

Roberts, Charles

From: Cox, David <dcox@easthamptonct.gov>
Sent: Wednesday, March 31, 2021 7:33 AM
To: Roberts, Charles
Cc: DeCarli, Jeremy
Subject: [External] Legal Questions

Mr. Roberts,

Pursuant to our discussions, the following are the questions that have been posed the Town Attorney for response. If there are issues not addressed in these, please let me know.

1. What is the Planning and Zoning Commission's obligation to refer zone change applications to the Middle Haddam Historic District Commission for comment?
2. Does the MHHD have any authority or jurisdiction to make comments to the PZC regarding a zone change in the District or impacting the District?
3. What is the Planning and Zoning Commissions obligation to refer subdivision applications to the Middle Haddam Historic District Commission for comment?
4. Does the MHHD have any authority or jurisdiction to make comments to the PZC regarding a subdivision?
5. What authority or jurisdiction does the MHHD (or any Historic District) have regarding land use actions?
6. Does MHHD have any jurisdiction over the location of driveways on a parcel or group of parcels?

For your reference, in response to questions, staff is looking into the boundary of the District to ensure that it is correctly identified.

Dave

David E. Cox
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MEMORANDUM

To : David E. Cox, Town Manager
Jeremy DeCarli, AICP, Planning & Zoning Official

From: Richard D. Carella, Town Attorney

Date: April 7, 2021

Re: Middle Haddam Historic District / Planning & Zoning Commission

You have inquired regarding certain aspects of the Middle Haddam Historic District (MHHD) and its authority as it relates to a subdivision and rezoning petition for a property that lies within the MHHD. Specifically, you inquire as to whether the District has any authority or ability to comment on the zoning applications at the Planning Zoning Commission (PZC). Your specific questions, and my answers, follow with some additional comments elucidating the discussion.

1. What is the Planning and Zoning Commission’s obligation to refer zone change applications to the Middle Haddam Historic District Commission for comment?

Chapter 97A, Part I, of the Connecticut General Statutes (Conn. Gen. Stat. §§7-147a et. seq.). (see copy attached- the “Act”) authorizes municipalities to establish historic districts, to form historic commissions, and to enact ordinances to create the regulatory structure and powers of such historic commissions. The powers which may be exercised by historic commissions are set forth in these statutes.

The Town of East Hampton Board of Selectmen in 1977 adopted the first Historic District ordinance, and in 2010 the Town Council amended the ordinance in its entirety (the “Ordinance”), created the “Middle Haddam Historic District” and established the historic district boundaries per the August 2009 map entitled “Middle Haddam Historic District Town of East Hampton Connecticut” (the “Boundary Map”) prepared by Applied Geographics, Inc. (see copy of Ordinance and Boundary Map, attached).

The East Hampton Planning & Zoning Commission is the agency which acts pursuant to Conn. Gen. Stat. §8-2, et seq. and specifically Conn. Gen. Stat. §8-3(a) provides that the zoning commission shall set the boundaries of zoning districts and may change zone boundaries or zoning regulations on its own initiative, or it may make a change when an application is filed with the commission for a zone change.



There is no obligation of the PZC under Conn. Gen. Stat. § 8-3(a), or under the Act or the Ordinance to refer zone change applications, or subdivisions applications, to the MHHD for review or comment. In fact, the MHHD has no authority to insist upon conditions of such zoning applications, or to approve or deny a zone change or subdivision application; that is the PZC's exclusive jurisdiction. Likewise, the PZC cannot approve a zone change or subdivision application upon the condition that the MHHD will issue its approval, as that would be an impermissible delegation of the PZC's jurisdiction.

The MHHD's authority is limited to the powers set forth in the Act and in the Ordinance. Generally, this authority deals with the uses, and the appropriateness of such uses, of structures within the historic district, and does not deal with zoning. For example, Section 211-5 of the Ordinance provides that an applicant shall obtain a certificate of appropriateness from MHHD before "erecting or altering" a structure. (Section 211-5); *see also* CGS § 7-147d. The critical distinction is that a zone change applications or subdivision applications do not involve a building permit or demolition permit. *See* CGS § 7-147d(d) ("No area within an historic district shall be used for industrial, commercial, business, home industry or occupational parking, whether or not such area is zoned for such use, until after an application for a certificate of appropriateness as to parking has been submitted to the commission and approved by said commission."). (emphasis added). An application to PZC to change a zone boundary or a subdivision of land are not "uses." The Act and Ordinance are intended to regulate affirmative actions taken by a property owner related to structures, such as the erection or demolition of a building, and not the propriety of applications to other agencies. The PZC is not obligated to refer zone change or subdivision applications to the MHHD.

2. Does the MHHD have any authority or jurisdiction to make comments to the PZC regarding a zone change in the District or impacting the District?

There is no statutory authority or jurisdiction in the Act, or in the Ordinance, for the MHHD to make comments to PZC regarding a zone change or subdivision application. However, Conn. Gen. Stat. §7-147c(j)(6) allows historic commissions (unless otherwise prohibited, which it is not in the Ordinance or Charter) to "comment on all applications for zoning variances and special exceptions where they affect historic districts" Thus, in cases of an application to the ZBA for a variance, or if an application for a special permit to the PZC were to come forward which affects property located in the MHHD, the MHHD commission would be able to comment on such application to the ZBA or PZC. Again, there is nothing in the Act, or Ordinance which obligates those agencies to seek MHHD comments, just the ability of MHHD to do so. Notice to the public as set forth in the zoning regulations and Conn. Gen. Stat. §8-3 is sufficient to notify the public and MHHD of such applications and allow for comments.

3. **What is the Planning and Zoning Commissions obligation to refer subdivision applications to the Middle Haddam Historic District Commission for comment?**

None, for the same reasons stated above.

4. **Does the MHHD have any authority or jurisdiction to make comments to the PZC regarding a subdivision?**

No, for same reasons stated above. Notwithstanding this fact, the broad language of Conn. Gen. Stat. §7-147c(j), and the lack of any prohibition in the Town Charter, or the Ordinance, allows the MHHD to *inter alia*, “. . . (2) provide information to property owners and others involving the preservation of the district; . . . (5) cooperate with other regulatory agencies and civic organizations and groups interested in historic preservation; . . . (7) render advice on sidewalk construction and repair, tree planning, street improvements and the erection or alteration of public buildings not otherwise under its control where they affect historic districts . . .”

5. **What authority or jurisdiction does the MHHD (or any Historic District) have regarding land use actions?**

None, for the reasons listed above. The MHHD authority for uses of land within the historic district is limited to the review and approval of a certificate of appropriateness as to the exterior architectural features in the erection or demolition of a building or structure, including the style, material, size and location of outdoor advertising signs, and as to industrial, commercial, business, home industry or occupational parking areas. See Conn. Gen. Stat. §7-147d. Thus, while MHHD’s authority is limited in the context of a land use application, such as a subdivision application (because PZC has exclusive jurisdiction), if the subdivision is approved the parcels remain subject to the Ordinance, and no building can be erected until after a certificate of appropriateness has been applied for, heard, and approved by the MHHD commission. See Ordinance Section 211-5

6. **Does MHHD have any jurisdiction over the location of driveways on a parcel or group of parcels?**

Only to the extent that a certificate of appropriateness is required for parking areas. See CGS § 7-147d. Also, to the extent the parcel in question may be subdivided, the MHHD may render advice on sidewalk construction and repair, tree planting, and street improvements per Conn. Gen. Stat. §7-147c(j) which may implicate the layout of driveways within the subdivision.

7. **There is confusion on the boundary line of the MHHD. The original map filed at the time the district was created is not what is now being used to show the boundaries. A GIS based parcel map is being used and it appears to differ from the original. There is some question as to whether the area being discussed for a Commercial Zone Change request lies within the MHHD. It is worth noting that the original map appears to be based on an Assessor's map. See attached maps and rendering.**

The boundaries of the MHHD are set forth in the Ordinance and shown on the Boundary Map. This sets forth the legal boundary of the MHDD regardless of subsequent subdivisions, combinations of parcels, or revisions on account of tax assessors parcels. References to assessors parcels originally in the Ordinance may have changed over time, as subdivisions of properties have occurred altering the assessors' records from what existed at the time of adoption of the Ordinance in 2010. The original map from 1977 of the boundaries changed in 2010 to the current Boundary Map, which is the current boundaries of the MHHD. The PZC should require the applicant to provide a survey outlining the area for which the subdivision or zone change is sought and overlay the MHHD boundaries upon the same map.

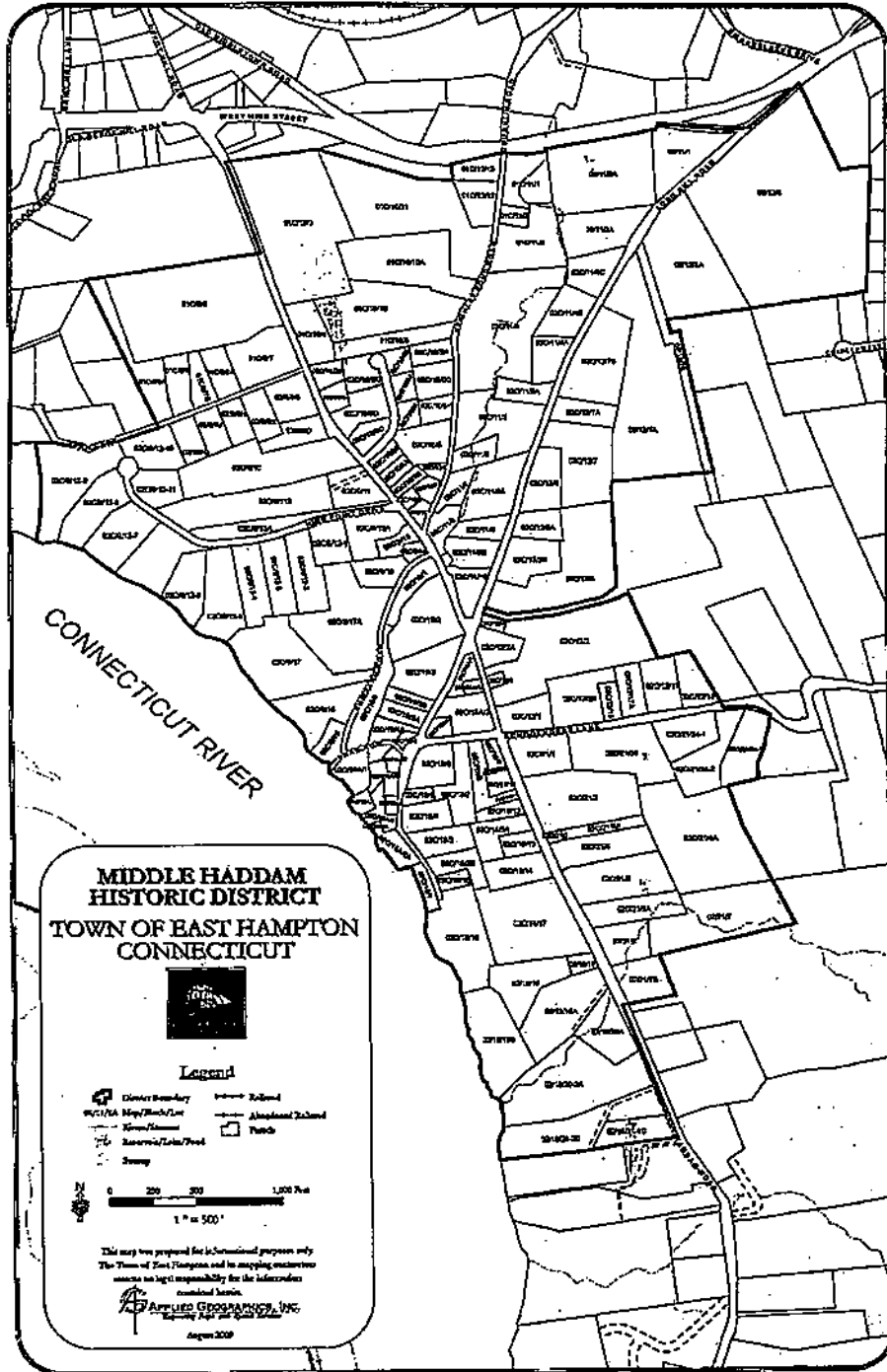
The only way to amend the boundaries is within the process described in Conn. Gen. Stat. §7-147b. Such a process is in essence an amendment to the Ordinance, and which would require the Town Council to adopt a resolution changing the Boundary Map, and then such change would require the adoption of 2/3 of all property owners within the district (as newly described). It does not appear that such a process to change the Boundary Map has occurred since the time of the adoption of the Ordinance in 2010.

Note, however, that the Act and the Ordinance allow for "variations" or "variances", respectively, in which the MHHD in passing upon applications for certificates of appropriateness has the power to vary or modify strict adherence to the Ordinance. Ordinance Section 211-9 allows for relaxation of the strict application of the Ordinance for reasons of, *inter alia*, "district borderline situations." If, in the future, the MHHD is presented with an application for a certificate of appropriateness related to this property which may be the subject of a zone change application, it may consider this to be a "district borderline situation" and may have the ability to relax strict adherence to the ordinance if it determines that such strict application of the Ordinance "would result in exceptional practical difficulty or undue hardship upon the owner of any specific property." However, at the current point in time, an application to PZC for a subdivision does not bring into play the MHHD's ability to relax its strict application of the Ordinance, as it has no authority to regulate the subdivision of the property.

HISTORIC DISTRICTS

211 Attachment 1

Town of East Hampton



Chapter 211

HISTORIC DISTRICTS

§ 211-1. Purpose.

To promote the educational, cultural, economic, and general welfare and to preserve and protect the distinctive characteristics of buildings and places associated with the history of the Town or indicative of a period or style of architecture, there is hereby established an historic district in the Town, to be known as "Middle Haddam Historic District," and the boundaries of the historic district are shown on a map delineating the area involved, which map is incorporated herein by reference and entitled "Middle Haddam Historic District Town of East Hampton Connecticut" dated August 2009 and prepared by Applied Geographics, Inc.¹

§ 211-2. Historic District Commission; membership and records.

- A. This Historic District Commission established under the provisions of this chapter shall consist of five regular and three alternate members, who shall be electors of the Town in which the district is situated holding no salaried municipal office. At least three members and two alternates of the Historic District Commission shall reside in the Historic District. Such alternate members shall, when seated as provided in this section, have all powers and duties of a member of the Commission. If a regular member of said Commission is absent or has a conflict of interest, the Chairman of the Commission shall designate an alternate to so act, choosing alternates in rotation so that they shall act as nearly equal a number of times as possible. If any alternate is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting.
- B. The Board of Selectmen shall make appointments to the Commission as follows: one member to be appointed for a term expiring January 1, 1982, one for a term expiring January 1, 1983, one for a term expiring January 1, 1984, one for a term expiring January 1, 1985, and one for a term expiring January 1, 1986; and one alternate member for a term expiring January 1, 1983, one alternate member for a term expiring January 1, 1984, and one alternate member for a term expiring January 1, 1985. All subsequent appointments shall be made by the Town Council and shall be for a term of five years, except that an appointment to fill an unexpired term shall be for the duration of said unexpired term only. The Commission shall elect annually a Chairman, a Vice Chairman, and a Clerk from its own number. Each member and alternate shall continue in office until his successor is duly appointed. All members and alternates shall serve without compensation. Any member or alternate may be appointed for an additional term or terms.

1. Editor's Note: The Middle Haddam Historic District Map prepared by Applied Geographics, Inc., dated August 2009, is included at the end of this chapter.

- C. The Historic District Commission shall keep a permanent record of its resolutions, transactions, and determinations and of the vote of each member participating therein.

§ 211-3. Duties of Commission.

The Commission shall have such powers, shall perform such functions and shall be subject to such limitations as shall from time to time be prescribed by the applicable General Statutes of Connecticut. The Commission shall fix the time and place of its regular meetings and provide a method for calling special meetings, in accordance with the Freedom of Information Act, § 1-210 et. seq. of the General Statutes of Connecticut. It shall adopt rules of procedures not inconsistent with the provisions of § 7-147a et. seq. of the General Statutes of Connecticut. The presence of four members or alternate members shall constitute a quorum, and no resolution or vote except a vote to adjourn or to fix the time and place of its next meeting shall be adopted by fewer than three affirmative votes. The Commission may adopt regulations not inconsistent with the provisions of § 7-147a et. seq. of the General Statutes of Connecticut to provide guidance to property owners as to factors to be considered in preparing an application for a certificate of appropriateness.

§ 211-4. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ACT — The provisions of §§ 7-147a through 7-147k of the Connecticut General Statutes, as the same may be amended from time to time.

ALTERED — Changed, modified, rebuilt, removed, demolished, restored, razed, moved, or reconstructed.

APPROPRIATE — Not incongruous with those aspects of the historic district which the Historic District Commission determines to be historically or architecturally significant.

BUILDING — A combination of materials forming a shelter for persons, animals, or property.

ERECTED — Constructed, built, installed or enlarged.

EXTERIOR ARCHITECTURAL FEATURES — Such portions of the exterior of a structure or buildings as are open to view from a public street, way or place.

MUNICIPALITY — The Town of East Hampton.

STRUCTURE — Any combination of materials, other than a building, which is affixed to the land, and shall include, but not be limited to, signs, fences, and walls.

§ 211-5. Certificate of appropriateness.

- A. No building or structure shall be erected or altered within an historic district until after an application for a certificate of appropriateness as to exterior architectural features has been submitted to the Historic District Commission and approved by said Commission.
- B. No building permit for erection of a building or structure or for alteration of an exterior architectural feature within an historic district and no demolition permit for demolition or removal of a building or structure within an historic district shall be issued by a municipality or any department, agency or official thereof until a certificate of appropriateness has been issued. A certificate of appropriateness shall be required whether or not a building permit is required.
- C. The Historic District Commission may request such plans, elevations, specifications, material and other information, including, in the case of demolition or removal, a statement of the proposed condition and appearance of property after such demolition or removal, as may be reasonably deemed necessary by the Commission to enable it to make a determination on the application. The style, material, size and location of outdoor advertising signs and bill posters within an historic district shall also be under the control of such Commission. The provisions of this section shall not be construed to extend to the color of paint used on the exterior of any building or structure.

§ 211-6. Hearings.

The Commission shall hold a public hearing upon each application for a certificate of appropriateness unless the Commission determines that such application involves items not subject to approval by the Commission. The Commission shall fix a reasonable time and place for such hearing. Notice of the time and place of such hearing shall be given by publication in the form of a legal advertisement appearing in a newspaper having a substantial circulation in the Town of East Hampton not more than 15 days nor less than five days before such hearing.

§ 211-7. Decision on application.

Within not more than 65 days after the filing of an application, the Commission shall pass upon such application and shall give written notice of its decision to the applicant. When a certificate of appropriateness is denied, the Commission shall place upon its records and in the notice to the applicant the reasons for its determination. In the notice to the applicant the Commission may make recommendations relative to design, arrangement, texture, material, and similar features. The Commission may issue a certificate of appropriateness with stipulations. Evidence of approval shall be by certificate of appropriateness issued by the Commission. Failure of the Commission to act within said 65 days shall constitute approval, and no other evidence of approval shall be needed. The Commission shall keep a record of all applications for certificates of appropriateness and of all its doings.

§ 211-8. Considerations in determining appropriateness.

- A. If the Commission determines that the proposed erection, alteration or parking will be appropriate, it shall issue a certificate of appropriateness. In passing on appropriateness as to exterior architectural features, buildings or structures, the Commission shall consider, in addition to other pertinent factors, the type and style of exterior windows, doors, light fixtures, signs, aboveground utility structures, mechanical appurtenances and the type and texture of building materials. In passing upon appropriateness as to exterior architectural features, the Commission shall also consider, in addition to any other pertinent factors, the historical and architectural features involved and the relationship thereof to the exterior architectural style and pertinent features of other buildings and structures in the immediate neighborhood. In passing upon appropriateness as to parking, the Commission shall take into consideration the size of such parking area, the visibility of cars parked therein, the closeness of such area to adjacent buildings and other similar factors. No application for a certificate of appropriateness for an exterior architectural feature, such as a solar energy system, designed for the utilization of renewable resources shall be denied unless the Commission finds that the feature cannot be installed without substantially impairing the historic character and appearance of the district. A certificate of appropriateness for such a feature may include stipulations requiring design modifications and limitations on the location of the feature which do not significantly impair its effectiveness.
- B. No area within an historic district shall be used for industrial, commercial, business, home industry, or occupational parking, whether or not such area is zoned for such use, until after an application for a certificate of appropriateness as to parking has been submitted to the Commission and approved by said Commission. The provisions of this section shall apply to the enlargement or alteration of any such parking area in existence on October 1, 1973.
- C. In its deliberations, the Historic District Commission shall act only for the purpose of controlling the erection or alteration of buildings, structures, or parking which is incongruous with the historic or architectural aspects of the district. The Commission shall not consider interior arrangement or use. However, the Commission may recommend adaptive reuse of any buildings or structures within the district compatible with the historic architectural aspects of the district.

§ 211-9. Variances.

Where, by reason of topographical conditions, district borderline situations, or because of other unusual circumstances solely with respect to a certain parcel of land and not affecting generally the district in which it is situated, the strict application of any provisions of this chapter would result in exceptional practical difficulty or undue hardship upon the owner of any

specific property, the Commission, in passing upon applications, shall have power to vary or modify strict adherence to this chapter or to interpret the meaning of this chapter so as to relieve such difficulty or hardship; provided such variance, modifications or interpretation shall remain in harmony with the general purpose and intent of this chapter so that the general character of the district shall be conserved and substantial justice done. In granting variances, the Commission may impose such reasonable and additional stipulations and conditions as will, in its judgment, better fulfill the purpose of this chapter. In addition to the filing required under the Act, the Commission shall, for each variance granted, place upon its records and in the notice to the applicant the reasons for its determination.

§ 211-10. Judicial relief.

If any provision of this chapter or any action taken or ruling made by the provisions of this chapter or of any regulation or ordinance adopted under this chapter has been violated, the Commission may, in addition to other remedies, institute an action in the Superior Court for the judicial district wherein such violation exists, which court shall have jurisdiction to restrain such violation and to issue orders directing that the violation be corrected or removed. Such order may direct the removal of any building, structure, or exterior architectural feature erected in violation of this chapter or any bylaw or ordinance adopted under this chapter or the substantial restoration of any building, structure, or exterior architectural feature altered or demolished in violation of this chapter or any regulation or ordinance adopted under this chapter. Regulations and orders of the Commission issued pursuant to this chapter, or to any regulation or ordinance adopted under this chapter, shall be enforced by the Building Inspector, who may be authorized to inspect and examine any building, structure, place or premises and to require in writing the remedying of any provision of the regulations or orders made under the authority of this chapter or of any regulation or orders made under the authority of this chapter or of any regulation or ordinance adopted under this chapter.

§ 211-11. Penalties for offenses.

The owner or agent of any building, structure, or place where a violation of any provision of this chapter has been committed or exists, or the lessee or tenant of an entire building, entire structure, or place where such violation has been committed or exists, or the owner, agent, lessee, or tenant of any part of the building, structure, or place in which such violation has been committed or exists, or the agent, architect, builder, contractor, or any other person who commits, takes part or assists in any such violation shall be fined not less than \$10 nor more than \$100 for each day that such violation continues; but if the offense is willful, the person convicted thereof shall be fined not less than \$100 nor more than \$250 for each day that such violation continues. The Superior Court for the judicial district wherein such violation continues or exists shall have jurisdiction of all such offenses, subject to appeal as in other cases. Each day that a violation continues to exist shall constitute a separate offense. All costs,

fees, and expenses in connection with actions under this section may, in the discretion of the court, be assessed as damages against the violator, which, together with reasonable attorney's fees, may be awarded to the Historic District Commission which brought such action. Any funds collected as fines pursuant to this section shall be used by the Commission to restore the affected buildings, structures, or places to their condition prior to the violation wherever possible. Any excess shall be paid to the municipality in which the district is situated.

§ 211-12. Appeals.

Any person or persons severally or jointly aggrieved by any decision of the Commission or of any officer thereof may, within 15 days from the date when such decision was rendered, take an appeal to the Court of Common Pleas for Middlesex County, which appeal shall be made returnable to such court in the same manner as that prescribed for civil actions brought to such court. Notice of such appeal shall be given by leaving a true and attested copy thereof in the hands of or at the usual place of abode of the Chairman or Clerk of the Commission within 12 days before the return day to which such appeal has been taken. Procedure upon such appeal would be the same as that defined in § 8-8 of the Connecticut General Statutes, as amended.

§ 211-13. Exempted acts.

Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the historic district which does not involve a change in the appearance or design thereof; nor to prevent the erection or alteration of any such feature which the Building Inspector or a similar agent certifies is required by the public safety because of a condition which is unsafe or dangerous due to deterioration; nor to prevent the erection or alteration of any such feature under a permit issued by a Building Inspector or similar agent prior to the effective date of establishment of such district.

§ 211-14. Boundaries.

The boundaries of the Middle Haddam Historic District are shown on a map entitled "Middle Haddam Historic District Town of East Hampton Connecticut," dated August 2009 and prepared by Applied Geographics, Inc. The following properties, identified by Assessor's Map Block and Lot Numbers, form the boundaries of Middle Haddam Historic District and are included within the District, as are all the properties within said boundaries:

Northerly
01C/9/8A
01C/9/6
01C/10/3
01C/10/11
01C/10/13

01C/11/1
06/11/2A
06/11/1
06/12/8
Easterly 06/12/8A
06/12/7B
06/12/7A
02/C/12/7
02/C/12/5
02C/12/4
02C/12/2
02C/12/17
02C/12/18
02C/21/34-2
02C/21/34-3
02C/21/4A
07/21/7
07/21/7B
02/18/20A
02/18/20-2A
Southerly 02/18/21-1C
02/18/20-2B
Westerly 02/18/20-2A
02/18/19B
02C/18/16
02C/18/1
02C/19A/2A
02C/19A/7A
02C/19A/6
02C/19A/4
02C/19A/1
02C/9/19
02C/9/18
02C/9/17
02C/9/12-5
02C/9/12-6
02C/9/12A

§ 211-14

EAST HAMPTON CODE

§ 211-14

02C/9/12-7
02C/9/12-8
02C/9/12-9
02C/9/12-10

Connecticut General Statutes Annotated

Title 7. Municipalities

Chapter 97A. Historic Districts and Historic Properties (Refs & Annos)

Part I. Historic Districts

C.G.S.A. § 7-147a

§ 7-147a. Historic districts authorized. Definitions

Effective: July 1, 2011

Currentness

(a) As used in this part: "Altered" means changed, modified, rebuilt, removed, demolished, restored, razed, moved or reconstructed; "erected" means constructed, built, installed or enlarged; "exterior architectural features" means such portion of the exterior of a structure or building as is open to view from a public street, way or place; "building" means a combination of materials forming a shelter for persons, animals or property; "structure" means any combination of materials, other than a building, which is affixed to the land, and shall include, but not be limited to, signs, fences and walls; "municipality" means any town, city, borough, consolidated town and city or consolidated town and borough; "appropriate" means not incongruous with those aspects of the historic district which the historic district commission determines to be historically or architecturally significant.

(b) Any municipality may, by vote of its legislative body and in conformance with the standards and criteria formulated by the Department of Economic and Community Development, establish within its confines an historic district or districts to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings and places associated with the history of or indicative of a period or style of architecture of the municipality, of the state or of the nation.

(c) The legislative body of any municipality may make appropriations for the purpose of carrying out the provisions of this part.

Credits

(1961, P.A. 430, § 1; 1965, Feb.Sp.Sess., P.A. 221, § 2; 1980, P.A. 80-314, § 1; 1986, P.A. 86-105, § 1; 2003, June 30 Sp.Sess., P.A. 03-6, § 210, eff. Aug. 20, 2003; 2004, P.A. 04-20, § 3, eff. April 16, 2004; 2004, May Sp.Sess., P.A. 04-2, § 30, eff. May 12, 2004; 2004, P.A. 04-205, § 5, eff. June 3, 2004; 2011, P.A. 11-48, § 142, eff. July 1, 2011.)

<See Connecticut Executive Order 2020-7I (2020 CT EO 7I), as amended by Connecticut Executive Order 2020-7MM (2020 CT EO 7MM) and Connecticut Executive Order 2020-7ZZ (2020 CT EO 7ZZ), related to the COVID-19 State of Emergency, for suspension, modification or clarification of certain provisions of this Chapter.>

C. G. S. A. § 7-147a, CT ST § 7-147a

The statutes and Constitution are current with all enactments of 2021 Regular Session enrolled and approved by the Governor on or before March 4, 2021 and effective on or before March 4, 2021.

End of Document

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Connecticut General Statutes Annotated

Title 7. Municipalities

Chapter 97A. Historic Districts and Historic Properties (Refs & Annos)

Part I. Historic Districts

C.G.S.A. § 7-147b

§ 7-147b. Procedure for establishment of historic district

Effective: July 1, 2011

Currentness

Prior to the establishment of an historic district or districts, the following steps shall be taken:

(a) The legislative body shall appoint or authorize the chief elected official of the municipality to appoint an historic district study committee for the purpose of making an investigation of a proposed historic district or districts. The legislative body of a municipality which proposes to establish more than one district may establish more than one committee if the proposed districts are not contiguous to each other nor to any existing historic district. Each committee established under the provisions of this section shall consist of five regular and three alternate members who shall be electors of the municipality holding no salaried municipal office. Such alternate members shall, when seated as provided in this section, have all powers and duties of a member of the committee. If a regular member of such committee is absent or has a conflict of interest, the chairman of the committee shall designate an alternate to so act, choosing alternates in rotation so that they shall act as nearly equal a number of times as possible. If any alternate is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting.

(b) The historic district study committee shall investigate and submit a report which shall include the following: (1) An analysis of the historic significance and architectural merit of the buildings, structures, places or surroundings to be included in the proposed historic district or districts and the significance of the district as a whole; (2) a general description of the area to be included within the district or districts, including the total number of buildings in each such district or districts listed according to their known or estimated ages; (3) a map showing the exact boundaries of the area to be included within the district or districts; (4) a proposed ordinance or proposed ordinances designed to create and provide for the operation of an historic district or districts in accordance with the provisions of this part; (5) such other matters as the committee may deem necessary or advisable.

(c) The historic district study committee shall transmit copies of its report to the Department of Economic and Community Development, the planning commission and zoning commission, or the combined planning and zoning commission, of the municipality, if any, and, in the absence of such a planning commission, zoning commission or combined planning and zoning commission, to the chief elected official of the municipality for their comments and recommendations. In addition to such other comments and recommendations as it may make, the Department of Economic and Community Development may recommend either approval, disapproval, modification, alteration or rejection of the proposed ordinance or ordinances and of the boundaries of each proposed district. Each such commission, board or individual shall deliver such comments and recommendations to the committee within sixty-five days of the date of transmission of such report. Failure to deliver such comments and recommendations shall be taken as approval of the report of the committee.

(d) The historic district study committee shall hold a public hearing on the establishment of a proposed historic district or districts not less than sixty-five nor more than one hundred thirty days after the transmission of the report to each party as provided in subsection (c) of this section, except that, if all such parties have delivered their comments and recommendations to the committee, such hearing may be held less than sixty-five days after the transmittal of the report. The comments and recommendations received pursuant to subsection (c) of this section shall be read in full at the public hearing.

(e) Notice of the time and place of such hearing shall be given as follows: (1) Written notice of the time, place and purpose of such hearing, postage prepaid, shall be mailed to the owners of record of all real property to be included in the proposed historic district or districts, as they appear on the last-completed grand list, at the addresses shown thereon, at least fifteen days before the time set for such hearing, together with a copy of the report of the historic district study committee or a fair and accurate synopsis of such report. A complete copy of the report, a copy of all recommendations made under subsection (c) of this section, a map showing the boundaries of the area to be included in the proposed district and a copy of the proposed ordinance shall be available at no charge from the town clerk during business hours or shall be mailed, upon request, to any owner of record of real property in the proposed historic district or districts with the notice of the hearing; and (2) by publication of such notice in the form of a legal advertisement appearing in a newspaper having a substantial circulation in the municipality at least twice, at intervals of not less than two days, the first not more than fifteen days nor less than ten days and the last not less than two days before such hearing.

(f) The historic district study committee shall submit its report with any changes made following the public hearing, along with any comments or recommendations received pursuant to subsection (c) of this section, and such other materials as the committee may deem necessary or advisable to the legislative body and the clerk of the municipality within sixty-five days after the public hearing.

(g) The clerk or his designee shall, not later than sixty-five days from receipt of such report, mail ballots to each owner of record of real property to be included in the proposed district or districts on the question of creation of an historic district or districts, as provided for in sections 7-147a to 7-147k, inclusive. Only an owner who is eighteen years of age or older and who is liable, or whose predecessors in title were liable, to the municipality for taxes on an assessment of not less than one thousand dollars on the last-completed grand list of the municipality on real property within the proposed district, or who would be or would have been so liable if not entitled to an exemption under subdivision (7), (8), (10), (11), (13), (14), (15), (16), (17), (20), (21), (22), (23), (24), (25), (26), (29) or (49) of section 12-81, may vote, provided such owner is the record owner of the property, thirty days before the ballots must be returned. Any tenant in common of any freehold interest in any land shall have a vote equal to the fraction of his ownership in said interest. Joint tenants of any freehold interest in any land shall vote as if each joint tenant owned an equal, fractional share of such land. A corporation shall have its vote cast by the chief executive officer of such corporation or his designee. No owner shall have more than one vote.

(h) The form of the ballot to be mailed to each owner shall be consistent with the model ballot prepared by the Historic Preservation Council of the Department of Economic and Community Development established pursuant to section 10-409. The ballot shall be a secret ballot and shall set the date by which such ballots shall be received by the clerk of the municipality. The ballots shall be mailed by first class mail to each owner eligible to vote in such balloting at least fifteen days in advance of the day on which ballots must be returned. Notice of balloting shall be published in the form of a legal advertisement appearing in a newspaper having a substantial circulation in the municipality at least twice, at intervals of not less than two days, the first not more than fifteen days or

less than ten days and the last not less than two days before the day on which the ballots must be returned. Such ballot shall be returned to the municipal clerk, inserted in an inner envelope which shall have endorsed on the face thereof a form containing a statement as follows: "I, the undersigned, do hereby state under the penalties of false statement that I am an owner of record of real property to be included in the proposed historic district and that I am, or my predecessors in title were, liable to the municipality for taxes on an assessment of not less than one thousand dollars on the last grand list of the municipality of real property within the district, or who would be or would have been so liable if not entitled to an exemption under subdivision (7), (8), (10), (11), (13), (14), (15), (16), (17), (20), (21), (22), (23), (24), (25), (26), (29) or (49) of section 12-81." Such statement shall be signed and dated. Any person who intentionally falsely signs such ballot shall be guilty of false statement as provided in section 53a-157b. The inner envelope, in which the ballot has been inserted by the owner, shall be returned to the municipal clerk in an outer envelope endorsed on the outside with the words: "Official ballot". Such outer envelope shall also contain, in the upper left corner of the face thereof, blank spaces for the name and return address of the sender. In the lower left corner of such outer envelope, enclosed in a printed box, there shall be spaces upon which the municipal clerk, before issuance of the ballot and envelopes, shall inscribe the name, street and number of the elector's voting residence and the date by which the ballot must be returned, and before issuance the municipal clerk shall similarly inscribe such envelope with his name and address for the return thereof. All outer envelopes shall be serially numbered. The ballots shall be returned to the municipal clerk by the close of business on the day specified, and such clerk shall compare each ballot to the list of property owners to whom such ballots were mailed to insure that each such ballot has been properly signed and returned.

(i) If two-thirds of all property owners voting cast votes in the affirmative, the legislative body of the municipality shall by majority vote take one of the following steps: (1) Accept the report of the committee and enact an ordinance or ordinances to create and provide for the operation of an historic district or districts in accordance with the provisions of this part; (2) reject the report of the committee, stating its reasons for such rejection; (3) return the report to the historic district study committee with such amendments and revisions thereto as it may deem advisable, for consideration by the committee. The committee shall submit an amended report to the legislative body within sixty-five days of such return. The committee need not hold a public hearing other than the one provided for in subsection (d) of this section, notwithstanding any changes in its report following such hearing, unless the legislative body has recommended a change in the boundaries of the proposed district or districts. The legislative body of the municipality may authorize another ballot of the owners within a proposed district or districts to be cast, other than the balloting provided for in subsection (g) of this section, notwithstanding any changes in the proposed ordinance following such balloting, if the boundaries of the proposed district in which the owners' property is situated are changed.

(j) Any ordinance, or amendment thereof, enacted pursuant to this part, which creates or alters district boundaries, shall contain a legal description of the area to be included within the historic district. The legislative body, when it passes such an ordinance, or amendment thereof, shall transmit to the municipal clerk a copy of the ordinance or amendment thereof. Such ordinance, or amendment thereof, shall be recorded in the land records of the municipality in which such real property is located and indexed by the municipal clerk in the grantor index under the names of the owners of record of such property.

Credits

(1961, P.A. 430, § 2; 1963, P.A. 600, § 1, eff. July 1, 1963; 1975, P.A. 75-52; 1977, P.A. 77-338, § 1; 1980, P.A. 80-314, § 2; 1987, P.A. 87-167; 1991, P.A. 91-135, § 1; 2003, June 30 Sp.Sess., P.A. 03-6, §§ 210, 235, eff. Aug. 20, 2003; 2004, P.A. 04-20, § 3, eff. April 16, 2004; 2004, May Sp.Sess., P.A. 04-2, § 30, eff. May 12, 2004; 2004, P.A. 04-205, § 5, eff. June 3, 2004; 2004, P.A. 04-257, § 4, eff. June 14, 2004; 2011, P.A. 11-48, §§ 125, 126, eff. July 1, 2011.)

<See Connecticut Executive Order 2020-7I (2020 CT EO 7I), as amended by Connecticut Executive Order 2020-7MM (2020 CT EO 7MM) and Connecticut Executive Order 2020-7ZZ (2020 CT EO 7ZZ), related to the COVID-19 State of Emergency, for suspension, modification or clarification of certain provisions of this Chapter.>

C. G. S. A. § 7-147b, CT ST § 7-147b

The statutes and Constitution are current with all enactments of 2021 Regular Session enrolled and approved by the Governor on or before March 4, 2021 and effective on or before March 4, 2021.

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Connecticut General Statutes Annotated

Title 7. Municipalities

Chapter 97A. Historic Districts and Historic Properties (Refs & Annos)

Part I. Historic Districts

C.G.S.A. § 7-147c

§ 7-147c. Historic district commission

Effective: July 1, 2011

Currentness

(a) Once an historic district has been established, the historic district study committee shall cease to exist and thereafter an historic district commission shall perform all the functions of the committee relative to the new district and to administering the provisions of this part.

(b) The historic district commission may from time to time, by following the procedure for creation of an historic district provided for in section 7-147b, suggest that an historic district be enlarged or that additional districts be created. Where additional property is to be included within an existing district, the owners of such additional property shall vote pursuant to subsection (g) of section 7-147b.

(c) Notwithstanding the provisions of section 7-147b, the legislative body of the municipality may enact amendments to the ordinance or ordinances of an historic district established pursuant to this part if such amendments do not involve changing district boundaries or the creation of new districts. No amendment shall be enacted until the substance of such amendment has first been submitted to the historic district commission having jurisdiction over the district affected for its comments and recommendations and either its comments and recommendations have been received or sixty-five days have elapsed without receipt of such comments and recommendations. The historic district commission may suggest amendments to the legislative body.

(d) The historic district commission established under the provisions of this part shall consist of five regular and three alternate members, who shall be electors of the municipality in which the district is situated holding no salaried municipal office. The ordinance shall provide that one or more of the members or alternates of the historic district commission shall reside in an historic district under the jurisdiction of the commission, if any persons reside in any such district and are willing to serve on such commission. Such alternate members shall, when seated as provided in this section, have all powers and duties of a member of the commission. If a regular member of said commission is absent or has a conflict of interest, the chairman of the commission shall designate an alternate to so act, choosing alternates in rotation so that they shall act as nearly equal a number of times as possible. If any alternate is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting. The method of appointment shall be fixed by ordinance. The appointments to membership in the commission shall be so arranged that the term of at least one member shall expire each year, and their successors shall be appointed in like manner for terms of five years. Vacancies shall be filled for the unexpired term and in the same manner as the original appointment. The commission shall elect annually a chairman, a vice-chairman and a clerk from its own number. Each member and alternate shall continue in office until his successor is duly appointed. All members and alternates shall serve without compensation. Any member or alternate may be appointed for another term or terms.

(e) The historic district commission shall adopt rules of procedure not inconsistent with the provisions of this part. The commission may adopt regulations not inconsistent with the provisions of this part to provide guidance to property owners as to factors to be considered in preparing an application for a certificate of appropriateness.

(f) The historic district commission shall keep a permanent record of its resolutions, transactions and determinations and of the vote of each member participating therein.

(g) A copy of any ordinance creating an historic district adopted under authority of this part, amendments to any such ordinance, maps of any districts created under this part, annual reports and other publications of the historic district commission and the roster of membership of such commission shall be transmitted to the Department of Economic and Community Development. The historic district commission shall also file with the department at least once every year a brief summary of its actions during that year, including a statement of the number and nature of certificates of appropriateness issued, any changes in the membership of the commission and any other information deemed appropriate by the historic district commission.

(h) The historic district commission may accept grants and gifts, employ clerical and technical assistance or consultants and incur other expenses appropriate to the carrying on of its work, subject to appropriation by the municipality or receipt of such grants or gifts and may expend the same for such purposes.

(i) A municipality which has more than one historic district may establish more than one historic district commission if the districts are not contiguous.

(j) Any historic district commission established under this section may, unless prohibited by charter, ordinance or special act: (1) Make periodic reports to the legislative body; (2) provide information to property owners and others involving the preservation of the district; (3) suggest pertinent legislation; (4) initiate planning and zoning proposals; (5) cooperate with other regulatory agencies and civic organizations and groups interested in historic preservation; (6) comment on all applications for zoning variances and special exceptions where they affect historic districts; (7) render advice on sidewalk construction and repair, tree planting, street improvements and the erection or alteration of public buildings not otherwise under its control where they affect historic districts; (8) furnish information and assistance in connection with any capital improvement program involving historic districts; (9) consult with groups of experts.

Credits

(1961, P.A. 430, § 3; 1977, P.A. 77-338, § 2; 1980, P.A. 80-314, § 3; 1986, P.A. 86-105, § 2; 2003, June 30 Sp.Sess., P.A. 03-6, § 210, eff. Aug. 20, 2003; 2004, P.A. 04-20, § 3, eff. April 16, 2004; 2004, May Sp.Sess., P.A. 04-2, § 30, eff. May 12, 2004; 2004, P.A. 04-205, § 5, eff. June 3, 2004; 2011, P.A. 11-48, § 143, eff. July 1, 2011.)

<See Connecticut Executive Order 2020-7I (2020 CT EO 7I), as amended by Connecticut Executive Order 2020-7MM (2020 CT EO 7MM) and Connecticut Executive Order 2020-7ZZ (2020 CT EO 7ZZ), related to the COVID-19 State of Emergency, for suspension, modification or clarification of certain provisions of this Chapter.>

C. G. S. A. § 7-147c, CT ST § 7-147c

Connecticut General Statutes Annotated

Title 7. Municipalities

Chapter 97A. Historic Districts and Historic Properties (Refs & Annos)

Part I. Historic Districts

C.G.S.A. § 7-147d

§ 7-147d. Certificate of appropriateness: Parking areas

Currentness

(a) No building or structure shall be erected or altered within an historic district until after an application for a certificate of appropriateness as to exterior architectural features has been submitted to the historic district commission and approved by said commission.

(b) No building permit for erection of a building or structure or for alteration of an exterior architectural feature within an historic district and no demolition permit for demolition or removal of a building or structure within an historic district shall be issued by a municipality or any department, agency or official thereof until a certificate of appropriateness has been issued. A certificate of appropriateness shall be required whether or not a building permit is required.

(c) The historic district commission may request such plans, elevations, specifications, material and other information, including in the case of demolition or removal, a statement of the proposed condition and appearance of property after such demolition or removal, as may be reasonably deemed necessary by the commission to enable it to make a determination on the application. The style, material, size and location of outdoor advertising signs and bill posters within an historic district shall also be under the control of such commission. The provisions of this section shall not be construed to extend to the color of paint used on the exterior of any building or structure.

(d) No area within an historic district shall be used for industrial, commercial, business, home industry or occupational parking, whether or not such area is zoned for such use, until after an application for a certificate of appropriateness as to parking has been submitted to the commission and approved by said commission. The provisions of this section shall apply to the enlargement or alteration of any such parking area in existence on October 1, 1973.

Credits

(1961, P.A. 430, § 4; 1963, P.A. 600, § 2, eff. July 1, 1963; 1973, P.A. 73-473, § 1; 1980, P.A. 80-314, § 4.)

<See Connecticut Executive Order 2020-7I (2020 CT EO 7I), as amended by Connecticut Executive Order 2020-7MM (2020 CT EO 7MM) and Connecticut Executive Order 2020-7ZZ (2020 CT EO 7ZZ), related to the COVID-19 State of Emergency, for suspension, modification or clarification of certain provisions of this Chapter.>

C. G. S. A. § 7-147d, CT ST § 7-147d

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C.G.S.A. § 7-147e

§ 7-147e. Application for certificate. Hearing. Approval

Currentness

(a) The historic district commission shall hold a public hearing upon each application for a certificate of appropriateness unless the commission determines that such application involves items not subject to approval by the commission. The commission shall fix a reasonable time and place for such hearing. Notice of the time and place of such hearing shall be given by publication in the form of a legal advertisement appearing in a newspaper having a substantial circulation in the municipality not more than fifteen days nor less than five days before such hearing.

(b) Unless otherwise provided by ordinance, a majority of the members of the commission shall constitute a quorum and the concurring vote of a majority of the members of the commission shall be necessary to issue a certificate of appropriateness. Within not more than sixty-five days after the filing of an application as required by section 7-147d, the commission shall pass upon such application and shall give written notice of its decision to the applicant. When a certificate of appropriateness is denied, the commission shall place upon its records and in the notice to the applicant the reasons for its determination, which shall include the bases for its conclusion that the proposed activity would not be appropriate. In the notice to the applicant the commission may make recommendations relative to design, arrangement, texture, material and similar features. The commission may issue a certificate of appropriateness with stipulations. Evidence of approval, as referred to in section 7-147d, shall be by certificate of appropriateness issued by the commission. Failure of the commission to act within said sixty-five days shall constitute approval and no other evidence of approval shall be needed.

Credits

(1961, P.A. 430, §§ 5, 7; 1969, P.A. 37; 1973, P.A. 73-473, § 2; 1980, P.A. 80-314, § 5; 1986, P.A. 86-105, § 3.)

<See Connecticut Executive Order 2020-7I (2020 CT EO 7I), as amended by Connecticut Executive Order 2020-7MM (2020 CT EO 7MM) and Connecticut Executive Order 2020-7ZZ (2020 CT EO 7ZZ), related to the COVID-19 State of Emergency, for suspension, modification or clarification of certain provisions of this Chapter.>

C. G. S. A. § 7-147e, CT ST § 7-147e

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C.G.S.A. § 7-147f

§ 7-147f. Considerations in determining appropriateness. Solar energy systems

Currentness

(a) If the commission determines that the proposed erection, alteration or parking will be appropriate, it shall issue a certificate of appropriateness. In passing on appropriateness as to exterior architectural features, buildings or structures, the commission shall consider, in addition to other pertinent factors, the type and style of exterior windows, doors, light fixtures, signs, above-ground utility structures, mechanical appurtenances and the type and texture of building materials. In passing upon appropriateness as to exterior architectural features the commission shall also consider, in addition to any other pertinent factors, the historical and architectural value and significance, architectural style, scale, general design, arrangement, texture and material of the architectural features involved and the relationship thereof to the exterior architectural style and pertinent features of other buildings and structures in the immediate neighborhood. No application for a certificate of appropriateness for an exterior architectural feature, such as a solar energy system, designed for the utilization of renewable resources shall be denied unless the commission finds that the feature cannot be installed without substantially impairing the historic character and appearance of the district. A certificate of appropriateness for such a feature may include stipulations requiring design modifications and limitations on the location of the feature which do not significantly impair its effectiveness. In passing upon appropriateness as to parking, the commission shall take into consideration the size of such parking area, the visibility of cars parked therein, the closeness of such area to adjacent buildings and other similar factors.

(b) In its deliberations, the historic district commission shall act only for the purpose of controlling the erection or alteration of buildings, structures or parking which are incongruous with the historic or architectural aspects of the district. The commission shall not consider interior arrangement or use. However, the commission may recommend adaptive reuse of any buildings or structures within the district compatible with the historic architectural aspects of the district.

Credits

(1961, P.A. 430, § 8; 1973, P.A. 73-473, § 3; 1980, P.A. 80-314, § 6; 1981, P.A. 81-326.)

<See Connecticut Executive Order 2020-7I (2020 CT EO 7I), as amended by Connecticut Executive Order 2020-7MM (2020 CT EO 7MM) and Connecticut Executive Order 2020-7ZZ (2020 CT EO 7ZZ), related to the COVID-19 State of Emergency, for suspension, modification or clarification of certain provisions of this Chapter.>

C. G. S. A. § 7-147f, CT ST § 7-147f

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Part I. Historic Districts

C.G.S.A. § 7-147g

§ 7-147g. Variations, permissible when

Currentness

Where, by reason of topographical conditions, district borderline situations or because of other unusual circumstances solely with respect to a certain parcel of land and not affecting generally the district in which it is situated, the strict application of any provision of this part would result in exceptional practical difficulty or undue hardship upon the owner of any specific property, the commission in passing upon applications shall have power to vary or modify strict adherence to said sections or to interpret the meaning of said sections so as to relieve such difficulty or hardship; provided such variance, modification or interpretation shall remain in harmony with the general purpose and intent of said sections so that the general character of the district shall be conserved and substantial justice done. In granting variations, the commission may impose such reasonable and additional stipulations and conditions as will, in its judgment, better fulfill the purposes of said sections. In addition to the filing required by subsection (b) of section 7-147e, the commission shall, for each variation granted, place upon its records and in the notice to the applicant the reasons for its determinations.

Credits

(1961, P.A. 430, § 9; 1980, P.A. 80-314, § 7.)

<See Connecticut Executive Order 2020-7I (2020 CT EO 7I), as amended by Connecticut Executive Order 2020-7MM (2020 CT EO 7MM) and Connecticut Executive Order 2020-7ZZ (2020 CT EO 7ZZ), related to the COVID-19 State of Emergency, for suspension, modification or clarification of certain provisions of this Chapter.>

C. G. S. A. § 7-147g, CT ST § 7-147g

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C.G.S.A. § 7-147h

§ 7-147h. Action by commission to prevent illegal acts

Currentness

(a) If any provision of this part or any action taken or ruling made by the historic district commission pursuant to the provisions of said sections or of any regulation or ordinance adopted under said sections has been violated, the commission may, in addition to other remedies, institute an action in the superior court for the judicial district wherein such violation exists, which court shall have jurisdiction to restrain such violation and to issue orders directing that the violation be corrected or removed. Such order may direct the removal of any building, structure or exterior architectural feature erected in violation of said sections or any bylaw or ordinance adopted under said sections or the substantial restoration of any building, structure, or exterior architectural feature altered or demolished in violation of said sections or any regulation or ordinance adopted under said sections. Regulations and orders of the commission issued pursuant to said sections, or to any regulation or ordinance adopted under said sections, shall be enforced by the zoning enforcement official or building inspector or by such other person as may be designated by ordinance, who may be authorized to inspect and examine any building, structure, place or premises and to require in writing the remedying of any condition found to exist therein or thereon in violation of any provision of the regulations or orders made under the authority of said sections or of any regulation or ordinance adopted under said sections.

(b) The owner or agent of any building, structure or place where a violation of any provision of this part or of any regulation or ordinance adopted under said sections has been committed or exists, or the lessee or tenant of an entire building, entire structure or place where such violation has been committed or exists, or the owner, agent, lessee or tenant of any part of the building, structure or place in which such violation has been committed or exists, or the agent, architect, builder, contractor, or any other person who commits, takes part or assists in any such violation or who maintains any building, structure or place in which any such violation exists, shall be fined not less than ten dollars nor more than one hundred dollars for each day that such violation continues; but, if the offense is wilful, the person convicted thereof shall be fined not less than one hundred dollars nor more than two hundred fifty dollars for each day that such violation continues. The superior court for the judicial district wherein such violation continues or exists shall have jurisdiction of all such offenses, subject to appeal as in other cases. Each day that a violation continues to exist shall constitute a separate offense. All costs, fees and expenses in connection with actions under this section may, in the discretion of the court, be assessed as damages against the violator, which, together with reasonable attorney's fees, may be awarded to the historic district commission which brought such action. Any funds collected as fines pursuant to this section shall be used by the commission to restore the affected buildings, structures, or places to their condition prior to the violation wherever possible and any excess shall be paid to the municipality in which the district is situated.

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Chapter 97A. Historic Districts and Historic Properties (Refs & Annos)

Part I. Historic Districts

C.G.S.A. § 7-147i

§ 7-147i. Appeals

Currentness

Any person or persons severally or jointly aggrieved by any decision of the historic district commission or of any officer thereof may, within fifteen days from the date when such decision was rendered, take an appeal to the superior court for the judicial district in which such municipality is located, which appeal shall be made returnable to such court in the same manner as that prescribed for other civil actions brought to such court. Notice of such appeal shall be given by leaving a true and attested copy thereof in the hands of or at the usual place of abode of the chairman or clerk of the commission within twelve days before the return day to which such appeal has been taken. Procedure upon such appeal shall be the same as that defined in section 8-8.

Credits

(1961, P.A. 430, § 11; 1976, P.A. 76-436, § 282, eff. July 1, 1978; 1978, P.A. 78-280, § 1, eff. July 1, 1978; 1980, P.A. 80-314, § 9.)

<See Connecticut Executive Order 2020-7I (2020 CT EO 7I), as amended by Connecticut Executive Order 2020-7MM (2020 CT EO 7MM) and Connecticut Executive Order 2020-7ZZ (2020 CT EO 7ZZ), related to the COVID-19 State of Emergency, for suspension, modification or clarification of certain provisions of this Chapter.>

C. G. S. A. § 7-147i, CT ST § 7-147i

The statutes and Constitution are current with all enactments of 2021 Regular Session enrolled and approved by the Governor on or before March 4, 2021 and effective on or before March 4, 2021.

Credits

(1961, P.A. 430, § 10; 1973, P.A. 73-473, § 4; 1974, P.A. 74-183, § 166, eff. Dec. 31, 1974; 1976, P.A. 76-436, § 145, eff. July 1, 1978; 1978, P.A. 78-280, § 1, eff. July 1, 1978; 1980, P.A. 80-314, § 8.)

<See Connecticut Executive Order 2020-7I (2020 CT EO 7I), as amended by Connecticut Executive Order 2020-7MM (2020 CT EO 7MM) and Connecticut Executive Order 2020-7ZZ (2020 CT EO 7ZZ), related to the COVID-19 State of Emergency, for suspension, modification or clarification of certain provisions of this Chapter.>

C. G. S. A. § 7-147h, CT ST § 7-147h

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C.G.S.A. § 7-147j

§ 7-147j. Exempted acts. Delay of demolition

Effective: July 1, 2011

Currentness

(a) Nothing in this part shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the historic district which does not involve a change in the appearance or design thereof; nor to prevent the erection or alteration of any such feature which the building inspector or a similar agent certifies is required by the public safety because of a condition which is unsafe or dangerous due to deterioration; nor to prevent the erection or alteration of any such feature under a permit issued by a building inspector or similar agent prior to the effective date of establishment of such district.

(b) If a building in an historic district is to be demolished, no demolition shall occur for ninety days from issuance of a demolition permit if during such time the historic district commission or the Department of Economic and Community Development is attempting to find a purchaser who will retain or remove such building or who will present some other reasonable alternative to demolition. During such ninety-day period the municipality may abate all real property taxes. At the conclusion of such ninety-day period, the demolition permit shall become effective and the demolition may occur. Nothing in this section shall be construed to mandate that the owner of such property sell such property or building.

Credits

(1961, P.A. 430, § 6; 1963, P.A. 600, § 3, eff. July 1, 1963; 1980, P.A. 80-314, § 10; 2003, June 30 Sp.Sess., P.A. 03-6, § 210, eff. Aug. 20, 2003; 2004, P.A. 04-20, § 3, eff. April 16, 2004; 2004, May Sp.Sess., P.A. 04-2, § 30, eff. May 12, 2004; 2004, P.A. 04-205, § 5, eff. June 3, 2004; 2011, P.A. 11-48, § 144, eff. July 1, 2011.)

<See Connecticut Executive Order 2020-7I (2020 CT EO 7I), as amended by Connecticut Executive Order 2020-7MM (2020 CT EO 7MM) and Connecticut Executive Order 2020-7ZZ (2020 CT EO 7ZZ), related to the COVID-19 State of Emergency, for suspension, modification or clarification of certain provisions of this Chapter.>

C. G. S. A. § 7-147j, CT ST § 7-147j

The statutes and Constitution are current with all enactments of 2021 Regular Session enrolled and approved by the Governor on or before March 4, 2021 and effective on or before March 4, 2021.

Connecticut General Statutes Annotated

Title 7. Municipalities

Chapter 97A. Historic Districts and Historic Properties (Refs & Annos)

Part I. Historic Districts

C.G.S.A. § 7-147k

§ 7-147k. Prior districts unaffected. Validation of prior creations
and actions. Nonprofit institutions of higher education excluded

Currentness

(a) The provisions of this part shall in no way impair the validity of any historic district previously established under any special act or the general statutes. Any and all historic districts created under the general statutes, prior to October 1, 1980, otherwise valid except that such districts, district study committees, municipalities or officers or employees thereof, failed to comply with the requirements of any general or special law, and any and all actions of such districts or historic district commission, are validated.

(b) The provisions of this part shall not apply to any property owned by a nonprofit institution of higher education, for as long as a nonprofit institution of higher education owns such property.


Credits

(1961, P.A. 430, § 12; 1980, P.A. 80-314, § 11; 2006, P.A. 06-196, § 39, eff. June 7, 2006.)

<See Connecticut Executive Order 2020-7I (2020 CT EO 7I), as amended by Connecticut Executive Order 2020-7MM (2020 CT EO 7MM) and Connecticut Executive Order 2020-7ZZ (2020 CT EO 7ZZ), related to the COVID-19 State of Emergency, for suspension, modification or clarification of certain provisions of this Chapter.>

C. G. S. A. § 7-147k, CT ST § 7-147k

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 KeyCite Red Flag - Severe Negative Treatment

KeyCite Red Flag Negative Treatment §§ 7-147l, 7-147m. Repealed. (1980, P.A. 80-314, § 12.)

Connecticut General Statutes Annotated

Title 7. Municipalities

Chapter 97A. Historic Districts and Historic Properties (Refs & Annos)

Part I. Historic Districts

C.G.S.A. § 7-147l

§§ 7-147l, 7-147m. Repealed. (1980, P.A. 80-314, § 12.)

Currentness


<See Connecticut Executive Order 2020-7I (2020 CT EO 7I), as amended by Connecticut Executive Order 2020-7MM (2020 CT EO 7MM) and Connecticut Executive Order 2020-7ZZ (2020 CT EO 7ZZ), related to the COVID-19 State of Emergency, for suspension, modification or clarification of certain provisions of this Chapter.>

C. G. S. A. § 7-147l, CT ST § 7-147l

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C.G.S.A. § 7-147m

§§ 7-147l, 7-147m. Repealed. (1980, P.A. 80-314, § 12.)

Currentness

<See Connecticut Executive Order 2020-7I (2020 CT EO 7I), as amended by Connecticut Executive Order 2020-7MM (2020 CT EO 7MM) and Connecticut Executive Order 2020-7ZZ (2020 CT EO 7ZZ), related to the COVID-19 State of Emergency, for suspension, modification or clarification of certain provisions of this Chapter.>

C. G. S. A. § 7-147m, CT ST § 7-147m

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Title 7. Municipalities

Chapter 97A. Historic Districts and Historic Properties (Refs & Annos)

Part I. Historic Districts

C.G.S.A. § 7-147n

§§ 7-147n, 7-147o. Reserved for future use

Currentness

<See Connecticut Executive Order 2020-7I (2020 CT EO 7I), as amended by Connecticut Executive Order 2020-7MM (2020 CT EO 7MM) and Connecticut Executive Order 2020-7ZZ (2020 CT EO 7ZZ), related to the COVID-19 State of Emergency, for suspension, modification or clarification of certain provisions of this Chapter.>

C. G. S. A. § 7-147n, CT ST § 7-147n

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Connecticut General Statutes Annotated

Title 7. Municipalities

Chapter 97A. Historic Districts and Historic Properties (Refs & Annos)

Part I. Historic Districts

C.G.S.A. § 7-147o

§§ 7-147n, 7-147o. Reserved for future use

Currentness

<See Connecticut Executive Order 2020-7I (2020 CT EO 7I), as amended by Connecticut Executive Order 2020-7MM (2020 CT EO 7MM) and Connecticut Executive Order 2020-7ZZ (2020 CT EO 7ZZ), related to the COVID-19 State of Emergency, for suspension, modification or clarification of certain provisions of this Chapter.>

C. G. S. A. § 7-147o, CT ST § 7-147o

The statutes and Constitution are current with all enactments of 2021 Regular Session enrolled and approved by the Governor on or before March 4, 2021 and effective on or before March 4, 2021.

End of Document

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Roberts, Charles

From: Margaret McCutcheon Faber <msmfaber@gmail.com>
Sent: Thursday, April 1, 2021 11:23 PM
To: Roberts, Charles
Subject: [External] Info for April 7
Attachments: Map 1977.jpg; Boundary Description 1977.jpg; Letter to Planning & Zoning 07APR21.docx

Hi Chuck,

Please find some research and info below that might help with preparation for the April 7th meeting. I am waiting for specific feedback from SHPO re the definition of "variance" and "special exception", as well as the exact location of the original MHHD map and boundary description. I'll let you know as soon as I hear back. Meanwhile, I hope this helps and look forward to answering any questions, providing additional information, etc. Please let me know if you get a response from the town attorney. I will send this information on to the town manager in case it is helpful in his research. Thanks -

--

All the best,
Margaret

BOUNDARY

53 Long Hill Road is located within the Middle Haddam Historic District. The District was established in 1977 and its boundaries were described and demarcated on a map – both of which are on file with the State of Connecticut. I have attached the original boundary description and the map to this e-mail.

Our current concern is with the easternmost boundary, which is described as follows:

“The east boundaries become more complex to describe (reference should be made to the map): the rear boundaries of all properties going north on Main Street; all properties up Schoolhouse Road to include the Wheeler and Hale places; north across open land to encompass the properties on both Long Hill and Keighley Pond Roads as far east as CT rte 66.”

The Greer land (53 Long Hill Road) was and is within the Middle Haddam Historic District boundaries – including the strip that the Greers sold to Belltown Sports in 2015 that has somehow had its zone changed from R-2 to commercial without due process. That strip remains within the Middle Haddam Historic District, however.

Again, the boundary description and map on file with the State of Connecticut are the **ONLY** means by which the Middle Haddam Historic District Boundary may be determined. If the boundary of the District were to decrease it would require a 2/3 vote in the affirmative from all property owners within the District (see **Sec. 7-147(b)(i) Procedure for establishment of historic district**). This process has never been undertaken. Therefore, any map drawn by any individual or municipal body subsequent to the original map voted upon by Middle Haddam property owners in 1976-77, approved

by the Town Selectmen and approved by the State of Connecticut, is purely arbitrary and non-binding.

This is why I would NOT reference the map drawn in 2009 as it does not correspond with the written boundary descriptions of 1977 and while you might use it as reference it does not reflect the official boundaries on file with the state – for example, the 2009 map shows the west boundary at the edge of the Connecticut River, but in reality the boundary corresponds with the corporate town boundary at the center of the Connecticut River, per the narrative. While map and boundary should obviously match, if they do not for any reason the boundary narrative predominates.

If you or the town attorney have any questions about historic districts generally, or the Middle Haddam Historic District specifically, please contact Mary Dunne, State Historic Preservation Officer.

Dunne, Mary
State Historic Preservation Officer
Certified Local Government & Grants Coordinator
(860) 500-2356
mary.dunne@ct.gov

JURISDICTION – ZONING AND SUBDIVISION

Sec. 7-147c. Historic district commission.

(j) Any historic district commission established under this section may, unless prohibited by charter, ordinance or special act: (1) Make periodic reports to the legislative body; (2) provide information to property owners and others involving the preservation of the district; (3) suggest pertinent legislation; (4) initiate planning and zoning proposals; (5) cooperate with other regulatory agencies and civic organizations and groups interested in historic preservation; (6) comment on all applications for zoning variances and special exceptions where they affect historic districts; (7) render advice on sidewalk construction and repair, tree planting, street improvements and the erection or alteration of public buildings not otherwise under its control where they affect historic districts; (8) furnish information and assistance in connection with any capital improvement program involving historic districts; (9) consult with groups of experts.

CGS Sec 7-47(j)(5) states that the Commission may “cooperate with other regulatory agencies and civic organizations and groups interested in historic preservation”. This language allows the MHHDC to comment to the PZC on either of the applications in an advisory capacity. Further, the PZC has an interest in historic preservation as evidenced in the Plan of Conservation and Development and should therefore welcome the MHHDC’s comments at its public hearing on the proposed zone change and future subdivision application for 53 Long Hill Road. The State Historic Preservation Office (and I) strongly believe that the MHHDC has a statutory right to advise the PZC on these applications as they affect the integrity of the historic district.

In addition, CGS Sec 7-47(j)(6) states that the commission may “comment on all applications for zoning variances and special exceptions where they affect historic districts.” I would argue that a zone change from R-2 to C constitutes a variance and an exception. I know the PZC definitions for these terms, but they can be interpreted broadly. I don’t believe the terms are defined in the statute, so you could assert that the proposed changes are out of the ordinary for the district and it is

therefore the commission's right to express its concerns to the PZC. CGS Sec 7-47(j)(5) would likely constitute a stronger argument, however.

JURISDICTION - DESIGN

The MHHDC's primary purpose as set out in its local ordinance is "To promote the educational, cultural, economic, and general welfare and to preserve and protect the distinctive characteristics of buildings and places associated with the history of the Town or indicative of a period or style of architecture"

Specifically, it has the authority under CGS 7-147d as follows: (a) No building or structure shall be erected or altered within an historic district until after an application for a certificate of appropriateness as to exterior architectural features has been submitted to the historic district commission and approved by said commission.

The commission would have review over the proposed design of the buildings, visible from a public street, way or place.

(a) No building or structure shall be erected or altered within an historic district until after an application for a certificate of appropriateness as to exterior architectural features has been submitted to the historic district commission and approved by said commission.

(b) No building permit for erection of a building or structure or for alteration of an exterior architectural feature within an historic district and no demolition permit for demolition or removal of a building or structure within an historic district shall be issued by a municipality or any department, agency or official thereof until a certificate of appropriateness has been issued. A certificate of appropriateness shall be required whether or not a building permit is required.

(c) The historic district commission may request such plans, elevations, specifications, material and other information, including in the case of demolition or removal, a statement of the proposed condition and appearance of property after such demolition or removal, as may be reasonably deemed necessary by the commission to enable it to make a determination on the application. The style, material, size and location of outdoor advertising signs and bill posters within an historic district shall also be under the control of such commission. The provisions of this section shall not be construed to extend to the color of paint used on the exterior of any building or structure.

Also, it has the authority to regulate parking areas despite how they are zoned:

(d) No area within an historic district shall be used for industrial, commercial, business, home industry or occupational parking, whether or not such area is zoned for such use, until after an application for a certificate of appropriateness as to parking has been submitted to the commission and approved by said commission. The provisions of this section shall apply to the enlargement or alteration of any such parking area in existence on October 1, 1973.

During the hearing the MHDC should be sure to express its opinion on the negative affect this development would have on the district and make clear that they do have review authority over any parking and the design of new construction that might be proposed in the future. It might also make

suggestions on how to mitigate any incongruent impact of the proposed development on the district – such as limiting the number of driveways, recommending a cul-de-sac, recommending that as few structures as possible are visible from the public street, way, place. In addition it should remind the PZC that the historic district was established primarily to prevent commercial incursion into the district (per study report – I can send language), that it has a period of significance that spans the 1730's-1880's and that any new construction must be compatible with this period in massing, design and materials used (this will discourage the cheap building design developer has suggested), that the buildings should appear to have grown organically in the space, not identical cookie-cutter structures stamped 2021.

STATE INVOLVEMENT – SAVING HISTORIC RESOURCES

The State Historic Preservation Office does ensure compliance with the Connecticut Environmental Protection Act CGA 82-367 sec. 221-15 through 22a-19, inclusive, to prevent the “unreasonable destruction” of structures listed on the National Register of Historic Places (these can be listed individually or as contributing resources to an historic district).

There are two National Register Districts in East Hampton – the Middle Haddam National Register District is significant for its representation for the first 150 of our nation's maritime history –its period of significance spans 1730's-1880.s. The Belltown National Register District represents our town's industrial heritage and spans 1850's-1930's. It is important to note that the Middle Haddam National Register District overlaps with the local historic district, but is not synonymous.

Under CEPA the Historic Preservation Council on which I currently sit will invite the owner of the threatened resource to a hearing. If it is determined that there are “prudent and feasible” alternatives to demolition then we refer the matter to the Attorney General who will likely issue an injunction to stay demolition and can require the owner to stabilize the property. During this process Preservation Connecticut, a statutory partner of SHPO, will often assist with negotiations, conditions assessments, architectural plans and feasibility studies, if needed.

Because we are not dealing with the destruction of an historic resource this element doesn't really figure into the 53 Long Hill Road case. HOWEVER, if it can be determined that the applicant is destroying natural resources (ex. filling in wetlands, polluting the stream, diverting water of polluting wells, mining sand that will destabilize the bank, then we could possibly have an argument based on environmental factors. These cases do not flow through the Historic Preservation Council, however.

I have attached the letter I plan to submit to PZC for April 7th. I am focusing on the speculative nature of this project. To date no plans for a parking lot or subdivision have been officially considered or approved. Once zoned commercial the parcel's commercial use cannot be controlled – it could serve any purpose. Further, precedent will have been set and it will be difficult for PZC to deny additional commercial re-zoning within the historic district, inevitably resulting in commercial creep and the loss of our district's historic integrity, rural residential character and scenic beauty.

I hope that this helps and look forward to answering any questions I can. Please don't hesitate to get in touch. We are in Vermont until late Monday night, but we do have intermittent internet connection here.

All the best,
Margaret

III. DESCRIPTION

A. Boundaries

The District shall extend through the center of the Village for approximately one and one-half miles. The center of the road included shall be the base boundary of the park site.

The west boundary for the entire District shall be the center line of the Connecticut River.

The south boundary starts from the center of the road for the one and one-half miles north of CT 100 and follows the center line of the Champlain Valley, a state line between the two states and the county.

The east boundary shall be the center line of the road for the one and one-half miles. The east boundary of the District shall be the center line of the road for the one and one-half miles. The District shall be bounded on both sides by the center line of the road for the one and one-half miles. The District shall be bounded on both sides by the center line of the road for the one and one-half miles.

The north boundary shall be the center line of the road for the one and one-half miles. The District shall be bounded on both sides by the center line of the road for the one and one-half miles. The District shall be bounded on both sides by the center line of the road for the one and one-half miles.

IV. INTERPRETATION

- The Colonial Period includes all buildings constructed before 1776 and considered to have been constructed in the Colonial style.
- The Federal Period (1789-1820) includes all buildings constructed during this 32-year period.
- The Pre-Civil War Period (1820-1860) includes all buildings constructed during this 40-year period.
- Other structures representing the Post-Civil War Period (1860-1900).
- Many contemporary structures have been built in the US Park area, but are not included in architectural studies. In keeping with the guidelines of the National Park Service, these buildings are to be preserved in their original form.

Roberts, Charles

From: Margaret McCutcheon Faber <msmfaber@gmail.com>
Sent: Friday, April 2, 2021 7:36 PM
To: Karen Asetta
Cc: Annemck75; Roberts, Charles; dougm26@gmail.com; cunninghameugene66@gmail.com
Subject: [External] Re: MHHDC

Yes! The MHHDC definitely needs legal counsel (I think they have asked for it) but I hope that the Town Attorney isn't biased in favor of developer and P&Z. I sent this to a Deputy Attorney General with whom the Historic Preservation Council works regularly. I hope he answers and will pass on the response asap.

M

Hi Alan,

I hope that you are keeping well during this crazy time! This is not HPC business, but I am just writing on the off chance that you may be able to direct me to someone who could help our local historic district commission with a potential legal matter. I am not currently serving on the Middle Haddam Historic District Commission, but trying to assist them.

A developer has purchased an 18 acre parcel at the gateway to the district (period of significance 1730's-1880's) and plans to create a high density subdivision with at least seven driveways and re-zone one of the lots commercial. The MHHDC and nearly 450 signatories to a petition object on the grounds that this development will negatively impact the historic integrity of the district.

Several of us are also concerned that the MHHDC is being left out of the decision-making process. The applications for the zone change as well as the subdivision are slated to go to the Planning and Zoning Commission for approval. Once approved it seems that the MHHDC only has jurisdiction over the appearance of what is actually built on the land (visible from the public way), not the design of the subdivision, its density, number and location of driveways, location of a parking lot, etc.

Our question is: because the MHHDC is charged with preserving and protecting the architectural and historical significance of the district, shouldn't the commission have the right to determine if the developer's application is appropriate before it goes to any other board or commission for review? The developer's attorney does not agree and has advised the commission to "stay in their lane." The attorney is also discouraging the commission from acting in an advisory capacity to the P&Z Commission re. the zone change.

Again, please don't go to any trouble considering this issue, I just thought you might know if it is something your office might handle for the public, or if perhaps we should hire a private land-use attorney. Thank you so much and enjoy your weekend -

--

All the best,
Margaret

On Fri, Apr 2, 2021 at 3:12 PM Karen Asetta <countingkaren@cs.com> wrote:

The Town has the obligation to seek legal opinions to advise the volunteer Commissioners whenever there is a question of such a litigious nature. I would think the right contacts to request this is the chair and vice chair of P & Z for Tuesday's meeting

Karen

On Friday, April 2, 2021, 1:34 PM, Margaret McCutcheon Faber <msmfaber@gmail.com> wrote:

Hi Anne,

I couldn't agree with you more! The MHHDC should be the first port of call for ANY application within the MHHDC that will be visible from a public street, way or place. If the MHHDC grants a Certificate of Appropriateness for the project then the application can proceed. This is how it SHOULD be.

However, Jeremy seems pretty adamant that the MHHDC does not regulate the layout of subdivisions, their density, or the number of driveways. This seems absurd to me as the design of a subdivision - even the existence of a subdivision (with seven driveways) - may not be appropriate to the integrity of the district. While the MHHDC does regulate design - there is not much that can be done to mitigate the negative impact of 7 driveways and 7 new houses (or more), plus a possible parking lot with building.

Jeremy does agree that the MHHDC has the right to speak to the zoning change and subdivision in an advisory capacity, so while I know the MHHDC plans to make a statement about the zone change, it may want to have something prepared for the subdivision discussion, which is under New Business, as well. They could speak to the fact that they feel that the application should come before them FIRST before it passes to PZC.

We really need a land use attorney to help us - one that preferably cares about historic preservation and Middle Haddam. I will see if I can come up with someone appropriate, but meanwhile is there an attorney in the village willing to help research some case law, etc. before Tuesday? Thinking off the top of my head....maybe someone could call the Attorney General's office and ask for assistance. They handle all our environmental protection act issues and are really up to date with preservation law. We deal with Alan Ponanski.

Sorry this is so rambling, but you are correct. This application is getting bulldozed through the system and it seems that the MHHDC is being bypassed. As the building official I don't believe Jeremy has the authority to interpret state statute with regard to the historic district's authority. Perhaps we could demand answers from the Town Attorney before this proceeds? I know that some questions have already been posed, but they didn't include the issuing of "certificates of appropriateness" for subdivisions just the commission's right to comment. Chuck will know if answers have been returned and perhaps he could share them with the group.

The fact is....the subdivision, its density, its driveways and its eventual structures will all be visible from the public way. It really does seem that the MHHDC should be the first to review any of it and that ALL, except zoning change, is subject to its regulatory authority.

I'll be back around 4:30 - so please do let me know if there is anything I can do to help now or on Monday.

Margaret

On Fri, Apr 2, 2021 at 11:37 AM Annemck75 <annemck75@aol.com> wrote:

Good morning all

As I again look to the issue before us, I think that the most pressing point that we must make clear, to the town, and all Boards and Commissions is that the MHHD commission should rightly act on any and all application (or change of any kind) involving anything within the district boundaries. I would argue that when the ordinance was adopted by the town, it relinquished the initial request on any actions within the boundaries of the district to the MHHD commission. The ordinance makes it clear that any activity in the MHHD is required to have a Certificate of Appropriateness that is then available to be present to any other board or commission. Once the individual has the C of A they can then submit it with the other necessary requirements for the specific board/commission they requesting action from. This makes it clear to both the applicant and the Board/commission members that the requirement for the MHHD have been met. It is a burden that is removed for both parties before they unnecessary incur addition time and money. In addition it clearly provides both parties insight into the total nature of what the intended action being requested is. The KNOWLEDGE that they have received the approval of the MHHD should be a VALUED TOOL for any Board or commission as they render their decision on any action involving the MHHD.. This should be clear to ALL boards and commission with ANY and ALL actions within the boundaries of the MHHD!

The MHHD commission has been charged with a much HIGHER BAR under the ordinance. The board has a duty and responsibility to meet certain requirements prior to approving a Certificate of Appropriateness. The applying party is required to provide far more information and detail to the commission so that they can make an informed decision or requests appropriate changes in regard to the application. This allows the commissions to meet the charge of protecting the integrity and nature of the historic district. This is a precedent that has been set for good reason and I don't know why the application in question has gone to the Zoning board prior to the MHHD.

So much more to discuss but if all applications come before the Historic district we have more tools and resources at our disposal. We must relay the importance of the Certificate of Appropriateness to the Town Attorney, Town Manager and the Counsel.

Just wanted to get my thoughts to you as I know time is of the essence.

—

All the best,
Margaret

—

All the best,
Margaret

Roberts, Charles

From: Margaret McCutcheon Faber <msmfaber@gmail.com>
Sent: Tuesday, April 6, 2021 11:07 PM
To: Roberts, Charles
Subject: [External] Fwd: Opposition to Application PZC-21-009: Long Hill Estates, LLC., for a Seven (&) Lot Subdivision on Long Hill Road and Request for Impact Studies Prior to Consideration by PZC.
Attachments: Waterfall, spring and stream at 53 LHR.jpg; Stream flowing through 53LHR.jpg; Stream heading west through 53LHR.jpg; Stream flowing toward Route 66.jpg; Stream flowing past 51 LHR.jpg; 51 LHR.jpg; 6 April 2021 P&Z Opposition to PZC-21-009.docx

Hi Chuck,

Attached please find letters of opposition from my parents and me re. the subdivision proposal that will be introduced under New Business tomorrow. We are asking for several impact studies and additional research into irregularities.

I am concerned that Jeremy did not upload the petition or all the letters of opposition to the meeting materials and have asked him to either remove all reference to materials, or add the submissions that reached him prior to the deadline. We shall see what happens (or doesn't).

I think you should consider submitting a written statement from the MHHDC re. its opposition to the zone change and submit it tomorrow to Jeremy DiCarli, as early as possible, for the record. He will probably not distribute it to commissioners, but you can read it during the Public Comments section of the meeting. That is when my parents and I will present our attached letters. If it is not in writing it may never be recorded. The commission authorized you to speak to the issue and even though the application has been withdrawn I think this statement from a fellow land-use board is extremely important.

This is just a suggestion to consider - but perhaps focus less on the history of the MHHDC and the COA's it has granted (we don't want the public to think that everything is approved) and more on why the commission opposes the zone change. You are charged with preserving and protecting the historic and architectural integrity of the Middle Haddam Historic District - and on that basis are opposed to the incursion of commercial spot zoning, which the MHHDC's founders established the district to prevent.

I will forward our latest letters now, FYI. Thanks -

Margaret

----- Forwarded message -----

From: Margaret McCutcheon Faber <msmfaber@gmail.com>
Date: Tue, Apr 6, 2021 at 4:05 PM
Subject: Opposition to Application PZC-21-009: Long Hill Estates, LLC., for a Seven (&) Lot Subdivision on Long Hill Road and Request for Impact Studies Prior to Consideration by PZC.
To: DeCarli, Jeremy <jdecarli@easthamptonct.gov>

6 April 2021

TO: Members, Planning and Zoning Commission

RE: Opposition to Application PZC-21-009: Long Hill Estates, LLC., for a Seven (&) Lot Subdivision on Long Hill Road and Request for Impact Studies Prior to Consideration by PZC.

Dear Jeremy,

I am writing to oppose Application PZC-21-009 that will be considered under “New Business” at the 7 April 2021 regular meeting of the Planning and Zoning Commission and register my concern that the PZC is acting prematurely by accepting this application. I am also requesting that due to significant community concern the following take place prior to the application’s public hearing, in recognition that East Hampton’s Plan of Conservation and Development (POCD) prioritizes the protection of natural and historic resources.

- 1) That the project be fully approved by the Inland Wetlands and Watercourse Agency, recognizing that an active spring-fed stream runs through the property and spills onto Long Hill Road, where it is carried downhill via a drainage ditch and culverts that flood during rainstorms, the spring thaw and other wet times of year (photographs attached).
- 2) That per the open space disposition factors outlined in East Hampton’s subdivision guidelines 5% (or more) of the parcel is designated as open space by the Conservation-Lake Commission, along with a right of way at least 25 feet wide, and that this easement is clearly defined on the site plan map.
- 3) That the applicant solidify his intentions to transfer land as a buffer to residents on Charles Mary Drive and that these lot line adjustments be made on the site plan to reflect the actual subdivision under consideration.
- 4) That the full subdivision plan, plus actual plans for each building proposed (architectural drawings, elevations, specifications, a materials list, etc.) be furnished to the Middle Haddam Historic District Commission for a Certificate of Appropriateness prior to being considered by the Planning and Zoning Commission, in recognition of the fact that the development may have a negative impact on the historic integrity of the Middle Haddam Historic District and that land-use boards should work together in good faith to achieve the objectives of East Hampton’s POCD and mitigate harmful effects.
- 5) That the Commissioners evaluate the likelihood of the applicant installing a parking lot upon “lot 1” of the subdivision, recognizing the presence of a brook and wetlands, and that the PZC seek the input of Inland Wetlands and the Conservation-Lake Commission, as well as the Middle Haddam Historic District Commission prior to hearing the application so that it is not engaging in a speculative re-zoning exercise.
- 6) That an impact study be performed on traffic resulting from the site. Long Hill Road is a narrow rural country road that cannot support the increased load of traffic from seven additional households, plus a potential parking lot. Access onto Route 66 for the additional traffic without the installation of traffic lights would be ill advised and logistically problematic.
- 7) That an impact study be performed to understand the impact of surface water drainage down seven paved driveways onto Long Hill Road.

8) That an impact study be performed on the water supply as 51 Long Hill Road has suffered deleterious effects on its well since the development at Charles Mary was installed. The negative impact of an additional seven households on area wells deserves investigation before seven additional wells are approved.

9) That an impact study on the environmental effects of installing seven distinct septic systems on the site be performed and approval granted by the Water Pollution Control Authority.

Thank you for considering my concerns –

Sincerely,

Dr. Margaret McCutcheon Faber

Middle Haddam

(While I currently serve on Connecticut's Historic Preservation Council I am submitting this correspondence as a concerned resident of Middle Haddam).

Attached: Six photographs of watercourse and wetlands originating at 53 Long Hill Road.

--
All the best,
Margaret

Roberts, Charles

From: Margaret McCutcheon Faber <msmfaber@gmail.com>
Sent: Friday, April 16, 2021 4:34 PM
To: Roberts, Charles
Cc: Cox, David; Sirois, Cathy; DeCarli, Jeremy; Castonguay, Christine
Subject: [External] Fwd: Legal
Attachments: IMG_0193.jpg

Hi Chuck (et al),

I just read the legal ad for April 22nd's MHHDC meeting during which a public hearing will be held for a COA to construct one house on 18+ acres. We all know that the developer seeks approval from PZC, etc., to construct eight houses with seven driveways on the parcel. The legal advertisement for the MHHDC is misleading in that it is not consistent with the application on the table at PZC, IWWA and CLC. The public will be confused and possibly believe that only one house will be constructed at the site. I therefore feel strongly that the application should NOT be heard as written and that the applicant should re-apply once his development plans are actually established, so that the MHHDC can evaluate the proposal in context. Also, please forward the application to me, including architectural drawings, specifications, elevations, materials list, etc. Many thanks and I look forward to hearing from you -

All the best,
Margaret

Roberts, Charles

From: Margaret McCutcheon Faber <msmfaber@gmail.com>
Sent: Tuesday, March 30, 2021 5:20 PM
To: Roberts, Charles
Subject: [External] Fwd: Long Hill Property

Hi Chuck,

I just thought you should have this correspondence with one of the abutters on Charles Mary. If 20% of abutters sign a petition or letter of opposition then it forces a supermajority vote of PZC. Rand knows this and has convinced abutters that he will sell them land to buffer their properties from the development. However, that is all purely speculative as no subdivision plans are being considered by PZC, nor has any plan for the supposed parking lot been received. Hope all is well -

Margaret

----- Forwarded message -----

From: Margaret McCutcheon Faber <msmfaber@gmail.com>
Date: Mon, Mar 29, 2021 at 11:54 PM
Subject: Re: Long Hill Property
To: David Arcidiacono <DArcidiacono17@outlook.com>

Hi David,

First of all, I believe my parents know your parents. Did they live on Dogwood Drive? My parents are realtors and sold your neighbor's house - Bev and John Starr - meeting your parents as a result. My mother believes she played tennis with your mother. If this is so, it is quite a small world!

All that aside.....Wayne Rand is not a trustworthy individual based on his track record. Despite what he might promise or propose, until it is legally binding or actually constructed ANYTHING could happen. From past experience I can attest that he uses scare tactics and, frankly, bullying to get what he wants - generally via his aggressive attorneys. We have no idea what he actually plans to do with Belltown Sports, the commercial lot or the subdivision. All that is currently on the table is the zone change for lot 1 from R-2 to C and we cannot speculate as to what will actually take place on the commercially zoned lot, if approved, or on the rest of the acreage. It is all speculative!

What I do know is that he is engaging in a developer's strategy called "segmenting," whereby they propose one small thing - get approved - then progress to the next. The full project is never revealed or understood, until it is too late. We are therefore addressing each issue as it comes up. The zone change to commercial is particularly abhorrent to residents within the Middle Haddam Historic District as the district was established in 1977 to provide protection against "commercial creep." Its boundaries took several years to demarcate and a lawsuit ensued to include the parcel that we are currently dealing with - as it was determined to be particularly vulnerable.

The people of Middle Haddam (roughly 250 households) are adamant that the parcel remain wholly residential and that an irreversible precedent is not set to allow commercial zoning to infiltrate into the historic village. In fact, well over 400 people have signed the petition to oppose the zoning change. We wish that Charles Mary residents would join us to prevent commercial incursion into the historic district, but understand if you feel that your properties are better protected by not taking a stand.

However, I urge you sincerely to get a legally enforceable agreement with Mr. Rand in place before April 7. If you do not, then he has achieved his objective of promising you something, potentially not delivering, and getting his precedent-setting zoning change through that will allow neighboring parcels and other properties within the district to be spot zoned.

The likelihood of Rand getting high density, mixed use or affordable housing on the 18 acres is low as there is currently no sewer hookup or water. He apparently finds building a cul-de-sac prohibitive (per Jeremy) - so is trying to do whatever he has planned as cheaply as possible. He could conceivably try to zone the entire parcel commercial after he gets the first lot through. This seems the most likely scenario as lot 1 is probably impossible to build on due to the wetlands and stream running through it - and it is probably serving as a trial balloon. N.B. No parking lot, or anything else, has been actually proposed for the space.

I would like to know how far along Belltown Sports is in the foreclosure process and whether or not Rand has actually acquired it yet. Do you know this, or what he has planned for the building? I also wonder if he has plans for the sand pit that it sits on. Based on his use of this resource in Portland I have concerns that he could begin mining sand there and unsettle the entire hillside. There are LOTS of questions and no answers coming from the developer or the town. Therefore, those of us who care for historic preservation need to stay on task and fight each individual battle as it comes to us, disregarding any proposal, plan or promise that is speculative in nature.

I hope this helps a bit and look forward to continuing our discussion. If you and your neighbors do decide to oppose the zone change please let me know and I will send you revised letters with the correct dates to sign.

Many thanks -

Margaret

On Mon, Mar 29, 2021 at 6:58 PM David Arcidiacono <DArcidiacono17@outlook.com> wrote:

Hi Margaret,

Hope you are doing well. I feel like I'm missing something here. I am certainly on the side of the least amount of disturbance as possible to the 18 acre parcel. Right now the best case scenario I've heard for the entire parcel is the 1 acre parking lot and 7 building lots. Is there some better outcome that you think is feasible and are thus advocating against the zoning change? I'm all for it if a better potential outcome exists, but right now I'm not aware of one. What is the end game if the zoning change is disapproved? I'm afraid that the end game for the land owner would be one of the scenarios you outlined below with 12, 13, 20 or even 90 units on the parcel. Concerned the battle might be won, but the war lost as happened with Royal Oaks affordable housing on Smith Street. Is my concern misplaced?

Thanks for any insight you can provide.

Dave

From: Margaret Faber <msmfaber@gmail.com>
Sent: Tuesday, March 2, 2021 8:06 PM
To: David Arcidiacono <DArcidiacono17@outlook.com>
Subject: Re: Long Hill Property

Indeed! Hoping for the best case scenario -

Take care -

Margaret

Sent from my iPhone

On Mar 2, 2021, at 6:57 PM, David Arcidiacono <DArcidiacono17@outlook.com> wrote:

Thanks for the info Margaret. Our understanding is that the subdivision plan will not include a road and will be comprised of just 7 building lots accessed from Long Hill, leaving a good portion of the parcel wooded. If that is indeed what is submitted, we should consider the possibility that, given the numbers you mention below, 7 building lots is the best case scenario for the remaining parcel. As I mentioned before, I'd hate to see a situation in which a battle is won, but the war is lost. That is essentially what happened with Royal Oaks on Smith Street.

Let's continue to communicate so the best outcome for all can be reached.

Thank you again,

Dave

From: Margaret McCutcheon Faber <msmfaber@gmail.com>
Sent: Tuesday, March 2, 2021 6:31 PM
To: David Arcidiacono <DArcidiacono17@outlook.com>
Subject: Re: Long Hill Property

Hi David,

Thank you so much! Jeremy DiCarli did advise us, thankfully, as there is so much preparation involved. Apparently the applicant will be applying for the zone change for lot 1, as well as the entire subdivision at the April 7th hearing. The plans must be filed with the building department by March 31 and Jeremy said he would put them on line. The scenario is not great if he decides to go for affordable housing as we could end up with up to 90 units on the property - but he would need sewer, a road, and possibly water. Otherwise.....

With a road:

Conventional Subdivision No Sewer: 13 Lots

Conventional Subdivision With Sewer: 20 Lots

Without building a road and only relying on the Long Hill frontage:

With Sewer: 12 Lots

No Sewer: 9 Lots

These numbers are maximums not taking into account slope of land, wetlands, etc. so the lots could be fewer, but not by much.

I hope the Charles Mary 500' abutters will seek to get an enforceable promise in writing that he will transfer the buffer land to you prior to the April 7th hearing. We only need 3 of the below list to sign to force a supermajority vote on the zoning issue. If I can help in any way, please let me know.

All the best,
Margaret

<image002.png>

On Tue, Mar 2, 2021 at 4:21 PM David Arcidiacono <DArcidiacono17@outlook.com> wrote:

Hi Margaret,

You probably are already aware but the application for the zoning change has been removed from the March 3 agenda and will be continued at the April 7 meeting. Link to agenda here: [stamped agenda for 3-3-2021.pdf \(easthamptonct.gov\)](#)

Hopefully that allows more time for further preparation for all involved.

Dave

From: Margaret McCutcheon Faber <msmfaber@gmail.com>
Sent: Monday, March 1, 2021 8:42 AM
To: David Arcidiacono <DArcidiacono17@outlook.com>
Cc: Hammond <chammondsfour@comcast.net>; Balletto <rballetto@comcast.net>
Subject: Re: Long Hill Property

Hi David,

I am happy to get together at any time to discuss and would encourage you all to reach out to Jeremy DiCarli with any specific questions re. zoning laws, submitted plans, etc. He is very responsive. Below is my latest correspondence with him, just FYI. Perhaps if there is a lawyer nearby you could ask them to draw up a "promise to sell" or "purchase agreement" - alternately you could create one yourselves here: https://app.legaltemplates.net/builder/documents/new?template_id=372.

All the

From: Margaret McCutcheon Faber <msmfaber@gmail.com>
Sent: Sunday, February 28, 2021 11:14 PM
To: David Arcidiacono <DArcidiacono17@outlook.com>
Cc: Hammond <chammondsfour@comcast.net>; Balletto <rballetto@comcast.net>
Subject: Re: Long Hill Property

Dear David,

Thank you so much for being in touch. My parents (51 Long Hill) and I were shocked that the Greer family sold the property without giving my parents the right of first refusal. They would have bought it immediately and kept it as open space. They contacted Megan Greer about the situation and apparently within a few minutes of the listing being posted she was contacted by one of Wayne Rand's LLC's to purchase the property. When the Greer girls expressed concern about selling to an LLC they were threatened with lawsuit – so they sold the nearly 18 acres for just \$120,000. I have included Megan Greer's letter to P&Z below, which you might find interesting.

Regardless, we are now dealing with a developer renowned for his questionable ethics, strong-arm tactics, and disregard for Middle Haddam's historic district. I dealt with him in 2005 when he had purchased the Middle Haddam School and was hoping to develop it, and the surrounding acreage, into high density senior housing ("Old Schoolhouse LLC). Fortunately we were able to stop that project and the school building is now in the process of being restored under the ownership of the Middle Haddam Association. I am afraid that in this case we may not be so fortunate.

As I mentioned to the Hammonds, while purchasing a buffer from Mr. Rand to protect your properties would be desirable, I would be very certain that you have a legally enforceable promise, in writing, prior to the 3/3 P&Z hearing. As abutters within 500' you are powerful in that if you oppose the commercial zoning change it will force a supermajority vote of P&Z. He knows this and I fear that he could be leading you on and if he obtains the zone change may not actually transfer the land.

The zone change Rand is applying for is an example of "speculative zoning." He has not submitted a plan for the parking lot and once zoned commercial the lot could be used for any commercial purpose. If a parking lot were to be developed he would require a wetlands permit (flagged wetlands run directly through the parcel), a review by the Conservation Lake Commission, a Certificate of Appropriateness from the Middle Haddam Historic District Commission, approval by Planning and Zoning, and possibly a traffic study. I think approval from all those bodies is unlikely. Further, once Lot 1 is zoned commercial then there is no reason for P&Z to refuse a commercial zoning change for any of the other lots, as precedent will have been set.

Also, to date there have been NO subdivision plans submitted to P&Z. He could eventually propose 8 lots, or 18 – or affordable housing, or even a mixed-use development. Affordable housing would require sewer hook-up, which he has already inquired to Jeremy DiCarli about. Mixed use development would require both sewer and water – but water is definitely in the pipeline for the route 66 corridor, so it is feasible. Unfortunately affordable housing (HOD) trumps P&Z authority and probably historic district commission regulatory control. I am checking into the latter with an historic preservation attorney. That means that we would have virtually no control over the use of the entire 18 acres, if he should decide to try for high density affordable housing.

Anyway, the application on the table at the moment is for a zoning change from R-2 to Commercial for Lot 1. If he is denied then it will prevent him from applying for any other lots within the subdivision to be zoned commercial. While I completely understand how purchasing 4-5 acres could protect your properties I urge you to please get an official offer in writing before the 3/3 P&Z

meeting. If he refuses this, I would be very concerned that the deal may not come to fruition. If that is the case I would urge you to consider signing the letter of opposition I sent to you so that we can force a supermajority vote of P&Z. That, along with our petition of nearly 200 taxpayers, should hopefully stop phase 1 of this project. Once the subdivision plans are officially submitted we can address that situation, but without plans all is purely speculative.

I would be happy to chat any time on the phone, or meet with you on Monday or Tuesday evening at the library, or perhaps outdoors due to Covid? If you prefer a meeting - would you like to meet with me only, or any of the other concerned citizens? My parents (Ron and Lois McCutcheon) are direct abutters as is Eugene Cunningham – across the street. Another neighbor, Anne McKinney, is also very concerned – there are myriad others. Please just let me know and I will make arrangements.

Many thanks again for reaching out –

With best wishes,

On Sun, Feb 28, 2021 at 2:36 PM David Arcidiacono <DArcidiacono17@outlook.com> wrote:

Hi Margaret,

This is Dave Arcidiacono from Charles Mary Drive. I got your email address from Cliff Hammond (copied, along with CMD resident Robin Balletto). I'm thinking it might be in everyone's interest to maybe chat a bit to make sure we all have as much information as possible regarding the Long Hill property.

I certainly understand the basics of your concerns and concur with many of them, but I want to be sure I understand them in detail. Your letter in the Rivereast mentioned concern about "adjacent lots becoming commercial" however it is our understanding that the plan for the remaining portion of the 20 acres would be just 7 large residential building lots. In addition, several Charles Mary Drive residents would purchase a total of 4-5 acres of the 20 acres as wooded buffer.

We certainly all wish the property never sold in the first place, but it has and now I think the idea is to minimize the disturbance to the parcel. Right now the applicant has indicated the current plan for the 20 acres is 7 residential building lots and the parking lot. This may be the most limited development we can hope for, but I'd like to hear your thoughts on that.

My family lived through the development of Royal Oaks affordable housing off of Smith Street which came into being after the original (smaller) proposal was rejected so I'm concerned about that possible outcome.

Happy to talk by phone or maybe a few of us can meet at the Middle Haddam library in the next day or two.

Feel free to email or call.

Sincerely,

Dave Arcidiacono

860-267-8728

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All the best,
Margaret

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All the best,
Margaret

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All the best,
Margaret

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All the best,
Margaret

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All the best,
Margaret

Roberts, Charles

From: Margaret McCutcheon Faber <msmfaber@gmail.com>
Sent: Wednesday, March 31, 2021 10:31 AM
To: Roberts, Charles
Subject: [External] Re: FW: Legal Questions

Hi Chuck,

I am passing on the below correspondence with SHPO. It is Mary Dunne's opinion that the MHHDC absolutely has a right to weigh in on the zone change proposal and that PZC should be working closely with the MHHDC on this issue, and the others. Has the commission been invited to speak to the agenda item? Is your input welcomed?

In addition, CGS Sec 7-47(j)(5) states that the Commission may "**cooperate with other regulatory agencies and civic organizations and groups interested in historic preservation**". Per Jeremy: "I would opine that this language allows the MHHDC to comment to the PZC on either of the applications but does not require their approval. The PZC has an interest in historic preservation as evidenced in the Plan of Conservation and Development."

So, if our town attorney suggests that the MHHDC should not speak to the zoning issue in an advisory capacity please let me know and I will get legal advice from SHPO.

The only map of relevance is the map that accompanied the approved study report and ordinance, which is on file with the state. Any subsequent map - whether drawn correctly or not - is irrelevant. The boundary of an historic district cannot be changed without 2/3 vote in the affirmative of all properties within the district. It is important to note that the strip of land Greer sold to Belltown Sports also remains within the district and under your purview, despite changing ownership and being re-zoned commercial outside the ordinary process.

Again, if the town attorney suggests that any map other than the original map on file from 1977 with the state of Connecticut is legally binding please let me know and I will get legal advice from state.

Pls call any time - I will turn my ringer on...it was off earlier. Thanks -

Margaret

----- Forwarded message -----

From: Dunne, Mary <Mary.Dunne@ct.gov>
Date: Fri, Mar 5, 2021 at 9:23 PM
Subject: RE: Help with the MHHDC and Zoning?
To: Margaret McCutcheon Faber <msmfaber@gmail.com>

Hi, Margaret--

Q--Does the MHHDC have any jurisdiction before this zone change is considered and decided by P&Z?

A--I don't think the commission has regulatory authority but by statute is allowed to comment:

Sec. 7-147c. Historic district commission.

(j) Any historic district commission established under this section may, unless prohibited by charter, ordinance or special act: (1) Make periodic reports to the legislative body; (2) provide information to property owners and others involving the preservation of the district; (3) suggest pertinent legislation; (4) initiate planning and zoning proposals; (5) cooperate with other regulatory agencies and civic organizations and groups interested in historic preservation; (6) comment on all applications for zoning variances and special exceptions where they affect historic districts; (7) render advice on sidewalk construction and repair, tree planting, street improvements and the erection or alteration of public buildings not otherwise under its control where they affect historic districts; (8) furnish information and assistance in connection with any capital improvement program involving historic districts; (9) consult with groups of experts.

The MHDC should be sure to comment at any public meeting and weigh in on what affect this development would have on the district and at that time make clear that they do have review authority over any parking and the design of new construction that might be proposed in the future. It might also make suggestions on how to mitigate any incongruent impact on the district.

2) Developer is proposing a subdivision that will show the number of lots, location of houses, septic, etc. but not the specific design of the structures. Does the MHHDC have any jurisdiction at this early stage?

Since there aren't any designs yet, I don't think they have a role, but it is essential that the developer and P&Z understand that the developer **cannot get a building permit** until the MHDC has issued a CoA for the design of the houses. It is important to make this clear early and often so that it the MHDC is not ignored or left out of the process---and the developer or even the building official cannot claim they did not know.

Maybe too late for a call now but I will be in and out over the weekend. If you text, we can set up a call.

Mary

Mary Dunne

State Historic Preservation Officer

Department of Economic and Community Development

450 Columbus Blvd.

Suite 5

Hartford, CT 06103

860.500.2356

FAX 860.707.1845

Mary.dunne@ct.gov

ct.gov/historic-preservation

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From: Margaret McCutcheon Faber <msmfaber@gmail.com>

Sent: Friday, March 5, 2021 7:56 PM

To: Dunne, Mary <Mary.Dunne@ct.gov>

Subject: Re: Help with the MHHDC and Zoning?

EXTERNAL EMAIL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Thanks so much Mary!! I don't want to bother you so late on a Friday night, but would be happy to call any time if you just let me know when. The follow up questions are:

1) Developer is not yet proposing the parking lot - or any other use. He is just proposing a zone change from R-2 to C for a 1.5 acre lot within the historic district. Does the MHHDC have any jurisdiction before this zone change is considered and decided by P&Z?

2) Developer is proposing a subdivision that will show the number of lots, location of houses, septic, etc. but not the specific design of the structures. Does the MHHDC have any jurisdiction at this early stage?

THank you so very much again -

M

On Fri, Mar 5, 2021 at 6:15 PM Dunne, Mary <Mary.Dunne@ct.gov> wrote:

Hi, Margaret—

No trouble at all!

The answers are yes and yes.

Parking falls within the commission's regulatory authority:

Sec. 7-147d. Certificate of appropriateness: Parking areas. (a) No building or structure shall be erected or altered within an historic district until after an application for a certificate of appropriateness as to exterior architectural features has been submitted to the historic district commission and approved by said commission.

(d) No area within an historic district shall be used for industrial, commercial, business, home industry or occupational parking, whether or not such area is zoned for such use, until after an application for a certificate of appropriateness as to parking has been submitted to the commission and approved by said commission. The provisions of this section shall apply to the enlargement or alteration of any such parking area in existence on October 1, 1973.

Second, the commission would have review over the proposed design of the buildings:

Sec. 7-147d. Certificate of appropriateness: Parking areas. (a) No building or structure shall be erected or altered within an historic district until after an application for a certificate of appropriateness as to exterior architectural features has been submitted to the historic district commission and approved by said commission.

(b) No building permit for erection of a building or structure or for alteration of an exterior architectural feature within an historic district and no demolition permit for demolition or removal of a building or structure within an historic district shall be issued by a municipality or any department, agency or official thereof until a certificate of appropriateness has been issued. A certificate of appropriateness shall be required whether or not a building permit is required.

(c) The historic district commission may request such plans, elevations, specifications, material and other information, including in the case of demolition or removal, a statement of the proposed condition and appearance of property after such demolition or removal, as may be reasonably deemed necessary by the commission to enable it to make a determination on the application. The style, material, size and location of outdoor advertising signs and bill posters within an historic district shall also be under the control of such commission. The provisions of this section shall not be construed to extend to the color of paint used on the exterior of any building or structure.

The commission is allowed to engage consultants. They may want to contact Preservation Connecticut to see if they can help. It wouldn't be appropriate for our office to weigh in, however.

If you want to discuss further, feel free to call.

Mary

Mary Dunne

State Historic Preservation Officer

Department of Economic and Community Development

450 Columbus Blvd.

Suite 5

Hartford, CT 06103

860.500.2356

FAX 860.707.1845

Mary.dunne@ct.gov

ct.gov/historic-preservation

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From: Margaret McCutcheon Faber <msmfaber@gmail.com>

Sent: Friday, March 5, 2021 5:17 PM

To: Dunne, Mary <Mary.Dunne@ct.gov>
Subject: Help with the MHHDC and Zoning?

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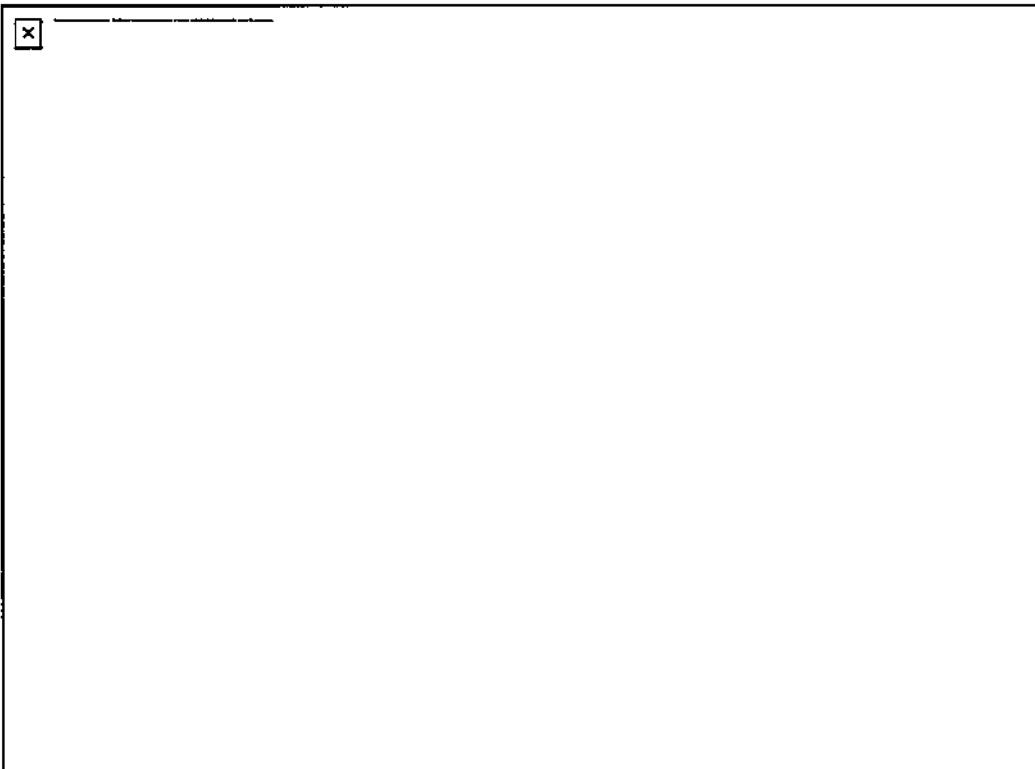
Hi Mary

I am sorry to keep troubling you, but just want to be sure I have the facts correct. Developer purchased 18 acres within the Middle Haddam Local Historic District.

1) Developer is applying for a zone change from R-2 to Commercial for 1.5 acres of the parcel. There is no site plan or use specified, though we have heard that it will be a parking lot. Question: does the zone change need a certificate of appropriateness, or some sort of approval, from the Middle Haddam Historic District Commission? I know they are allowed to weigh in under statute, but I am wondering if they have any regulatory authority at all.

2) Developer is applying for a subdivision of the rest of the 18 acres - between 8 and 18 lots. The site plans will show the buildings, septic, etc. It may, or may not include a road. Question: does the developer need to get a COA, or approval, from the MHHDC for the subdivision before going to P&Z?

This is the diagram of the zoning approval process provided by our town and it does appear to include the MHHDC:



3) Do you, or Sara, or anyone have any examples of studies or case law that could help us? Ex: a town excluding historic district commission approval (if you believe the applications should be heard by them) and proceeding directly to P&Z; the impact of a commercial zoning change on a local historic district; the impact of subdivisions on a local historic district; case law concerning a commercial zoning change (or subdivision) in a local historic district.

This issue is super stressful and moving at pace. Thank you so much and I hope that you have a great weekend -

--

All the best,
Margaret

On Wed, Mar 31, 2021 at 9:54 AM <charles.roberts@ubs.com> wrote:

Give me a call to discuss, thanks.

Charles C. Roberts

MHHD Chair

From: Cox, David <dcox@easthamptonct.gov>
Sent: Wednesday, March 31, 2021 7:33 AM
To: Roberts, Charles <charles.roberts@ubs.com>

Cc: DeCarli, Jeremy <jdecarli@easthamptonct.gov>

Subject: [External] Legal Questions

Mr. Roberts,

Pursuant to our discussions, the following are the questions that have been posed the Town Attorney for response. If there are issues not addressed in these, please let me know.

1. What is the Planning and Zoning Commission's obligation to refer zone change applications to the Middle Haddam Historic District Commission for comment?
2. Does the MHHD have any authority or jurisdiction to make comments to the PZC regarding a zone change in the District or impacting the District?
3. What is the Planning and Zoning Commissions obligation to refer subdivision applications to the Middle Haddam Historic District Commission for comment?
4. Does the MHHD have any authority or jurisdiction to make comments to the PZC regarding a subdivision?
5. What authority or jurisdiction does the MHHD (or any Historic District) have regarding land use actions?
6. Does MHHD have any jurisdiction over the location of driveways on a parcel or group of parcels?

For your reference, in response to questions, staff is looking into the boundary of the District to ensure that it is correctly identified.

Dave

David E. Cox

Town Manager

Town of East Hampton

1 Community Drive

East Hampton, CT 06424

860-267-4468

www.easthamptonct.gov

This electronic message is a public record as defined by the Connecticut Freedom of Information Act Section 1-200(5). A copy of this message and any reply will be retained by the Town of East Hampton and will be accessible to the public unless exempted by law.

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All the best,
Margaret