn Conditions are hereby modified as set forth in the Commission’s Response Letter, and the Applicant shall withdraw the Pending Appeal¹ as to the Withdrawn Conditions.

Resolution approved by the Commission on November 21, 2019.

Moved by <u>J. Lust</u>	Seconded by <u>J. Vaiuso</u>
Voted for the Resolution	<u>J. Vaiuso, J. Lust, and C. Andres</u>
Voted against the Resolution	<u>M. Palluzzi and F. Russo</u>

Revision to the original 11/21/19 Resolution as required by the Connecticut Superior Court in the matters of Housing Authority of the Town of Branford, et al. v. Town of Branford Planning and Zoning Commission (Docket Nos. HHD-CV19-6115394-S and HHD-CV-20-6122425-S), approved unanimously, on April 1, 2021 upon a motion by F Russo, seconded by C Andres with F Russo, J. Vaiuso, M. Palluzzi, and M. Ligouri noting that their votes to adopt the resolution were “under protest.”

¹ The Pending Appeal has been resolved pursuant to the Superior Court Decision, Docket Nos. HHD-CV19-6115394-S and HHD-CV-20-6122425-S.

