

**EXHIBIT 4**

## Memorandum Re: Zoning Considerations

The Westport-Weston Family Y (WWFY) has owned the Mahackeno site for some 65 years. Although it is located in a Residence AAA (2 acre) Zone, it has been used for all of those 65 years as an outdoor center and summer camp and numerous special permits have been granted over the years in connection with those uses (Exhibit A). The site is accessed from Sunny Land on the North, a dead-end private road which parallels the Merritt Parkway, abuts the Red Barn Restaurant and accommodates a Verizon cell tower.

Why then, one might legitimately ask, is this site in the Residence AAA Zone when that zone designation does not reflect the actual present or historical use of the property or the character of the immediate (Sunny Lane) area?

If the Mahackeno site were developed as a conventional subdivision, it would yield 13 single family homes (Exhibit B), further extending development to this area, which is not served by municipal sewers, and spreading development to an area which has thus far remained undeveloped. Such a scenario is not only inconsistent with "smart growth" principles but would also deny access to the public, whereas the WWFY's proposal guarantees continued public access to the site and the riverfront on its eastern edge.

If the WWFY's plan for the Mahackeno site were approved, the Downtown WWFY facility which is under a non-contingent contract of sale to a developer - would be restored to the tax rolls and would be developed as a mixed use facility with a substantial housing component and ample public space, a cornerstone of "smart growth" planning.

## Memorandum

**To:** Katherine Barnard, Planning and Zoning Director  
**From:** Carol Davis, Temporary Planning Assistant  
**Date:** October 25, 2004  
**Re:** Camp Mahackeno, Rice's Lane - Zoning History

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In March 1945 the YMCA acquired the 29 acre property which became known as Camp Mahackeno.

On September 1, 1966 Permit #11468 was issued to construct a single family dwelling on YMCA property at Sunny Lane. No P&Z action recorded.

On October 21, 1966 Permit #11545 was issued to replace a structure destroyed by fire in August, 1966 on YMCA property at Sunny Lane. No P&Z action recorded.

On May 8, 1969 Permit # 12609 was issued to install an in-ground swimming pool on YMCA property at Sunny Lane. No P&Z action recorded.

On April 6, 1973 Permit #14107 was issued to construct a detached shower stall. No P&Z action recorded. No ZCC required.

November 5, 1973 Excavation and Fill Permit to remove the rifle range, regrade the hill and adjoining area to create ski slopes for institutional purposes and to create sledding and tobogganing area.

On December 5, 1974 the Planning and Zoning Commission approved a special permit to construct a locker unit and paddle tennis court. Minutes of the public hearing indicate that access is a paved road off Rice's and River Lanes. Zoning Permit # 14846 was issued on December 16, 1974. No ZCC required.

On October 4, 1976 Permit #15626 was issued to construct an addition to an existing dwelling unit at Camp Mahackeno. No P&Z action recorded.

On September 29, 1977 The Planning and Zoning Commission considered a traffic complaint by Thomas Harbison of 36 River Lane. The letter cited increase in camp use and expansion of the program as reasons for "horrendous" traffic. The Commission decided to end discussion and think about some solutions (See work session minutes).

On October 6, 1977 the Planning and Zoning Commission discussed whether or not Camp Mahackeno should be on their agenda and whether they have any jurisdiction. There was a brief discussion about traffic but no action was taken pending a staff report. (See attached minutes)

On July 8, 1980 a public hearing was held for Special Permit #80-70: Rice's & River Lane, to widen the paved area of the interior roadway for safer ingress to and from the river and Rice's Lane. There was considerable opposition from neighbors who complained of increases in traffic on Rice's Lane. (See attached minutes).

On July 29, 1980 Special Permit #80-70 was approved with conditions. The vote was 3 in favor 2 opposed. (See attached minutes) The conditions were as follows:

1. Conformance to Site Plan entitled Proposed Road Improvement for YMCA prepared by Leo Leonard dated 5/29/80 as revised 7/22/80 and received by P&Z on 7/23/80. Pavement width is reduced to 20'.
2. That prior to the issuance of a Zoning Permit or a Special Permit:
  - A. The Road Plan and Profile and drainage shall be approved by the Town Engineer.
  - B. That a Driveway Permit shall be obtained from the Engineering Dept.
3. That a STOP sign shall be installed at the intersection of Rice's Lane and the driveway.
4. That two low speed bumps shall be installed as a means of regulating the speed of vehicles using the driveway.
5. Bus and van drop-off and pick-up shall be via Sunny Lane, only.
6. Access to Camp Mahackeno for normal day to day summer camp use shall be via Sunny Lane, only.
7. Special Permit effective upon filing with the Town Clerk's Office.

November 18, 1980 P&Z approved a modification of Special Permit #80-70 because Town Engineering said the camp does not abut on a town road. The modification removed condition #2, B from the conditions approved on July 29, 1980. November 21, 1980 Zoning Permit #17566 was issued for interior roadway improvements. Note on permit indicates the work was not done.

After public hearing on April 12, 1984, on April 19th the Planning and Zoning Commission approved Resolution #84-19 for a special permit to add a 601 sq. ft. addition onto an existing building at 37 Rice's Lane with the following conditions:

1. Conformance to Site Plan (Sheet A-1) prepared by Ed Campbell, dated 3/12/84 and received by P&Z on 3/16/84.
2. Conformance to Bldg. Floor Plans (Sheet A-1) prepared by Ed Campbell, dated 3/12/84 and received by P&Z on 3/16/84.
3. Conformance to Bldg. Elevations (Sheet A-1 & A2) prepared by Ed Campbell, dated 3/12/84 and received by P&Z on 3/16/84.
4. Prior to the issuance of a Zoning Permit:
  - A. That a Sedimentation and Erosion Control Plan shall be approved by the Conservation Commission Director.
5. That a Zoning Permit shall be obtained within one year of this approval or said approval shall become null and void.

On June 15, 1984 Zoning Permit #19150 was issued for toilet & storage and covered porch.

On April 11, 1988 the Planning and Zoning Commission approved with conditions Resolution #88-30 to construct a 500 sq. ft. building addition and pave the access drive and parking lot on YMCA property at 37 Rice's Lane. Conditions of Resolution #88-30 were as follows:

1. Conformance to Site Plan prepared by Ed Campbell, dated 4/2/84, revised 4/7/88.
2. Conformance to Bldg. Floor Plan and Elevation Plan (Sheet A-2) prepared by Ed Campbell, dated 3/12/84 and received by P&Z on 9/14/84.
3. Conformance to Bldg. Elevations (Sheet A2) prepared by Ed Campbell, dated 3/12/84 and revised 9/14/84.
4. That this Special Permit shall be filed with the Town Clerk and shall become effective only when so filed.
5. That a Zoning Permit shall be obtained within 6 months of this approval
6. That approval is conditional. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no legal effect, then this conditional approval is likewise void. The applicant may refile another application for review.

June 17, 1988 Zoning Permit #21712 was issued for a 500 sq. ft. addition to the Rotary Pavilion for storage, to pave the access drive and parking lot with 6 new spaces. No ZCC issued.

The minutes of the April 11, 1988 meeting explain that the addition constructed under Permit #19150 was larger than approved and another permit was required. On June 21, 1988 a Zoning Certificate of Compliance was issued for Permit #19150.

On November 5, 1992 a public hearing was held for a special permit to replace an existing playground and outdoor center. Resolution #92-161 approved the application with the following conditions:

1. The play structure will not prevent or inhibit the orderly growth and development of the area;
2. It will not have a significant adverse affect on adjacent areas located within the close proximity to the use;
3. The structure is in scale with and compatible with surrounding uses, buildings, streets and open spaces.

It appears that a Zoning Permit was never issued.

On June 17, 1997 the Administrative Review committee approved Resolution. #97-067 for a temporary zoning permit for a 30'x50' tent between the months of June and October on the former paddle tennis courts. No ZCC required. The following permits were issued for a temporary tent:

- Zoning Permit # 27585 issued June 19, 1997.
- Zoning Permit #28201 issued May 5, 1998
- Zoning Permit #29048 issued May 18, 1999.
- Zoning Permit #30296 issued June 5, 2000
- Zoning Permit #31595 issued April 10, 2002
- Zoning Permit #32222 issued February 27, 2003
- Zoning Permit #33058 issued March 1, 2004

On January 3, 2002 the Planning and Zoning Commission approved with conditions Resolution #01-085 for use of the Rotary Pavilion Building by the Temple Israel Early Education Center and Sunday Religious School for less than one year. Among the conditions was restriction of vehicular use to Sunny Lane. On August 22, 2002 Zoning Permit #31913 was issued for interior renovations, noting that this must conform to Res. #01-085.

On April 18, 2002 a public hearing was held on Application #02-020 for modification of condition #6 of Resolution 80-070. Many residents spoke in opposition to the application. On April 26, 2002 the application was denied for the following reasons: (see Minutes 4/18 and 4/26, 2002)

1. at a public hearing held on April 18, 2002 the Planning and Zoning Commission received testimony concerning the request to modify Condition #6 of Planning and Zoning Resolution 80-70 that limits vehicular access to YMCA (day) Camp Mahackeno via Sunny Lane only.
2. Condition #6 was originally established based on substantial testimony from neighboring property owners regarding traffic problems on Rice's Lane and River Lane.
3. Substantial testimony was again presented regarding traffic problems on Rice's Lane and River Lane, at the April 18, 2002 public hearing.
4. No substantial evidence was presented by the applicant to justify changing Condition #6 of Planning and Zoning Resolution 80-70 to allow for vehicular access to Camp Mahackeno via Rice's Lane, as requested.
5. Safety issues were raised by the neighbors about traffic coming and going from Camp Mahackeno, and the applicant did not adequately address these issues.
6. Testimony at the public hearing revealed there was an adverse impact on the neighbors because of traffic to and from Camp Mahackeno.
7. The applicant did not submit into the record any alternatives the YMCA had investigated to resolve the long-standing problems.
8. No convincing reasons were given by the applicant to change Condition #6 of Planning and Zoning Resolution 80-70.

Update to Kathy Barnard's 10/24/04  
Zoning History

August 22, 2002 - #31913 - Zoning permit for interior renovations to the Rotary Pavilion

April 5, 2005 - #05-017 - Temporary zoning permit to allow tent for late and early drop offs.