

Town of East Hampton
Planning and Zoning Commission
Regular Meeting
November 4, 2020 – 7:00 P.M.
Virtual Meeting

MINUTES

1. Call to Order and Seating of Alternates:

Chairman Zatorski called the meeting to order at 7:02 p.m.

Present: Chairman Zatorski, Vice-Chairman Kuhr, Regular Members: Roland Rux, Angelus Tamaro, Roy Gauthier, Meg Wright and James Sennett, Alternate Members: Mike Kowalczyk, Ted Hintz, Jr. and Tim Puglielli and Zoning Official Jeremy DeCarli.

2. Approval of Minutes:

A. October 14, 2020 Regular Meeting: Mr. Sennett made a motion to approve the October 14, 2020 minutes. Vice-Chairman Kuhr made the following corrections: Under agenda #6B, Tom Greco should be changed to Steve Greco and he is the Chairman of the Foundation, not of the East Hampton Rotary Club. Vice-Chairman Kuhr seconded the motion with the corrections.

Vote: 6-Yes; 1-Abstention (Ms. Wright).

3. Communications, Liaison Reports, and Public Comments:

Communications:

The members were provided with the following communications: the CFPZA Quarterly Newsletter and a letter from the CT Siting Council acknowledging the receipt of the withdrawal of the Crown Castle application.

Liaison Reports:

Mr. Gauthier stated that the High School Building Committee closed out their project on October 29th. All the bills and invoices have been paid and all the records are at the Town Hall. The project was \$890,000 below budget.

Mr. Kowalczyk attended the RPC meeting: a draft of the existing conditions report for the Regional Plan was submitted and comments will be submitted to the RPC staff for revisions.

Mr. Sennett reported that the ZBA had a meeting on October 19th. There were 3 applications that were approved: Application ZBA-20-012, John Uliano, 29 Pocotopaug Drive, to increase the lot coverage from 10% to 14.7% to install a 35' x 14'8" pool and a 30' x 15' pool house Map 25/Block 64/Lot 20A-1, Application ZBA-20-013, Andrew & Elizabeth Priest, 19 Hawthorne Rd., to reduce the east side setback from 13' to 7.5' to construct a 1 car garage Map 10A/Block 82/Lot 28A and Application ZBA-20-014, Brian & Elise Montanari, 47 Bay Rd., to increase the lot coverage from 20% to 25% to place a 12' x 16' shed Map 09A/Block 70/Lot 32.

Chairman Zatorski stated that the IWWA applications do not concern PZC.

Vice-Chairman Kuhr did not have anything to report nor did Ms. Wright, Mr. Tamaro, Mr. Puglielli or Mr. Rux.

Chairman Zatorski asked for public comments at this time that do not relate to Agenda items 5A, 5B, 5C or 5D. There were no comments.

4. Read Legal Notice for November 4, 2020: Staff read the legal notice for the record.

Chairman Zatorski requested that Agenda Item #5B be moved to the end of the public hearing applications. The public hearings will be heard in the following order: #5 A, #5C, #5D and #5B last. The members agreed unanimously. He added that he will be recusing himself from Agenda Item #5B. Vice-Chairman Kuhr stated that he will also recuse himself from Agenda Item #5B.

5. Public Hearings for November 4, 2020:

- A. Application PZC-20-018:** Atlantis Marketing, 157 Main St. and 1 Colchester Ave. for a zone change from R-2 to Commercial. Map 07A/Block 56/Lot 24 and Map 07A/Block 56/Lot 22. Chairman Zatorski stated that there have been changes made to the original proposed plan and that the applicant has requested a continuance to the next meeting on December 2nd. Attorney Jezek stated that 5 Colchester Avenue was added to the application to enlarge the site for the gas station/convenience store and that the applicant owns all three of the lots that are on the application. The following changes have been made to the plans: the building will be aligned to face the intersection of Rte. 16 and Main Street, the number of pump stations has been reduced to 4, the landscaping has been enhanced around the perimeter of the property and the number of access cuts has been reduced to 2. He addressed the concerns about consistency with the POCD. Main Street and Rte. 16 are both arterial streets as identified in the POCD and are approved in the POCD for economic development which is what is being proposed for this location therefore it is consistent with the sound use of the property. Mark Smith, P.E. with CNG Environmental stated that the site has been rotated to lay it out in a compact fashion. They eliminated a fuel island and made the canopy smaller. There will be an increase in landscaping to help with buffering and screening. In his opinion, the new layout flows well and complies with the Regulations for the Commercial Zone. Some comments from the members were: the need for verification of property ownership, request for a revised plan of the proposed convenience store that excludes the drive thru, a site plan that has what is existing and what is proposed and confirmation of what buildings will be removed. Attorney Jezek stated that the comments provided will be addressed at the December 2nd meeting. Mark Smith added that a bypass lane was added to the new layout to address any issues with car stacking in the drive thru. Attorney Jezek stated that the applicant has requested a continuance to the next regularly scheduled meeting on December 2, 2020. Chairman Zatorski asked for public comments at this time. Mr. DeCarli read into record a letter of opposition from Bonnie and Charles Goodrich of 137 Main Street. The following individuals spoke in opposition of the Application: Stuart Winquist of 11 South Main St., Dan Riedinger of 2 South Main St., Attorney Roberts for Kenneth Dodson of 148 Main St., Tim Benicak of 152 Main St., Ryan Gorak of 3 Dziok, Jennifer Mikulski of 100 Daly Rd., Irene Cook of 11 South Main St., Ryan Bothamley of 141 Main St. and Ken Dodson of 148 Main St. Some of the concerns they expressed pertained to traffic, lighting, commercial use in a predominantly residential area and the addition of a property to the application. Commission member Tammaro stated that in his opinion the zone change will not improve the property values and Mr. Kowalczyk felt that re-zoning is not an appropriate tool. Chairman Zatorski asked if there were any additional public comments. There were none. Vice-Chairman Kuhr made a motion to continue Application PZC-20-018: Atlantis Marketing, 157 Main St. and 1 Colchester Ave. for a zone change from R-2 to Commercial Map 07A/Block 56/Lot 24 and Map 07A/Block 56/Lot 22 to the next regularly scheduled meeting on December 2, 2020 per the applicant's request. The motion was seconded by Mr. Rux. **Vote: 8-0.** Vice-Chairman Kuhr made a motion to continue the public hearing for Application PZC-20-018: Atlantis Marketing, 157 Main St. and 1 Colchester Ave. for a zone change from R-2 to Commercial Map 07A/Block 56/Lot 24 and Map 07A/Block 56/Lot 22 for the next regularly scheduled meeting on December 2, 2020 per the Applicant's request. The motion was seconded by Mr. Rux. **Vote: 7-0**

Agenda Item# 5B was moved to the end of the Public Hearings. Agenda Item# 5C was heard next.

- C. Application PZC-20-023: JCG Properties, LLC., 9 Middle Haddam Rd.,** for a Zone Change from R2 to Commercial for approximately 5 acres to operate a veterinary clinic. Map 01C/Block 9/Lot 5. Jonathan and Christine Gustavson of 54 Stagecoach Road in Cobalt presented. They currently own and operate a veterinarian clinic in Portland and would like to relocate the business to 9 Middle Haddam Road. The request is to change the zone for only 5 of the 17 acres along Middle Haddam Road and most adjacent to the existing commercial zone. They will be renovating the existing house and using it for their business. Vice-Chairman Kuhr expressed his concern about changing the zone for 5 acres of land in a predominantly residential area and preferred limiting the possibility of any commercial expansion and he went on to state that he is not

opposed to their goals. Christine Gustavson explained that they proposed a 5 acre lot to ensure that there is ample room for a buffer, a parking area, a well and septic and to avoid impinging on other properties. She added that they would like to utilize the lot frontage so there will be no access to the remaining acres (access would be along Oakum Dock Rd.). Vice-Chairman Kuhr stated that he is not comfortable with changing the zone to Commercial for 5 acres and suggested changing the zone for the lot/area they want to use and keeping the remaining land as residential. Mr. Tammaro agreed and questioned whether this complies with “future commercial use” in the POCD.

Chairman Zatorski stated that the POCD encourages promoting local businesses. Ted Hintz, Jr. stated that he supports the application because the applicant intends to maintain the character of the existing house and neighborhood, it is a good use of the property and the business will assist with the tax base. Mr. Sennett suggested having open space on each side of the lot. Conservation easement was discussed. Mr. Rux stated that he would not like reduce the lot size thereby hindering the possibility for the business to grow in the future if they need to. Charlie Dutch, P.E. explained that it would be detrimental to narrow the site from the north to south for the following reasons: the driveway will have to be re-routed to the north for a better grade, the land slopes from the retaining wall to the proposed new zone line and because at this time the septic requirements are undetermined. He added that on the west side they will need the room to accommodate for a parking area. Chairman Zatorski asked for public comments at this time. Mr. DeCarli read into record 4 letters of support he received from the following residents: Michael Zagan of 2 Timber Trail in Cobalt, Joanne Groat of 90 Depot Hill Road, Jeffrey Scales of 76 Depot Hill Road and Bonnie Becker of 181 Middle Haddam Road. He also read into record 2 letters of opposition from the following residents: Attorney Grady of 10 Oakum Dock Road (who called in later and was given the opportunity to speak and have his questions answered by the applicant) and Pam Hatfield of 37 Fern Lane (who also called in and was given an opportunity to speak). Mike Piergallini of 16 Fern Lane spoke in opposition of the application. Stuart Winquist spoke as the Chair of the Middlesex Trust and recommended that an adequate buffer be applied. Ted Sattler of 14 Portage Trail provided a brief history of the Commercial use of the area. Casey Donnelly of 97 Middle Haddam Road spoke against the zone change. Justin Brochu of 1 Old Depot Hill opposed the zone change. Bill and Susan Reese of 3 Middle Haddam Road spoke against the zone change. Ellen Zettelmoyer and Steve Foley of 32 Oakum Dock concerned about the subdivision of the 17 acres and St. Clements using the land as Commercial if the zone is changed. Jennifer Mikulski of 100 Daly Road was opposed to the zone change. There were no further public comments at this time. Commission member Mr. Tammaro stated that as a single Commission member he would like to see a plan indicating the consideration of a conservation easement for the next meeting. Vice-Chairman Kuhr made a motion to continue the public hearing for Application PZC-20-023: JCG Properties, LLC., 9 Middle Haddam Rd., for a Zone Change from R2 to Commercial for approximately 5 acres to operate a veterinary clinic Map 01C/Block 9/Lot 5 to the next regularly scheduled meeting on December 2, 2020. The motion was seconded by Mr. Rux. **Vote: 7-0.** Vice-Chairman Kuhr made a motion to continue Application PZC-20-023: JCG Properties, LLC., 9 Middle Haddam Rd., for a Zone Change from R2 to Commercial for approximately 5 acres to operate a veterinary clinic Map 01C/Block 9/Lot 5 to the next regularly scheduled meeting on December 2, 2020. Mr. Rux seconded the motion. **Vote: 7-0**

- D. Updates to Sec. 3.1 Lake Pocotopaug Protection Zone** – Vice-Chairman Kuhr stated that he spoke with Mr. DeCarli about making a change to Section D: under “Minimum setback Requirements” changing the 50’ to 25’ for the setback around the lake. He also stated that he is the Chair of the Friends of the Lake and they have had meetings and discussions about the updates and are in favor of it. Mr. DeCarli stated that he will make the suggested change to Section D: 50’ setback for the R-3 and R-4 Zones and 25’ for the R-1 Zone. Chairman Zatorski asked if there were any public comments. There were no comments. Mr. Tammaro made a motion to close the public hearing for Updates to Sec. 3.1 Lake Pocotopaug Protection Zone. The motion was seconded by Mr. Sennett. **Vote: 7-0.**

Chairman Zatorski made a motion to accept and implement the updates to Sec. 3.1 Lake Pocotopaug Protection Zone as written with the comments made regarding the setbacks for the reason that it is consistent with the POCD and it is beneficial for the lake and will protect the lake and with an effective date of November 20, 2020. The motion was seconded by Vice-Chairman

Kuhr. *Vote: 7-0*

- B. Application PZC-20-022: East Hampton Rotary Club Foundation, 45 Daly Rd.,** for a Special Permit for parks, playgrounds and public recreation. Sec. 4.4.D.1.d. Map 33/Block 87/Lot 3. Chairman Zatorski made Mr. Sennett Chairman for this application and then recused himself. Vice-Chairman Kuhr recused himself as well. Acting Chairman Sennett seated Alternates Mr. Kowalczyk and Mr. Hintz, Jr. at this time. Steve Greco, Chair of the Rotary Foundation presented. He explained that they received this land and would like to utilize it. The contemplated uses are for a hiking trail or camp sites for the Eagle Scouts. Mr. Greco read aloud the original deed restriction which identifies the intention as the preservation of the land for recreational use that is consistent with the land and neighborhood. Mr. DeCarli provided the revised deed restrictions that was filed on October 26, 2020 which allows for the following uses: recreational, agricultural, open space, public and community services, keeping of livestock, brewery or winery and/or park purposes. No structures can be built on the land. There is an existing house on the property that is in a state of disrepair and that no decision has been made by the Foundation regarding the future of the building. The house will not be accessible to the public but the hiking trail would. Mr. DeCarli explained that the original application needed to be clarified in terms of proposed uses and goals so the application was amended to reflect that. He asked the Commission to consider Daly Road which is a narrow road and preserving and protecting the land which is a part of the POCD. Acting-Chairman Sennett asked for public comments at this time. Jennifer Mikulski of 100 Daly Road addressed Mr. Greco's comments and commented about the deed restrictions, recusals of members and she felt that this Special Permit request sets a precedence for all R-4 zones. Ms. Mikulski submitted a letter that will be filed with the minutes. Mr. Tammaro stated that as a single Commission member, he feels that the proposed use is reasonable and a good use for the town. Attorney Furey of 43 Bellevue Ave. in Bristol represented the neighbors who are concerned about traffic, capacity of land to handle activities and proper planning and protocol. Stuart Winquist of 11 South Main Street spoke as the Chair of the Middlesex Land Trust stating they have no prevue with this application and as a resident he suggested that the Town speak with an Attorney regarding conservation easements. Ted Sattler of 14 Portage Trail was concerned about parking, tree removal and preservation of the land (Mr.Sattler submitted a letter that will be filed with the minutes). At this time, Mr. Rux asked Acting- Chairman Sennett to request that the public comments be limited to 3 minutes and to provide new information and concerns and to refrain from repeating previous comments. He went on to add that the public comments are important and helpful but that the time is limited. Acting-Chairman Sennett agreed. Melanie Barillaro of 10 Portage Trail spoke in opposition to the walking trail. Patricia Daly Banning on Flanders Road spoke in opposition of the trail. Brian Timmes of 14 Portage Trail spoke about deed restrictions and safety issues. Jennifer Stockburger of 62 Daly Road had concerns about wanderers on the trail and the lack of need for a camp site for the Eagle Scouts. Beth Sheeley of 8 Portage Trail opposed the Special Permit request. Deb Cunningham of 40 Daly Road opposed the application. There were no further comments. Mr. DeCarli received letters of opposition which are available on the Town website and in the Land Use Department. He provided the last names and addresses of the residents who submitted letters of opposition: Doubleday of 22 Daly, Gates of 33 Daly, Goff of 32 Daly, Timmes of 14 Portage Trail, Futia of 9 Portage Trail, Daly-Banning of Flanders Rd.,Cunningham of 40 Daly Rd., Sattler of 14 Portage Trail, Garcia of 17 Portage Trail, Lazzari of 18 Portage Trail, Lower of 34 Daly Rd., Saucier of 20 Daly Rd., Sheeley of 8 Portage Trail, Stockburger of 62 Daly Rd., Goodreau of 26 Daly Rd., Cunningham of 40 Daly Rd., Pawlow of 37 Daly Rd. and Mikulski of 100 Daly Rd. Mr. Rux stated that he agrees with the public and Attorney Furey's comments and concerns. He added that more information is needed on the application and a detailed site plan. Acting-Chairman Sennett lost his internet connection. Mr. Rux was made Acting-Chairman.
- Mr. Kowalczyk made a motion to continue the public hearing for Application PZC-20-022: East Hampton Rotary Club Foundation, 45 Daly Rd., for a Special Permit for parks, playgrounds and public recreation. Sec. 4.4.D.1.d. Map 33/Block 87/Lot 3 to the next regularly scheduled meeting on December 2, 2020. Mr. Puglielli seconded the motion. ***Vote: 5-Yes; 1-No (Acting Chairman Rux).*** Mr. Gauthier made a motion to continue Application PZC-20-022: East Hampton Rotary Club Foundation, 45 Daly Rd., for a Special Permit for parks, playgrounds and public recreation. Sec. 4.4.D.1.d. Map 33/Block 87/Lot 3 to the next regularly scheduled meeting on December 2,

2020. Mr. Puglielli seconded the motion. *Vote: 5-Yes; 1-No (Acting Chairman Rux).*

At this time Mr. Sennett returned to the meeting as did Vice-Chairman Kuhr. Chairman Zatorski did not return to the meeting. Mr. Rux asked Vice-Chairman Kuhr to continue as Acting Chairman with the New Business and Old Business items. Ms. Wright left the meeting at this time.

6. New Business:

- A. Whispering Woods Performance Bond Release Request** – Mr. DeCarli explained that the road was approved by the Town a year ago and has taken over the maintenance therefore the developer has requested the release of the bond. The issues with the pavement have been rectified and Public Works is satisfied with the condition of the road. Mr. Gauthier made a motion to approval the release the performance bond for Whispering Woods based on the positive comment from Public Works. The motion was seconded by Mr. Rux. *Vote: 7-0*

7. Old Business:

- A. Discussion: Update Sign Regulation to Include PO/R Zone Sign Standards** – Acting Chairman Kuhr continued the Discussion: Update Sign Regulation to Include PO/R Zone Sign Standards to the next regularly scheduled meeting on December 2, 2020.
- B. Discussion: Home Based Occupations** – Acting Chairman Kuhr continued the discussion: Home Based Occupations to the next regularly scheduled meeting on December 2, 2020.
- C. Updates to the Official East Hampton Zoning Map** – Acting Chairman Kuhr continued the Updates to the Official East Hampton Zoning Map to the next regularly scheduled meeting on December 2, 2020.

- 8. Planner's Report** – There is an ongoing zoning compliance issue on Main Street that has been submitted to the Town Attorney and will be handled in court.

- 9. Set Public Hearing(s) for December 2, 2020** – The public hearings were continued under agenda items 5A, 5B and 5C.

- 10. Adjournment** – The members agreed unanimously to adjourn at 11:17 p.m.

Respectfully submitted,

Christine Castonguay
Recording Secretary