

East Hampton Planning and Zoning Commission  
Regular Meeting  
February 3, 2010  
Town Hall Meeting Room

Unapproved Minutes

1. **Call to Order and Seating of Alternates:** Chairman Zatorski called the meeting to order at 7:00 p.m.

**Present:** Chairman Ray Zatorski, Vice-Chairman Rowland Rux, Members Peter Aarrestad, Roy Gauthier, Richard Gosselin, Mark Philhower, James Sennett, Alternate Members Darin Hurne, Kevin Kuhr, and Planning, Zoning & Building Administrator, James Carey, were present.

**Absent:** Alternate Member Michael Brogan was absent.

No Alternate Members were seated at this time.

2. **Approval of Minutes:**
  - A. **January 6, 2010 Special Meeting/Workshop Minutes; and**
  - B. **January 6, 2010 Regular Meeting Minutes:**

*Mr. Aarrestad moved, and Mr. Rux seconded, to approve the minutes of the January 6, 2010 special meeting/workshop and the January 6, 2010 regular meeting as amended. The motion carried unanimously.*

3. **Communications, Liaison Reports, and Public Comments:**

**Communications:** Mr. Carey reported that the Salmon River Watershed Partnership Taskforce has requested a proposal from the Town to be considered as a pilot Town including a Grant for the implementation of various strategies developed by the Taskforce. The Town will be compiling a Proposal for this Grant. Mr. Carey will be working with Mr. Hayden on this task. This is an exciting opportunity to implement the Program developed by the Taskforce. Please provide any suggestions or questions that you might have to the Planning & Zoning Office.

Mr. Carey addressed the concerns that the Commission had regarding the downsizing of the medical office building on East High Street. At the time of the change, the Chairman and Mr. Carey agreed that it would be appropriate for the Design Review Board to review. The changes were reviewed and accepted by the Design Review Board. Any substantial changes to a site plan will be reviewed by this Commission in the future.

Mr. Carey also reported that an electronic scan of the most recent edition of the Connecticut Conference of Municipalities Town & City Magazine has been sent by email to each of the Commissioners.

**Liaison Reports:**

Mr. Sennett reported that the ZBA held a meeting on January 11, 2010. At this meeting an Executive Session was held regarding a pending legal matter. After the Executive Session the ZBA voted unanimously to accept the settlement by stipulated judgment for the Middlesex Court Docket #CV-08-4009710, Paul Angelico; PJA

Associates, LLC, Angelico Family, LLC v. East Hampton Zoning Board of Appeals; Michelle Kronick; Randall Kronick. Mr. Sennett also reported that the ZBA held its Election of Officers and the same officers will continue for the coming year. Charlie Nichols will be the Chairman and Brendan Flannery will be the Vice-Chairman. The minutes of this meeting are on file and may be viewed on the Town's website or at the Town Clerk's Office.

Mr. Aarrestad thanked Mr. Carey for his report on the Salmon River Watershed Partnership Taskforce and explained that the Taskforce does expect some large revisions to the report they issued. There will be an Open House later this month. More information will follow.

Mr. Aarrestad also reported that the Water Development Taskforce has reconvened and held a meeting on Friday, January 22<sup>nd</sup>. They worked on finalizing a Water Connection Policy for the Village Center System. This is necessary due to the additional capacity since the wells were renovated and the treatment plant upgraded. The development of this policy is ongoing. The minutes of this meeting are on file and may be viewed on the Town's website or in the Town Clerk's Office.

Mr. Gauthier reported that the EDC did not meet since he last reported.

Mr. Philhower reported that the Midstate Regional Planning Agency's meeting was cancelled.

Mr. Carey noted that related to the ZBA report since the Commission revised the Accessory Building Regulations there has not been need for the ZBA to meet.

**Public Comments:** The Chairman opened the meeting to the public for comments. There were no comments made by the public at this time.

4. **Read Legal Notice:** Mr. Carey read the legal notice into the record at this time.
5. **Set Public Hearing(s) for March 3, 2010:**
  - A. **Application of Peter Marlow Forest Products LLC, 29 Waterhole Road, Lanou Timber Sale, for a Special Permit per Section 24 of the Zoning Regulations for a Timber Harvest.**

*Mr. Rux moved to set a public hearing for March 3, 2010 for the Application of Peter Marlow Forest Products LLC, 29 Waterhole Road, Lanou Timber Sale, for a Special Permit per Section 24 of the Zoning Regulations for a Timber Harvest. Mr. Philhower seconded the motion. The motion carried unanimously.*

6. **Public Hearing for February 3, 2010:**
  - A. **Application of Manafort Family LLC, 19 & 23 Lake Drive, Anthony Cove, for Residential Site Plan Review, Special Permit for Change in Use, and Lake Pocotopaug Protection Area:** Mr. Carey explained that the applicant is asking for a Special Permit relative to Section 16, Non-Conforming Use, of the Zoning Regulations. This regulation allows for a non-conforming use to be changed to another not more non-conforming use by special permit. In this particular case the applicant will take a number of disparate non-conforming uses occurring on the property for many years and create residential use in the form of nine condominium units. Mr. Carey noted that there are revisions to the original set of

plans which are a response to our engineer's and our environmental engineer's comments. This application has already been approved by the IWWA and the Conservation/Lake Commission with comments.

Frank Magnotta, consulting engineer of Portland, was present to represent the applicant. Mr. Magnotta explained that the project is composed of two parcels. They are No. 19, on the south side of West Street and No. 23 on the north side of West Street. All structures and pavement on Parcel No. 19 will be demolished and removed. This site will be completely rebuilt and redeveloped. The three buildings on Parcel No. 23 will be renovated on both the interior and exterior. The footprints will remain with one exception. The building that is now unoccupied and known as the hotdog stand will be demolished and a new two-story structure will be built on the same footprint.

On No. 19 the new units that will be built will be four two-bedroom units. On No. 23 there will be a total of five two-bedroom units created in those three buildings. Two garages will also be built on No. 23. A pervious concrete system will be utilized in all the driveways and parking areas. This system includes a stone aggregate base that accepts water and allows it to pass through to be infiltrated below. Mr. Magnotta passed around a sample of the pervious concrete. Where ever possible roof downspouts have also been directed onto these pervious concrete surfaces. On Parcel No. 19 99% of the hard-surface runoff is directed onto the pervious surface or one of two infiltration galleys. This pervious surface has the capacity to absorb up to a 25-year storm event with the design of the storage and infiltration provided beneath this medium. On No. 23 the majority of the roof downspouts are directed to this surface. There are a couple of places where the downspouts are inaccessible to this surface. On Parcel No 23 about 92% of the total hard surface runoff goes into an infiltration galley or the pervious concrete.

In the event that the 25-year event capacity is exceeded the water will spill out and sheet flow over the ground surfaces. He referred at this time to the documents which he has already submitted, the Stormwater Report, the Pervious Pavement Design, and the Calculation for Nitrogen and Phosphorous. Mr. Magnotta explained that these systems will capture and retain a very large percentage of the runoff. This addressed the concern for the quality of the runoff reaching Lake Pocotopaug. This system exceeds the current standard's capacity requirements by approximately 200%. Given the sensitivity of the location, overdesigning the systems for this project made sense to the applicant.

The sites are approximately ½ acre each. The sites in the area are also small yet relatively heavily developed. All the units are residential and two-bedroom. The certified mailing receipts have been submitted to the Town. The public hearing signs were put up on all of the road frontages.

The existing grade on No. 23 is about 4' above lake level. There is a slight rise on the property of about 1½'. A number of test pits were utilized. A 25-year event translates to about 5" of rainfall in a 24 hour period. The pervious concrete will be 6" deep. The aggregate media where the water will be stored is beneath it. The manual of the pervious concrete includes a suggested maintenance schedule

which includes blowing leaves and pine needles off and running an industrial vacuum to remove sand and sediments out of the pervious areas of the concrete. The condominium associations will be responsible for this maintenance. The net change in the amount of pervious surface on these parcels is approximately a 1000 sq ft reduction on No. 19 and about a 10000 sq ft reduction on No. 23. The Commission discussed their questions and concerns regarding this type of concrete. Mr. Magnotta described the sub-aggregate and sub-systems below the pervious concrete which store and infiltrate the water. The concrete and the system below will last 20 to 30 years. Mr. Magnotta will provide a detailed maintenance schedule for the pervious surface.

Jim read the comments of CLA into the record which indicated that their concerns have all been addressed by the applicant. The Commission discussed their questions and concerns regarding the current use and conforming uses of these parcels.

Stephen Wing, Landscape Architect of Milford, Connecticut, was present to discuss the landscaping of the property. There will be an evergreen screen along the southerly boundary of Parcel No. 19 to provide privacy for those units and the adjacent neighbors. The northerly boundary of Parcel No. 23 has an effective evergreen buffer in place. The back to front boundaries have been kept open to allow for views and breezes. Trees are planned for shade around parking areas. Small trees are planned for interest and privacy to the residents. Native species will be used. The parcel on the lake side of Lake Drive will be maintained as is, a combination vegetation and lawn. Each unit has a minimum of 100 sq ft private outdoor room, terrace, or patio.

The Commission discussed concern regarding buffering the lawn frontage from the road traffic. Silt fences will be in place during construction. After construction stakes with flags will be used to keep both foot and road traffic off the lawn frontage.

Rick Staub, Point One Architects, was present to discuss the units being proposed for the project. He referred to the 11 x 17 floor plans and elevations of the proposed units. The goal for the architecture was to keep the units simple, cottage like. Parcel No. 19's highest roof elevation is about 28'4". The single units are 18' wide by 42' long. The duplexes are no larger than a normal sized single family house. Parcel No. 23's highest elevation represents the existing garage piece. This building and the flea market building will be renovated. The garage building will have a small second floor addition to extend the roof structure but it will not get any taller than is the existing building. This building is about 30'6". This is that tallest building on the site. The elevation height of the flea market building is about 29'. The building that will be constructed on the location of the hotdog stand is about 28' in height. The goal has been to blend with the area but allow for individual identity.

The exterior materials will be either a clapboard vinyl product or a hardy plank panel and asphalt roof. The average square footage of the units will about 2000<sup>2</sup> ft.

The Chairman opened the public hearing at 8:19 p.m.

Bill Lee, 30 Lakewood Drive, discussed Commission's concern over road traffic on the lawn.

Bill Pound, 18 West Street, discussed the pervious concrete need for maintenance and the ground water level and drainage. He would also like to know who will be retaining ownership of the lakeside parcel. Finally he is concerned about the sightline both at West Street and Lake Drive and also on West Avenue and West Street. The old flea market building blocks the view completely.

Fred Shores, 7 West Street, west of Parcel No. 19, has enjoyed a view of the lake for 30 years and is concerned that his view will be obscured by this project.

Richard Bellom, 11 West Street, discussed his concern for what will be happening to the beach on the lakeside property.

Joyce Fershaw, 10 West Avenue, concerned about the major drainage problems on West Avenue which is a dirt road. Plan indicates a driveway apron will be added to West Avenue. Currently has no access to West Avenue. Access will come out were a huge puddle is continually present. The Town plows the road and comes twice a year and dumps dirt and gravel in the hole in the road.

Richard Bellom, 11 West Street, believes that there is actually a brook running through West Avenue.

Edward Fatcher, 29 Lake Drive, wants to know what will be done to provide adequate parking for this development.

Nancy Fatcher, 29 Lake Drive, direct abutter to Parcel No. 23, is concerned about adding more traffic to West Avenue due to the poor condition of the road and the flea market's location on the corner. She would like very much for this property to be developed.

Margaret Maceyka, 8 West Street, will be very happy to have this property improved. Whatever happens here will be positive. She is concerned about the sightline on the corner due to the flea market building, the poor drainage, the stream that is cut off by West Avenue, and the plans for the beach. She is supportive of the pervious concrete planned for this project.

Andrew Simonow, 6 West Avenue, is concerned about the drainage for the building that is the flea market. This drainage will come into the dirt road that is West Avenue. He questioned the UCONN pervious concrete work that was referred to. He would like to know who owns West Avenue. He believes it is a private road.

Bill Pound, 18 West Street, is concerned about the storm drains that are in terrible shape and this project will be tied into them. This street is not wide enough to have two cars pass as it is. He would like to see something happen on this property but he suspects the area cannot manage the density proposed. He has been maintaining the beach area on the lakeside parcel and is concerned that he will lose that use.

The Chairman recessed the meeting at 8:40 p.m.

The meeting was reconvened at 8:50 p.m.

Mr. Magnotta addressed the questions and concerns brought up during the public hearing. He explained that the infiltration system was designed to address the ground water levels as determined by several test pits on both parcels. The soils on Parcel No. 19 are the virgin soils and are very well drained. The situation on Parcel No. 23 is different. The soils have been filled extensively. The design for the system considers the removal of fill and further allowing the water to flow through a layer of soils that has been compacted so as to prohibit infiltration. He further explained that the groundwater levels indicated are seasonal high ground water levels, not year round water levels. It will only be when the water is seasonally high that the ground water will be close to the bottom of these systems.

The outlet to this system is comprised of 4" pipes set above the groundwater levels because the drainage is required to pass through these systems and ultimately connect into a catch basin out on Lake Drive. These basins are relatively shallow; therefore the pipes and slopes that connect to them must be similarly shallow.

Mr. Magnotta reported that the view of the property located at 7 West Street will not be affected by the new buildings on Parcel No. 19.

Mr. Magnotta explained that the sightline at the intersection of West Street and Lake Road is not affected by the location of the hotdog stand. The sightline is impacted by the vegetation on the northern boundary of Parcel No. 23. The existing deck on the east side of the hotdog stand will be removed and will not be replaced. The new buildings on Parcel No. 19 will be further back off of Lake Road than the existing buildings currently are.

The storm drains that the development will be tying into are culverts that go under Lake Drive. These culverts and catch basins were replaced when Lake Road was rebuilt. The catch basins further up West Street may well be in disrepair; however, they are not involved in this stormwater management system. He pointed out that such a small amount of runoff will be coming off these parcels as a result of the pervious surface systems and underground detention areas that it is expected there will be much less impact even during peak flow and volume.

Mr. Magnotta explained that there is no other feasible alternative to access onto West Avenue from the existing units on Parcel No. 23. Due to the location of the existing buildings there is no other place to go without limiting the number of parking areas available. Parking for visitors is addressed by the driveways and the spaces located immediately adjacent to the garages. The condominium association documents will forbid that parking of trailers or storage of excess vehicles in these spaces.

Mr. Magnotta discussed the flea market building and explained that because of the location and the pitch of the roof some of the downspouts go toward West Avenue. Due to this configuration there is really nothing they can do with the downspouts in that area and no way of getting the downspouts to a pervious surface as proposed for other areas. He explained that due to the system as proposed no additional drainage will be directed to West Avenue, only that which is already being directed there.

Mr. Magnotta addressed the concerns regarding parking for Unit Nos. 3 and 4 on Parcel No. 19. He explained that in addition to the driveway area there are the garages for each unit and two spaces in front of each garage. Unit No. 2 would be the exception as it has a single garage and therefore a single space in front.

Mr. Carey read a letter dated January 28, 2010, addressed to Manafort Brothers, and written by Nelson's Family Campground. The letter explained the concerns of Nelson's and covered solutions they had discussed with Bill Manafort.

Mr. Carey read a letter dated February 3, 2010, from T. Cummings of CLA Engineers indicating that their previous comments had been addressed by the most recent revisions to the plans.

Mr. Carey read a letter from the Director of Community and Environmental Planning, Kerry Nielson, addressed to Chairman Zatorski. Attachment 1

Mr. Carey read a letter from the WPCA indicating that they had reviewed and commented on the subject plans.

The applicant has agreed to all conditions of the Conservation/Lake Commission including to use sod rather than to hydroseed.

Mr. Magnotta responded to the WPCA's letter that the plan did not include individual wells for each unit and that he had not previously received this letter from the WPCA. Mr. Magnotta was also concerned by the involvement of the WPCA in the water system for this project and believed he had addressed the well system through the Chatham Health District. No commentary had as of this point been received from the Chatham Health District.

The Commission discussed their concerns over non-conforming uses of the property versus less non-conforming uses and higher density than is allowed in the zone. The Commission also suggested that the non-conforming use had been abandoned. Mr. Carey explained that the State of Connecticut does not recognize a time frame regarding to abandonment. The State does require a commission to provide proof sufficient for a court to interpret that the intent was to abandon. Therefore, if the property had actually been put to some other use or had been offered for sale for some other use that would provide the proof the State requires. These conditions have not and do not exist. The project will result in two separate condominium associations.

The Commission continued to discuss parking, density, square footage of the units, drainage, roadway conditions, and setbacks. Mr. Carey discussed the stormwater calculations as proposed and presented to the Town's staff which have been accepted and are adequate to accept the flow from this project. If there is a net increase of flows onto West Avenue, that needs to be addressed. There are no point discharges in that direction that will exacerbate any current situations. The consensus of Staff and the project engineer is that the reduction in impervious surface will reduce to amount of water flowing toward West Avenue.

Bill Manafort, applicant, discussed his efforts to develop a project that would be different and beneficial to the lake and the community. West Avenue is a

problem today. The development will bring a large tax base to the community. To put the repair of West Avenue on the applicant's shoulder is unjustified.

Mr. Manafort discussed the properties history and attempts that his family has made over the years to improve this property. These attempts have been stopped by the community for various reasons. Now they bring to the Town a project that would appear from the street to have always been a part of this community.

Mr. Manafort discussed the concerns over the beach. Speaking from a liability view point it must be stated that no one has permission to use the beach. There is no possible way that would be acceptable. There is no insurance to cover the neighbors using the beach. No one is allowed to be on either of these properties except for the tenants. After speaking with the attorney it has been determined that it would be inappropriate to place a liability of this type on the condominium associations as they are created. Again, the associations would never be able to insure it. They have determined that the lakeside beach parcel should either be sold to the Town or to the neighbors who all agree they want access to the lake via this parcel. Therefore he is offering the parcel for purchase to the Town. If the Town has no interest in the property, it will be offered to the surrounding neighbors. Both entities would be required to pursue their own insurance. The future condo associations could also purchase this land.

Mr. Magnotta will provide an amendment that will include Lot 2-B, the lakeside parcel, with Parcel No. 23. It has been the Town's practice that lakeside parcels could not be developed and must be conveyed with the parcels across Lake Road.

The Commission expressed concerns over the wells, West Avenue improvements, sightline at the corner of West Avenue, maintenance of pervious pavement system, and density.

*Mr. Rux moved to continue the public hearing to the next regularly scheduled meeting. Mr. Philhower seconded the motion. The motion carried unanimously.*

*Mr. Arrestad moved to continue the application to the next regularly scheduled meeting. Mr. Rux seconded the motion. The motion carried unanimously.*

The Chairman recessed the meeting for five minutes at this time.

The meeting was reconvened by the Chairman at 10:08 p.m.

**7. New Business: None.**

**8. Old Business:**

**A. Acceptance of POCD Implementation Report dated January 5, 2010:**

The document had spelling corrections made and was updated to February 3, 2010. Mr. Gosselin explained that this document is merely a report on the progress the PZC has made toward implementation of the POCD initiatives. Attachment 2

*Mr. Zatorski moved that the Implementation Report dated February 3, 2010 as presented this evening be accepted. Mr. Philhower seconded the motion. The motion carried unanimously.*

**B. Review & Consolidation of P&Z 2010 POCD Priorities and Salmon River Watershed Partnership Goals:** Mr. Carey explained that he had provided the Table of Contents of the first draft of the Salmon River Watershed Partnership Assessment Report. He pointed out that these are exactly the issues that the Commission is proposing to work with the SRWP if we are granted the opportunity to be a pilot town. Many of these initiatives are being considered by this community for future work. Attachment 3

Mr. Carey reported to the Commission that the 8-24 Review for the O'Neill Camp property has been delayed due to a title concern.

The public hearing for the Hampton Woods project was moved to the March 3, 2010 meeting.

9. **Adjournment:** *Mr. Philhower moved to adjourn the meeting. Mr. Rux seconded the motion. The motion carried unanimously.*

The meeting adjourned at 10:25 p.m.

Respectfully submitted,

Daphne C. Schaub  
Recording Secretary