The Planning and Zoning Commission of the Town of Avon held at meeting at the Avon Middle School on Tuesday, June 25, 2019. Present were Linda Keith, Chair, Thomas Armstrong, Vice Chair, Mary Harrop, Peter Mahoney, Joseph Gentile, Lisa Levin (left at 8pm), Brian Ladouceur, Jr., and Alternates Elaine Primeau, Jill Coppola (sat from 8pm to end), and Linda Preysner. Also present was Hiram Peck, Director of Planning and Community Development.

Ms. Keith called the meeting to order at 7pm.

**APPROVAL OF MINUTES**

Mr. Mahoney motioned to approve the minutes of the May 21, 2019, meeting, as submitted. The motion was seconded by Mrs. Harrop and received unanimous approval.

**PUBLIC HEARING**

App. #4895 - Blue Fox Run Golf Course, LLC, and Nod Road Properties, LLC, owners, The Keystone Companies, LLC, and Sunlight Construction, Inc., applicants, request for Zone Change from A to RU2A, 32.46 acres, 65 Nod Road, Parcel 3290065, and 4.82 acres, 117 Nod Road, Parcel 3290117

Present were Bill Richter, Bill Weckman, and Gary Guimond, Richter & Cegan, LLC; Dave Ziaks and Scott Hesketh, FA Hesketh & Associates; Tony Giorgio, Keystone Companies; Don Poland, Planning Consultant; Mitchell Chester, Chester Environmental; Michael Klein, Environmental Planning Services; David George, Heritage Consultants; Patrick Lemp, Valbridge Property Advisors; Dennis Quinn, CTHerpConsultant, LLC; Bill Ferrigno, Sunlight Construction; Tom Fahey and Carl Landolina, Fahey & Landolina, LLC; and Brian Smith and Evan Seeman, Robinson & Cole.

Mr. Peck reported that the Town received a referral letter from CRCOG (Capitol Region Council of Governments) which will be made part of the public file for App. #4895. The Town is in receipt of a petition from Nod Road Preservation pursuant to CGS 22a-19 (environmental intervention notice) which will be discussed with the Town Attorney for a legal opinion prior to the close of the public hearing. The Town has also received a petition from Nod Road Preservation pursuant to CT General Statutes 8-3b regarding number of votes needed should the Commission decide to approve. He explained that the petition (8-3b) was just received and will take some time to review and verify compliance with State Statutes; an opinion from the Town Attorney will be available before the close of the public hearing (earliest date is July 9).

Attorney Thomas Fahey, representing the applicants, displayed a map of the site noting that the applicants are contract purchasers of the subject portion of the golf course and also a seller imposed conservation restriction restricting the use of the remaining property for use as a golf course or open space in perpetuity. The zone change request is for 37.28 acres from A to RU2A; no conditions on the zone change are being requested from the Commission. If a zone change is approved, the applicants and the sellers, will apply for a special exception for the proposed housing development to include a conservation restriction applicable to the entire site. He referenced the Town Zoning Map and noted that the agricultural zone only permits agriculture as a permitted use but allows golf courses via special exception and veterinarian uses as well. He pointed out that part of the A zone in this area was change to the OP zone a few years ago. He pointed out the yellow color (RU2A) on the Zoning Map (across the street from the subject site and down the street) noting that it represents residential, mostly single family, but noted that Hunter’s Run is a condo community. The purpose of pointing out the color shading is to show the compatibility with the subject site with existing residential along Nod Road. Approval criteria for a zone change must illustrate no adverse effect on health, safety, and welfare and property values as well as conformance to the POCD and the purpose of the Regulations. He noted that at one time almost all existing farms in Town were zoned agricultural but have been rezoned to residential (R40 and RU2A); he referenced Figure 13.1 of the 2016 POCD. The purposes of the Regulation essentially repeat the statutory requirements contained in Section 8.2, pertaining to traffic, schools, transportation, and environmental concerns. He explained that we plan to show conformity and satisfaction of the goals contained in the POCD; approval of the zone change will allow conformity to allow open space goals such as maintaining recreation facilities, such as a golf course, for future residents; enhancing the tax base; and using cluster housing on remaining wide tracts of land. Mr. Fahey concluded by noting that the team of consultants will address individual items needed to satisfy the health, safety, and welfare as well as property value burdens that must be addressed.

Bill Richter, President, Richter & Cegan, landscaper architects and urban designers, explained that he has worked in Avon for 45 years and responsible for many of the residential projects in this community, like Hunter’s Run. The purpose of the zone change is to change the zone for 37.29 acres from A to RU2A, which, if approved, would be followed by an application for site plan and special exception. A concept plan, although not a requirement of the zone change, will be presented to be very clear as to what the intentions are and what will be submitted after the zone change approval; there is a two-step process involved. The majority of the subject site is zoned A with an area of existing RU2A in the northeast corner along Nod Road, showing compatibility of RU2A within the immediate area along Nod Road, including Hunter’s Run. The concept plan shows two things, namely the zone change area and the existing RU2A area located along Nod Road. The overall project approach to the concept plan illustrates the residential development and reconfigured golf course. The proposal is 95 freestanding single-family homes and three single-family lots on the northeast side as well as the original 27-hole course redesigned to 18 holes, located on the remaining 183 acres. The plan was created by the development and owner teams to achieve six very specific development and preservation goals. The concept plan completely complies with all of Avon’s zoning and wetland Regulations (i.e. outside the 100-year flood line; all units are above the 500-year flood line; and outside the 100-foot upland review area, based on 2004 wetlands map). The first preservation goal is to preserve and enhance the golf course. The sale of property for development allows the owners to invest and reposition the golf course as a championship length public 18-hole; the owners commit to maintaining and improving the course as an amenity for Avon’s community. Open space preservation is the second goal. There are almost 80 acres of developable land within the golf course area such that should the golf course no longer sustain itself the owners could sell for redevelopment. He pointed out that the owners preference is not to sell but rather to keep the land as an amenity and asset for Avon. The owners are committed to forgo half of the potential development area and place in a conservation easement, as part of site plan and special exception approval, resulting in 183 acres of permanently protected open space via a conservation easement in favor of the Town. The Town would maintain the golf course but if it were to close the golf course would revert to Town open space. The third goal is visual preservation along Nod Road. The single-family condo area is proposed to be enclosed within the golf course area and not be located along Nod Road. The distance from Nod Road would range from 300 to 450 feet with an average of 380 feet from Nod Road. Two existing major tree lines would be utilized on the east and west sides of the 8th hole; in addition the tree line would be extended and enhanced up to the northeast corner of the property resulting in a continuous double tree line for almost a mile along Nod Road. The fourth goal is the creation of a residential neighborhood; the proposed 95 single-family condo homes provide moderately-priced housing in a special place. Entrance to the new homes would be accessed from the south with an emergency access road to the northeast. A perimeter loop road would have units facing out along the golf course; cross streets would connect the loop road and each cross street would have a view to the course. A walking trail is proposed defining the perimeter of the development. Units on the interior side of the road will front on the internal open space areas. Two amenity areas, on the north and south, are proposed within the project, creating a very special place to live. The fifth goal is the preservation of existing single-family area along Nod Road (there are three existing homes along the north end of Nod Road in front of the golf course). The proposal includes the construction of three new single-family homes in the midst of the aforementioned three existing homes; the double tree line would be extended to this corner. The proposed zone change area utilizes only half of the development area and the project would enable the preservation of over 180 acres of land as permanent open space. He displayed three photos showing views of the site from different locations noting that there are no units visible. Mr. Richter concluded by noting that preservation goals can be achieved through development of open space, the character of Nod Road, and the specialness of this place.

Donald Poland, independent planning consultant, explained that he has 20 years of experience in land use planning and a PhD in geography and planning, working in 14 states and over 100 communities. He noted he has been accepted as an expert witness in land use planning in federal court. The comprehensive plan of zoning, per CT Law, is both the zoning regulations and map together as a plan for present and future development; however the Commission can accommodate change via reasonable amendments to the comprehensive plan. The subject proposal is for a change of zone from A to RU2A; RU2A is the predominant zone in the Nod Road area, a residential zone that establishes the character of Nod Road. The Commission is required to consider the POCD but since the POCD is an advisory document it does not have to be followed. He noted that his review of the 2016 POCD reveals that the subject proposal is not inconsistent with the overall policies of the 2016 POCD, as the entire Plan covers a wide variety of topics many of which may not be related at all to this development. Overall, there are no conflicts with primary themes contained in the POCD but there are sections that the subject proposal is consistent with such as the proposed zone is located on a collector street (Nod Road), which are designed to funnel traffic generated from residential areas to arterial streets like Route 44 (this information will be substantiated by the Traffic Engineer). The zone change would not impede the implementation of the circulation plan contained in the POCD; the proposed zone change and development are consistent with the character of the existing area. The size, nature, and intensity of the subject proposal is harmonious with the orderly development of the area, a mix of existing single-family and multi-family development on Nod Road, and consistent with the RU2A zone. In the context of total acres, density, and intensity, the proposal falls in between the existing developments of Woodford Hills and Hunters Run. Relative to housing units, as well as acres per housing unit (NOT units per acre), the proposal also falls in between Woodford Hills and Hunters Run. The proposed development would preserve 182 acres of open space, which is 79.1% of the total parcel and far greater than Hunters Run at 29.6% and Woodford Hills at 28.17%. He addressed municipal and fiscal impacts noting the importance that demographics play in changing communities. In 1970, married couples with children made up 40% of the population while in 2012 they made up 19%.; we marry later and less then before and we have children later and fewer than ever before. In 2017, married with children declined to 18.7% (for the entire US). Approximately 74% of Avon’s housing stock is three, four, and five bedrooms; the more bedrooms typically the more children and school-age children. He explained that Rutgers’ Demographic Multipliers were applied to this development relative to the creation of school-age children, resulting in .64 students per unit. That is 1,617 students more than the existing housing stock is generating. Total housing units in Avon are 7,415 and 3,100 students enrolled in the school system. Occupied housing units are 7,106 with the school enrollment the same; housing stock is generating .44 students per housing unit. He addressed Town budgets noting the BOE makes up 64% of the total budget and 83% of the Grand List is associated with residential development. He said…..don’t ever let anyone tell you your residential development doesn’t carry its own fair share in regard to taxes. The total BOE budget divided by the total enrollment equates to $18,223 per student in spending. Application of the residential multipliers to the proposed development equals 62 school-age children (.62 students per unit). The Rutgers data is generating much higher numbers than the existing housing stock in Avon. Using a more conservative multiplier (.70) than the one suggested (.65) equates to 44 school-age children projected to be generated from the proposed development. Mr. Poland pointed out that this result is not intentional but rather is strictly by chance that the result is exactly the same as what the existing housing stock is generating for school-age children. The taxes on the residential units would be just over $1M with 200 vehicles projected for the units adding $68K for a total of $1.1M in tax revenue from the development. The cost of school-age children is subtracted out resulting in a net fiscal of $305K. The proposed development is a common-interest community; the roads and infrastructure would be owned and maintained by the development for no additional cost to the Town. Since 2012 Avon Schools have lost 322 pupils and numbers have been declining, which is evident by looking at the demographic structure and housing stock in Avon. Adding 44 students across 13 grades should not negatively impact the Schools and additional costs per pupil are well below $18,200, and more likely around $10,000, which would result in a surplus of $600K. Approximately 29 construction jobs would be created with an estimated additional $760K in consumer spending in the community. The adoption of zoning has created stability and predictability in property markets. There is much research to show that airports, landfills, and super-fund sites create negative impacts on neighboring property values but there is also much research/studies (MIT study most notable) to show that new residential developments do not harm existing residential property values. Mr. Poland stated that his career, both professional and academic, has led him to the same conclusion that new residential development does not impact existing residential development. You don’t need academic research to tell you this because if it were true Avon, and communities like it, would be in a perpetual state of property decline with every new development. He explained that it is not new development that affects property values but rather are things like individual housing characteristics; demand drivers; consumer preferences including demographic change; relative location in metro region; and property maintenance and amenities. He concluded by noting that the proposal is consistent with the comprehensive plan of zoning; forwards the recommendations of the POCD; will result in positive fiscal impact for the Town and a positive economic impact on the community as a whole. Mr. Poland communicated his professional opinion that the proposed zone change meets and exceeds the standards of applicable laws and regulations and the application should be approved. He submitted, for the record, a copy of the Rutgers and MIT Studies included in his presentation.

Patrick Lemp, MAI, Valbridge Property Advisors, referenced Mr. Poland’s presentation noting that there is no real correlation that exists between neighboring home values and proximate new residential development. He researched new residential development over the last 15 years and what impact there may have been on neighboring property values; the impact zone is the area within ½ mile of new developments. Several properties in the region were studied and included in his report; he noted that the focus will be on the two projects in Avon. He referenced commercial development on Nod Road done in three phases: the first building in 1999; the second in 2005; and the third in 2012, for a total of 47K SF of primarily medical office space. He noted that Hunters Run (263 units in total) was also reviewed for the years 2005 and 2012. From 2001 to 2019, 327 homes were sold in Hunters Run; the annual average sales price during that time period was $418K. In 2005, 25 homes sold throughout the year and sales pricing was higher than the historical average at $474K; sales prices increased the following year. In 2012, the average sale price per home was $354K; in 2013, overall average sale prices rose. Sale and resale of the same home was studied both before and after 2005 and 2012. In 2005, there were 10 repeat sales; nine sales had price increases and one sale had a price decrease. In 2012, there were three repeat sales; two of the sales increased and one of the sales decreased. He referenced Eagle View Estates, a six-lot subdivision located north of the Golf Club of Avon. Building began in 2013 and currently five of the six lots are developed. The development required a zone change from ROS to R40 for approximately six acres of land. There was some push back from nearby property owners worrying about view impacts. From 2010 to 2019 75 homes sold located within the aforementioned ½ mile impact zone and the average annual sale price during that time period was $455K. In 2013, when the development began, seven homes sold within the impact zone; the 2013 sales price per square foot was same as the historical average ($156) however the average sale price was $466K. The following year sales prices increased (both per SF and average sales price). During that time period relative to repeat sales, there were six total sales; three increased and three had slight decreases. Mr. Lemp concluded by noting that, based on his research, he has seen no impact on neighboring home values that can be directly correlated to new commercial or residential developments. Despite the housing crisis that occurred from 2007 to 2011, 67% of paired sales showed increasing stable pricing after development with only 33% showing decreased pricing. He indicated that he would expect no negative impact on existing home values from the proposed development.

Dave Ziaks, PE and President of FA Hesketh & Associates, explained that he has 42 years of civil engineering experience, having completed many project in Avon. He indicated that the site would be served by the CT Water Company system via the existing public water main (located to the south in front of the aforementioned medical facility on Nod Road) that would be extended. He addressed sewers noting that adequate capacity exists with no impacts expected Town wide. He noted that the sewer reports are part of the Town planning file. The proposed three lots on the north end of the site would be served by individual septic systems and private wells; preliminary testing indicates the soil is suitable (FVHD report is also part of the Town planning file). Latest design techniques for storm drainage (LID and Best Management Practices) will be implemented and there would be no impact to the Farmington River or onsite wetlands. Infiltrator systems will be used on site to promote and replicate the current ground water recharging that takes place on the golf course fields. There would be full conformance with CT DEEP water quality standards and Avon Engineering Department. He explained that he has studied floodplain issues very carefully, having worked on many projects located within the Farmington River Watershed. The 100-year and 500-year floodplain elevations shown on the maps have been taken directly from the current FEMA maps. Preliminary site grading studies put the lowest first floor elevation of any of the proposed homes 7 to 10 feet above the 500-year flood elevation. Internal roadways and emergency access drive to Nod Road would be 4 to 6 feet above the 500-year flood elevation. There is 3½ feet between the 100-year and 500-year floodplain, which is quite a big difference. A very comfortable safety factors will be built into the site design. Mr. Ziaks stated that in his professional opinion there would be no risk to the proposed development from either the 100-year or 500-year flood event. The entire 231 acre-golf course falls outside the Aquifer Protection Overlay Zone, with no impacts to the aquifer. Preliminary test borings were done by Welti Associates (Glastonbury geotechnical firm); the soils are fine to medium sand throughout the project area. Groundwater was detected at 13½ to 22 feet below existing grades; the groundwater table is affected by the Farmington River.

Mr. Ziaks voiced his opinion, based on preliminary information, that home foundations and site infrastructure can be built in a conventional manner with no special construction practices needed. He noted that his conclusion can be found in Section K of his report. He concluded by indicating that the area of the proposed zone change can be developed for single-family homes with no impact to the floodplain or water quality associated with the Farmington River and no impacts to onsite wetland and groundwater resources. The entire zone change area falls outside of the floodway limit that has been established for this portion of the Farmington River.

Mitchell Chester, Chester Environmental Associates, noted that he is a licensed professional with 30+ years of experience preparing environmental assessments and investigations, including former agricultural properties redeveloped for residential uses. The subject site and surrounding areas were farmed from the early 1900s into the 1970s; an investigation was done to check for potential residual pesticides. Twenty soil samples were collected from across the property and submitted to a State of CT laboratory for analysis of chemicals and metals (17 samples were below detection limits for pesticides; three samples contained a trace of one pesticide). All samples contained metals but well below residential standards. He concluded by noting that no significant environmental impacts were identified and do not recommend any additional investigation or any soil remediation. Overall conclusion is that no past property uses or any site conditions that should prevent residential development of this site.

Ms. Levin left at 8pm. Ms. Coppola took her place and sat for the remainder of the meeting.

Michael Klein, biologist and soil scientist and principal with Davison Environmental noted that he has been practicing in CT for 42 years primarily in the areas of impacts of land use development on biological and wetland systems. He explained that he has conducted hundreds of projects and dozens or more in CT. His office has been conducting botanical, wetland, and wildlife surveys on the subject site since 1997. Study areas included the entire site, much larger than the proposed zone change area. Additional studies were also conducted all the way to the west side of the Farmington River. The DEEP NDDB has been queried many times over the years as they contain information about known locations of listed species; work has been focused on input from DEEP. About a dozen surveys have been conducted over the last three months relative to the area proposed for the zone change and additional work will continue throughout the summer. Mr. Klein explained that he has observed no endangered or threatened species to date and have identified one State listed species of special concern (Eastern Box Turtle) as well as one species that is a candidate for special concern in 2020. The assessment has been very conservative and the DEEP’s recommendations to prevent potential indirect biological impacts are consistent with recommendations made by Davison Environmental to their clients for many years. These recommendations will be incorporated into detailed site plans. When wildlife studies are completed they will inform habitat and mitigation management measures to be implemented both in the construction zone and the proposed conservation easement area. These measures would be designed to limit impact to wildlife within the development area. Mr. Klein pointed out that it should be obvious that any change in land use has potential to affect wildlife activity but explained that is it our job to ensure that the wildlife species of conservation concerns are protected as much as possible. He communicated his confidence that in this instance they will be able to make management recommendations that include the quality of the habitat or result in no impact to species of concern. He concluded by offering his professional opinion such that there is no reasonable likelihood for an unreasonable impairment or destruction of the land, air, water, or other natural resources on the site as a result of the zone change.

David George, owner of Heritage Consultants, a cultural resource management company, indicated that he has 30 years of experience with archeological and historical surveys for various types of development in CT. Available historic maps and aerials of the project area have been studied and analyzed including former locations of buildings; where buildings have been razed in the past; changes to the Nod Road alignment; and changes to the general landscape including the River course, floodplain locations, and the growing and shrinking of farm fields. Once the environment was understood archeological files were collected from the State Preservation Office; the search radius was ½ mile. Field work included photographing the project parcel and the entire development area; making notes of obvious prior disturbances relating to the roadway through the parcel, and the golf course itself. Soil samples were taken across the property and no artifacts were found. The results indicate that the historical and background research determines that the property has largely been farmland for hundreds of years. The development area did not contain any historic buildings that could be found on maps or aerials. Significant areas of disturbance occurring in the late 1970s and 1980s have been identified, obviously related to the creation of the golf course. Mid twentieth century maps of the site indicate a significant grade reduction (5 feet to 13 feet) with some areas having a grade increase (suggesting soil had been moved in the last 50 years). Mr. George concluded by noting that the archeological and historical survey results indicate the development area has been disturbed in the past. Areas within the site retain little if any potential to yield undisturbed archeological deposits but since everywhere on the property cannot be tested, like with every project, there is always a potential to find a small area of intact deposits. The developer and Heritage Consultants will work with the State of CT to develop an Unanticipated Discoveries Plan to be put in force prior to development of the project area. This Plan would require that if archeological deposits are found or something of historical significance is uncovered that excavation would stop temporarily and a professional archeologist hired to identify the finding and prepare a report.

Scott Hesketh, PE, F.A. Hesketh & Associates, explained that he has 25 years of experience preparing traffic impact statements all over CT and submitting these statements to the State Traffic Commission for approvals. He referenced the traffic report, dated April 12, 2019, prepared by his Company. The site currently operates under an OSTA permit approved in 2005, which includes the 27-hole golf course and associated buildings and 76K SF of office space and 650 parking spaces. The proposal would reduce the golf course to 18 holes (from 27) with associated buildings, maintain the 76K SF of office space, and construct 98 single-family residential units on the site. A new application to OSTA, and approval, will be required for the subject proposal. State DOT traffic volume files for 2018 were reviewed for Route 44 and Nod Road. Automated counters were installed by Hesketh on Nod Road in 2017 and 2018, covering both school time and summer time. Manual turning movement counts were also done at the intersection of Nod Road and Route 44 (August 2018 and February 2019); manual counts were also done at intersection of Nod Road and Blue Fox Run driveway and at Route 185 and Nod Road (Simsbury). Traffic volumes on Route 44 and Nod Road were increased to a design year 2020. Based on data from the ITE Trip Generation Report (a standard reference used by engineers) the 27-hole course is expected to generate 79 trips in the morning peak hour and 96 trips in the afternoon peak hour. Counts done at the same driveway resulted in 43 trips during the morning peak hour and 82 trips during the afternoon peak hour. The proposed development would consist of an 18-hole course and 98 single-family housing units; those two developments combined have a trip generation potential of 130 trips in the morning peak hour and 166 trips in the afternoon peak hour. Based on the ITE Report the proposed development represents an increase of 51 trips, vs. the existing golf course, during the morning peak hour and 70 trips during the afternoon peak hour. However, compared to turning movement counts done by Hesketh the site is projected to generate an additional 87 trips during the morning peak hour and 84 trips during the afternoon peak hour. Mr. Hesketh explained that the traffic was distributed to the local roadway network (he referenced Figures 8, 9, 10, 11, 12 of his report, dated April 12, for more details). Capacity analysis calculations were conducted for both background and combined traffic volume conditions at the aforementioned intersections to determine the impact of site generated traffic on those locations. The intersection of Route 10 and Route 44 currently operates at Level of Service (LOS) F with average peak hour delays of 85 seconds. The addition of site generated traffic will continue the operation of this intersection at LOS F with 91 seconds of delay. The intersection of Nod Road and the Blue Fox driveway and the northbound and southbound approaches of Nod Road operate at LOS A during peak hours and the site driveway at LOS B during both background and combined traffic volume conditions. The intersection of Route 44 and Route 10 operates at an overall LOS D with a 49-second delay; the background conditions operate at LOS D with average delay of 49 seconds during combined conditions. The Nod Road approach operates at LOS A and the Blue Fox driveway approach operates at LOS C during peak hours. The capacity analysis indicates that there are minimal impacts to the LOS of adjacent intersections as a result of the zone change and proposed development. There are slightly longer delays (between 3 and 12 seconds) on the Nod Road southbound approach and there are slightly longer queues (additional 50 or 60 feet) on those approaches during peak hours. If zone change approval is granted, as well as future site plan approval, the applicant proposes extending the south bound lanes on Nod Road an additional 175 feet, which would provide additional storage for seven to nine vehicles; this storage is mostly in the through lane. Applicant also proposes to widen Nod Road across the site frontage allowing restriping of the roadway to provide a northbound and southbound through lane and dedicated left-turn lanes at the Hunters Run driveway. There is an existing left-turn lane at the Connemara Court driveway; a new left-turn lane is proposed at the Blue Fox Run driveway and a left-turn lane at the Hunters Run north driveway. Mr. Hesketh concluding by noting that the traffic associated with proposed zone change and development represents an increase of 87 and 84 trips during the morning and afternoon peaks. This increase does not result in a significant impact on the Nod Road and Route 44 intersection and the site driveway will operate at acceptable LOS. Roadway improvements proposed by the applicant would provide increased storage capacity at the intersection and the widening of Nod Road should provide a safe area for turning vehicles to wait for a gap in oncoming traffic while allowing through traffic to bypass safely. He communicated his professional opinion such that with the proposed improvements in place the local roadway network has sufficient capacity to accommodate the projected traffic increase related to the proposed zone change and residential development and will not negatively impact public safety.

Bill Ferrigno, President Sunlight Construction, explained that he has been a builder in Avon for over 35 years. He noted that while there are many opportunities for the site there are also some concerns adding that important things to almost everyone in the community have been incorporated into the proposed plan. The amount of planned golf courses is significantly lower than it has been for many years. Golf courses are a nice public benefit such that maintaining the improving the subject golf course is an important consideration for this property. He indicated that protecting the Nod Road corridor is also important. His vision for the site includes a commitment for no construction within the football field of Nod Road and the maintenance of two mature tree lines along Nod Road and an enhancement of the separation between the proposed development and Nod Road. He noted his shared interest with Mr. Giorgio (Keystone Companies) to install a conservation easement to protect all undeveloped land on this site in perpetuity. He explained that while some may ask why it’s so special; it’s a golf course and much of it is located in the floodplain but he stressed that it is very important because no one knows the future of any property. The area outside the proposed development is 180 acres that would be forever held as a conservation area, regardless of what happens to the golf course. He noted that this area and proposed development provides a unique environment and sense of place that would meet new current demographic demand; things are changing. He added that he has already had people call him with interest. The size of the proposed houses is 1,800 SF to 2,800 SF with most having first floor master bedrooms because 70% of the buyers would likely fall into the category of empty nesters (scaled back and maintenance free). The three lots proposed along Nod Road would have more conventional houses built (3,500 SF traditional colonial) to be respectful of the existing conditions; the houses would be setback quite a distance from Nod Road. Mr. Ferrigno indicated that the possible permanent preservation of a large area of land in a time of change is a significant benefit to the consideration of the proposal. He stated that he’s been a builder for many years and knows that there is a large demand for this type of housing. He concluded by noting that the subject proposal has a positive impact on the Nod Road corridor and reiterated that the existing tree line will be maintained.

Attorney Fahey explained that a complete copy of everything that was presented tonight (via PowerPoint) will be submitted to the Town for the record.

Mr. Armstrong reported that the Inland Wetlands Commission denied an application requesting a map amendment to the Inland Wetlands Map; an appeal has since been taken by the applicant. The subject application requests a zone change from the Planning and Zoning Commission; the criteria for Planning and Zoning is different than the criteria for Inland Wetlands.

Mr. Armstrong addressed Messrs. Fahey and Smith and asked if they have read Mr. Peck’s comments, dated June 21, outlining the scope of the Commission’s authority. Messrs. Fahey and Smith acknowledged that they have read Mr. Peck’s comments. Mr. Armstrong asked if there is agreement with the content of Mr. Peck’s comments, specifically Sections X.A.1.c. (zone change) and 1.B. (purposes of the Regulations). Mr. Fahey noted his agreement that the purposes of the Regulations are applicable to the Commission’s review of a zone change application. Mr. Smith noted his agreement with Mr. Peck’s comments such that before a Commission can approve a zone change they must determine whether it is in conformance with the POCD; he also agreed that Section 1.B.must be reviewed. Mr. Armstrong referenced and read aloud Section X.A.1.c. of the Regulations and asked Mr. Fahey if what he has submitted to date addresses all these requirements. Mr. Fahey said yes. Mr. Smith said he doesn’t believe that the plans submitted by Mr. Fahey satisfy the requirements of the Regulations. Mr. Armstrong asked Mr. Smith to provide information before the next meeting as to the areas where the application is deficient to allow

Mr. Fahey to respond. Mr. Smith said that is fine. Mr. Armstrong asked Mr. Fahey if the application material contained in the submitted three-ring binder, including the report submitted by Chester Environmental, satisfy the requirements of Section X.A.1.c. Mr. Fahey said yes. Mr. Smith said that he doesn’t agree that all of the applicant’s submissions are in compliance adding that he will submit appropriate responses. Mr. Armstrong asked Mr. Smith if he believes the information submitted by the applicant is responsive to the issues required by the Commission to review. Mr. Smith said it is very hard to answer because he thinks they have provided information that is not relevant and harmful. Mr. Armstrong asked which parts of the POCD both sides are claiming are relevant to the Commission’s decision, noting his assumption for open space, agricultural preservation, and natural resources but asked if there are other sections. Mr. Fahey agreed that open space, agricultural preservation, and natural resources are relevant adding that he believes the project team has identified all relevant sections of the POCD. Mr. Smith noted his agreement that open space, agricultural preservation and natural resources are relevant noting that Chapter 11 (Future Land Use) is also relevant. Mr. Fahey noted his agreement. Mr. Armstrong asked, for the next meeting, that the Commission as a third party be provided with a modification (reliance provision) such that they can rely on all the information submitted. In response to

Mr. Armstrong’s question, Mr. Fahey indicated that there are no plans for any additional submission materials other than responses to Commission questions and in rebuttal to Mr. Smith. In response to Mr. Armstrong, both Messrs. Fahey and Smith agreed that the Commission has authority and it is within their scope to review floodplain issues. In response to Mr. Armstrong, Mr. Smith confirmed his belief that the petition to intervene meets the statutory requirements of 22a-19. Mr. Fahey noted his disagreement adding that he submitted a response yesterday to the aforementioned petition. He added that no other response is planned from the applicant because it is clear that the case that Mr. Smith says doesn’t apply does apply. Mr. Armstrong noted that the Town Attorney will look at what has been submitted as a request for an intervention. In response to Mr. Armstrong, Mr. Smith confirmed that he intends to respond to the paper submitted tonight by Mr. Fahey, as he saw it for the first time an hour ago. Mr. Armstrong said that timelines will be setup to allow time for Town Attorney review of all information before the next meeting scheduled for July 9. In response to Mr. Armstrong, Mr. Fahey stated that he intends to oppose the 22a-19 intervention. Mr. Armstrong said that Mr. Smith will be given time to respond to the opposition of the intervention. Mr. Armstrong indicated that the scope of the Commission is limited to a zone change, in this instance. In response to Mr. Armstrong, Mr. Fahey confirmed that no condition is being asked for relative to a conservation easement or any road changes in connection with the zone change request.

In response to Mrs. Harrop’s questions, Mr. Richter explained that the amount of proposed development in the 500-year floodplain is a small area in the center left of the project area adding that he doesn’t have the specific information available tonight but noted that he would provide the information to Mr. Peck. He confirmed that all of the units proposed for this area would be located well above the 500-year flood elevation. He further explained that while Avon’s Regulations allow construction within the 500-year flood elevation area, all habitable areas are required to be located one foot or two above the 500-year flood line.

Mr. Armstrong asked for a drawing/map showing both the 100-year flood line and the 500-year flood line as well as the current topo of the area in 2 foot variance.

Mr. Richter explained that the survey does designate two-foot topo plus the 100-foot flood line and the 500-year flood line.

Mr. Armstrong said he’d also like to see the overlay of the proposed buildings.

Mr. Richter further explained that this information is provided but will be highlighted for clarity.

Mr. Gentile commented that he has been playing this golf course for many years; it’s a gem. He said that he would rather have the 18 holes on the Nod Road side preserved but acknowledged that it is not possible due to the floodplain. He said that the changes proposed make the 9 holes on the Nod Road side unwalkable due to the length and asked what improvements are planned to keep it a gem.

Mr. Fahey explained that the original architect for the golf course design has been retained for this project and course redesign. He noted that the architect wants to ensure that the course is walkable adding that there will be several different options allowing people with all skill levels to play. The intent is to improve the maintenance of the course once reduced to 18 holes; it is understood that the course has to compete with other public courses in other municipalities.

Ms. Keith asked how the site is considered to be the same when the watercourses on the uphill run differently than the water on the flatter areas (site is flat while Hunters Run and east side of Nod Road are uphill). The rain is going to set and the flow from the River is going to set and it’s not going to runoff.

Mr. Ziaks explained that the overall storm water management plan will take all of the water questions. He offered assurances that the drainage system proposed on the project side of the site will drain properly. There are three positive intermittent watercourses that bring drainage from Nod Road across the golf course site to the Farmington River. He explained that much of the storm water that will be generated on the site will go to infiltration; the soils on the site are extremely sandy and a lot of the water that currently falls onto the golf course disappears via infiltration. There may be some seasonal ponding in February and March but the rest of the year everything infiltrates down through the course. He reiterated that a large portion of the storm drainage will be infiltration and not directly discharged to the watercourses on the site or to the Farmington River. He confirmed that more design detail will be provided during the site plan and special exception process, all reviewed by Town Staff.

Brian Smith, attorney representing Nod Road Preservation, Inc., noting that their mission is to protect natural resources in Avon and the Farmington Valley. A proposed 22-19a intervention petition has been filed; he stated that he will file a written response to the memo received tonight from the counsel for the applicants. He said, for the record, that in all the case law he has examined the Supreme Court in CT is very clear that we are allowed to intervene in any proceeding at the Commission level and raise environmental issues. The courts are looking at what a commission should consider and this will be addressed so that the Town Attorney can address what the procedure should be moving forward. One of the fundamental issues for the opposition is what are the benefits of retaining agricultural land in Avon? This question was never raised or discussed during the applicant’s presentation but is really the question before the Commission for a zone change. Golf courses are allowed by special permit in the agricultural zone in Avon but if the course is declining one of the alternatives is not to build houses but rather to return the area to other agricultural uses, which has not been discussed. A question for the Commission is should agricultural land be preserved for the community; the answer is yes. The applicant’s presentation went over and above the concept plan that is believed to be required for a zone change and sounded more like a site plan and special exception application, which is not what the Commission should be considering at this point. He noted that while Attorney Fahey made it clear that he did not require a conservation easement as a condition of a zone change approval, other testimony heard tonight made the conservation easement a central issue (Mr. Poland repeatedly referred to the entire 231 acres and how 182 acres would be preserved if zone change approved). Mr. Smith said that the Commission cannot and should not rely on information relative to land preservation as part of this zone change proceeding because until a conservation easement is filed on the Land Records it means nothing legally; it’s not relevant and is actually harmful to consider. The only question is whether it makes sense to rezone the subject 37 acres from agricultural to residential RU2A. Mr. Smith referenced his rezone petition dated June 18, 2019, noting that two experts submitted letters, namely Dr. Michael Klemens (well-known scholar of natural resources and biologist/herpetologist) and James Bubaris, PE, traffic engineer.

Dr. Klemens notes in his letter that the proposal is not consistent with the POCD; the main reason being that when an agricultural use is proposed to be rezoned to a residential use, conceptually, the 37+ acres would essentially be hardscaped which would fragment an important wildlife and plant habitat that goes from the Farmington River to Nod Road. The golf course does not do that and rather provides for open space and travel by protected animals; the proposal is not consistent with the POCD. Mr. Smith noted that Dr. Klemens is ill and could not be present but added that he hopes he can be present at the next meeting to make his presentation. He referenced

Mr. Hesketh’s traffic report information noting that the intersection of Nod Road and Route 44 currently operates at a LOS F and the proposed development would worsen that condition slightly. Mr. Smith noted that Mr. Bubaris points out in his letter, dated June 17, 2019, that the simplest way to handle increased traffic is to deny the subject application. Another way to handle replicating groundwater recharge is to leave the area alone and keep it as a golf course or return to farming. If the 22a-19 intervention is deemed to be allowed, there is an alternative called “Transfer of Development Rights” (TDR) that is provided. The subject parcel is not located within the already designated TDR area in Avon but the owner could seek a change for TDR which would be an environmentally responsible alternative. He noted there are a number of factors that make the proposal inconsistent with the POCD, adding that he is going to make one additional submission based on what has been heard. Referencing the maps for the application, the proposed RU2A zone has an odd shape on the site and has a different topo manner than existing RU2A land located on the other side of Nod Road. Mr. Smith indicated that the way this is operating for a single purpose strikes him as spot zoning. He concluded by noting that he has case law to support his position that he will provide.

In response to Mr. Armstrong’s question, Mr. Fahey explained that no information relative to soil removal or deposits has been done at this point.

Mr. Ziaks explained that he can provide only estimates relative to soil removal/deposits at the next meeting.

Mr. Armstrong commented that the Inland Wetlands Commission has rendered a decision that has been appealed by the applicant. He asked for clarification on how wetlands is being considered relative to the information submitted to this Commission.

Mr. Richter referenced his response given during the presentation and explained that their plans are based on the 2004 Inland Wetlands approval for this parcel. He stated that in addition to the wetlands that were defined and approved in 2004, we also mapped additional wetlands on the parcel beyond that approval and this is the basis of our plan. This is not different than what was submitted to the Inland Wetlands Commission.

Mr. Armstrong commented that no water samples were taken. The soil testing that was done and some of the chemicals identified as used on the golf course were not analyzed using EPA methods.

Mitchell Chester explained that groundwater sampling was not within the scope of the investigation but rather residual pesticides from that era of farming with toxic chemicals were investigated. Golf course management products being used right now are fungicides and a sunscreen which do not have any particular mammalian toxicity.

Mr. Armstrong asked that this information be updated in written form. He commented that EDBs are known fumigants used on tobacco and this was not tested.

Mr. Chester explained and confirmed that EDBs were not included in conversations with the DEEP; the DEEP explained that EDBs are a soil fumigant that is typically associated with food and vegetable crops not so much tobacco.

The hearing was opened for public comment.

Robin Baran read aloud a statement noting that she is a resident of 182 Woodford Hills and also owns 17 Woodford Hills, making her a 500-foot abutter to the Blue Fox golf course. She reminded the Commission that the subject golf course is referenced in past POCDs (1968, 1979, 1991, 2006, and 2016) along with other documents filed at the Town Hall and referenced passages from each aforementioned POCD noting that the site has been identified as flood land, floodplain, flood prone area, wetlands, poor soils, and difficult to develop. Avon is a desirable place to live due to the implementation of land use policies found in the POCDs. The Land Use Study for Nod Road (1992) notes that the subject site is impacted by floodplain, slopes and wetlands, the Hunters Run development and heavy traffic volumes on Route 44. The most important issue for Avon residents is managing development and preserving open space (2015 Great Blue Study). The Commission is charged with upholding the purposes of the Zoning Regulations (Sections I, X) to ensure that public health safety, and welfare will not be adversely impacted. No residential housing has been permitted on this site for the past 63 years so why allow a zone change now; climate change is a real concern (flooding). She submitted a list of 2,100 signatures opposing the zone change and requesting that the site remain zoned agricultural; development is irreversible. She concluded by noting she is against the zone change and asked for unanimous denial. For complete details of her statement, please see a record hard copy on file with the Planning Department for App #4895.

Dick Shechtman, Hunters Run resident for 23 years, commented that he is in favor of the application noting that he can remember the groundbreaking for First National Stores (now Big Y) in the late 1960s; it was the first mall center in Avon. He noted that he used to have lunch at the diner at the intersection of West Avon Road and Country Club Road. Avon has changed since then; there is constant change throughout any community and that is a given. We cannot deny that change will happen as it is human nature; and change also applies to the environment. He noted the medical office complex that was built and now exists across the street from Hunters Run. He noted his concern for an out-of-State developer who could come in and develop this site with a high density apartment complex because of the changing politics and financial needs of Avon. Or someone could build more commercial buildings on the site. He pointed out that Hunters Run was built in the 1970s (by local developers) with probably exactly the same resistance and objections as we’re hearing to the subject development. There is going to be change so it’s best if the Town manages it wisely.

Neal Liebowitz, 58 Woodford Hills for 23 years, commented that he is a physician/psychiatrist noting his appreciation for everyone’s expertise but further noted that from his experience as a physician a lot of what people of expertise have said turns out to be wrong later. He said that while he isn’t questioning the information presented but wants to put some doubt in terms of the numbers and revenues. The developer has said that they would put 80% of the land in perpetual trust but the land is already in trust due to the zoning restrictions. The property owner owns the land but the Town and residents own the development rights because of zoning. The developers are asking the Town to take away property development rights away from the people of Avon; the equivalent of eminent domain. Open space/nature has an emotional impact on people.

Chrissie D’Esopo, 289 West Avon Road and Avon resident for 35 years, commented that the view of the mountain and tower has been destroyed by the development on the south end of Simsbury. She asked that we do the right thing by keeping the subject site zoned agricultural. The developers’ slogan “build to preserve” is preposterous and untrue. The majority of residents want Nod Road to remain as it exists now.

David Richman, recent resident of 5 Morgan Place, commented that he has developed property in Hartford and throughout CT. He asked, who does a traffic study in August? He said making left turns out of Hunters Run at 7:30am and 4:30pm; it takes 15 minutes to get through the light at Route 44. With all the new development in Simsbury, the traffic study does not mention the additional cars that will be traveling Nod Road from all the new housing developments. There is a speeding problem on Nod Road and all the lights from the proposed development will be visible to residents of Hunters Run.

Kirsten Ek, 12 Henderson Drive, noted that she is a physician and submitted a letter. There is no other road like this one in America; there is no other road with a 350-year old continuously working farm or a 17th century war hideout in the cliffs overlooking the River; this is a cultural treasure. There is no other road in America that has a Heublein Tower that summarizes the spirit of America’s entrepreneurial nature. No other place in America has two taverns that are hundreds of years old. A 500-hundred year old tree sits at one end of this road; she asked that people sit under it before making a decision on this application. Let the agricultural land on Nod Road remain for future generations.

Linda Jensen, Orchard Street resident for 23 years and third generation Avon resident, commented that while Mr. Ferrigno built lovely houses on a horse farm that used to exist on Orchard Street, it will never be the same. Traffic is horrific on Orchard Street; people drive very fast. Nod Road is a special place and Avon is a special place due to things that have been preserved; we need to hold on to that. She noted her hopes that there will be agreement with the Wetlands Commission to protect our River and history.

Pam Oday, Waterville Road, commented that she remembers cows crossing the road when she moved to Avon in the 1980s. She remembered a bad accident (1986) at Nod Road and Route 44; the intersection is horrendous and traffic has increased since the CREC School was built. She asked for consideration for Avon’s future.

Bill Dornbos, Director of FRWA, referenced his written comments submitted in opposition to the proposed zone change noting that they take these matters very seriously for their members. The proposal for residential use would increase Avon’s vulnerability to the climate crises with increased risks for flooding from more heavy rainfalls and hurricanes. The subject land is floodplain from the Farmington River; a viable nature resource that should be preserved.

The prudent land use decision is to err on the side of reducing risk which is to leave the subject area zoned for agricultural use, as noted in the 2016 POCD. The FRWA believes that climate science, floodplain management, and public safety require the denial of this application.

Erin Sloat, Carriage Drive, commented that she has seen extensive student overload and class sizes do not appear to be decreasing, unlike the study presented tonight. Impacts to schools and costs for new schools needs to be considered for any rezoning proposal as well as additional development. There are many new developments in Town with children that have not yet joined the schools or been counted. The current residents fear that they will not have the same advantages or quality of education to continue in Avon’s high-standard community. She commented that she doesn’t know at which point development should be capped or restricted, per the zoning laws, but noted that school needs should be addressed.

John Lumani, East Main Street, noted that as a barber he cuts hair for many people in Avon and he never speaks with people who are in favor of the proposal. The developer only cares about benefits for his future family members and could care less about land preservation. He commented that he moved to Avon a few years ago and his children have noticed that their class room sizes are smaller and the teacher speaks to them every day. He said that families like his are going to move into the proposed houses and not older people; the project is a gimmick that will cripple local schools.

There being no further comments, the public hearing for App. #4895 was continued to the July 9 meeting.

Mr. Mahoney motioned to continue App. #4895; the motion was seconded by Mr. Armstrong and received unanimous approval.

There being no further business, the meeting adjourned at 10:30pm

Linda Sadlon

Avon Planning and Community Development