

Town of East Hampton
**Planning and Zoning
Commission**
Regular Meeting January 6, 2022
Town Hall, Eaton Smith Council
Chambers Room #107 and Virtual
Meeting

DRAFT MINUTES

1. Call to Order and Seating of Alternates:

Chairman Zatorski called the meeting to order at 7:01 p.m.

Present: Chairman Zatorski, Regular Members: Meg Wright, Jim Sennett, Rowland Rux, Vice-Chairman Kuhr, Angelus Tammaro, and Roy Gauthier.

Alternate Members: Ted Hintz, Jr. and Mike Kowalczyk

Zoning Official Jeremy DeCarli.

Absent: None

2. Election of Officers: Mr. Rux made a motion to elect Mr. Zatorski as Chairman. Ms. Wright seconded the motion. *Vote 7-0*

Mr. Zatorski made a motion to elect Mr. Kuhr as Vice Chairman. Mr. Sennett seconded the motion. *Vote 7-0*

3. Approval of Minutes:

A. December, 2021 Regular Meeting: Mr. DeCarli noted corrections to language. Vice-Chairman Kuhr made a motion to approve the minutes with changes read by staff. The motion was seconded by Mr. Sennett. *Vote: 7-Yes; 0-No*

4. Communications, Liaison Reports and Public Comments: Chairman Zatorski asked for a moment of silence for long serving former member of Commission, Bill McDonald. Mr. Sennett attended ZBA meeting on December 13, 2021 and reported the following ZBA application was denied: Application ZBA-21-012: Donna & Ed Wells, 13 Navajo Trail for a Variance to reduce the east side yard setback from 15' to 5' to construct an addition to the existing dwelling. Map 09A/ Block 74/ Lot 174. Mr. Sennett noted the application was denied due to lack of hardship. Chairman Zatorski reported IWWA Chairman Jeff Foran resigned. Mr. Kowalczyk reported the Regional Planning Commission did not meet last month. The following Commission Members did not have anything to report: Mr. Tammaro, Vice-Chairman Kuhr, Ms. Wright, Mr. Rux and Mr. Gauthier. Chairman Zatorski asked for public comments at this time and stated they should not pertain to Agenda items 6A, B or C. Peter Pach of 59 Middle Haddam Road stated he received right before the meeting new site plans and storm water report for 8A. Mr. Pach stated he did not feel he had enough time to review materials as his Petition of Intervention may change. Mr. Pach asked if the applicant of 8A would continue the application to the next regularly scheduled meeting. Chairman Zatorski stated he reviewed submitted materials and asked if Commission Members reviewed materials or had any comments. Mr. Tammaro stated he did not review materials and asked Mr. DeCarli if the intervener, Mr. Pach, can request an extension or continuance of a hearing. Mr. DeCarli stated he believes the request has to come from the applicant.

5. **Read Legal Notice for January 5, 2022:** Staff read the legal notice for the record.

6. **Public Hearings for January 5, 2022:**

A. Application PZC-21-022: Atlantis Marketing, 1&5 Colchester Ave and 157 Main St. for a Zone Change from R-2 to Commercial. Map 07A/ Block 56/ Lots 21, 22, 24.

Attorney Scott Jezek of East Haddam, representing Atlantis Marketing asked if Chairman Zatorski could canvas Commission Members if the previous denied application has left members predisposed. Chairman Zatorski replied he will canvas Commission Members after Attorney Jezek's presentation before the public hearing. Attorney Jezek presented there are three properties owned by Atlantis Marketing at the northeast intersection of Main Street and Route 16. The project includes property to the north on Main Street which has a brick building and a second residential multi-family home. Attorney Jezek briefly explained previously filed applications for this site. Attorney Jezek explained currently fuel is dispensed at this location and fuel has been dispensed at this property since WW2. In 1961 new zone regulations were adopted and the intersection of Main Street where the properties are located was designated as Commercial but changed to a residential zone. Attorney Jezek explained the previous application plans were to remove the brick structure also known as the Strong House and in this proposed application they plan to preserve both buildings. The second residential house to the far north and proposed to be continued as residential use. Attorney Jezek stated the Brick Building – Strong House is not in good condition. Another significant change to new plan is to the east on Colchester Avenue. The raised ranch located there will be removed due to set back and landscaping reasons. Attorney Jezek addressed previous questions raised regarding the general appropriateness of making this change in zoning regulations. Attorney Jezek discussed specific provisions from the POCD regarding the artillery streets in the intersection. Attorney Jezek stated single family residential is exception in that inspection. The change of use they are proposing is not inconsistent with that neighborhood at that intersection. He stated the homes in that neighborhood are multi family or combination uses. Attorney Jezek stated if approved for zone change they will present a detailed site plan and highlighted proposed changes including landscaping lighting and traffic patterns from 5 curb cuts down to 2. Mark Smith, Civil Engineer, discussed the initial concept plan versus revised concept plan. Mr. Smith highlighted changes to curb cuts, structures, filling station canopy location, reduction in convenience store footprint from prior application, preservation of structures, and 60ft landscaping aisle. Chairman Zatorski discussed the letter received from Attorney Jezek and asked each Commission Member if they discussed the application with any member of the public and if so please disclose and can they consider this application without prejudice. Chairman Zatorski asked Commission Members if they had any questions regarding the application. Mr. Hintz asked for clarification on the two residential homes on the property. Attorney Jezek stated the residential property to the north is occupied and expects that to remain. The brick building has no plans, but would consider proposals from any group. Mr. Kowalczyk asked if their knowledge of the brick house being registered as historic. Mr. DeCarli stated that his understanding is the brick house is on the national register as part of the Belltown Historic District. Mr. Tammaro and Mr. DeCarli briefly discussed non-conforming current and proposed uses. Chairman Zatorski stated the Commission received 50 letters in *opposition* and 1 in *support*. Chairman

Zatorski opened the public hearing at this time. Attorney Ken Slater of Halloran & Sage, representing:

Ken Dodson – 157 Main St. Heidi & Ryan Bothamley – 141 Main St. Irene Kuck – 11 South Main St. David Guerette – 154 Main St. Kathleen Brown – 14 Edgerton St. Brian Avery – 14 Edgerton St. Sara Adams & Timothy Benicak – 152 Main St. Lois & Ron McCutcheon – 51 Long Hill Rd. Allison & James Daly – 2 South Main St. Charles & Beverly Goodrich – 137 Main St. Leslie and Eric Cygan – 26 Edgerton St. James & Deborah Hickel – 142 Main St. Aidan & Alice Sanborn 146 Main St. Lawrence & Susan Trudeau – 7 South Main St.

Ken Slater explained an analysis that he noted was submitted into the record. Ken Slater discussed the POCD and identifies the property in this application as professional offices or residential and highlighted future land use plan in Chapter 6. Ken Slater cited an Appellate case *Gaida vs. Planning & Zoning Commission of City of Shelton* 108-CT-19 in 2008. “Spot zoning is “impermissible in this state. Spot Zoning is defined as the reclassification of a small area of land in such a manner as to disturb the tenor of the surrounding neighborhood. Two elements must be satisfied before spot zoning can be said to exist. First, the zone change must concern a small area of land. Second, the change must be out of harmony with the comprehensive plan for zoning adopted to serve the needs of the community. The vice of spot zoning lies in the fact that it singles out for special treatment a lot or a small area in a way that does not further such a [comprehensive] plan.” Mr. Slater explained community opposition to the zone change and cited PZC zone change in 1990. A brief discussion took place regarding 1990 zone change decision and spot zoning. Chairman Zatorski asked for public comments that pertain to items not submitted in letters on record.

The Following spoke in opposition of this application and had additional comments not submitted in letter:

Irene Kuck – 11 South Main St.
Ryan Bothamley – 141 Main St.
Ally & James Daly – 2 South Main St.
Noel Sanborn – 146 Main St.
Sal Nucifora – 147 Colchester Ave.
David Guerette – 154 Main St.
Kate Avery – 14 Edgerton St.
Stuart Winqvist – 11 South Main St.
Brian Avery – 14 Edgerton St.
Adam Knouse – 146 Main St.
Heidi Bothamley – 141 Main St.
Ryan Gorra – 3 Dziok Dr.
Ken Dodson – 148 Main St.
Mark Sherwood – 68 Colchester Ave.
Daniel Finn – 14 Abbey Rd.

At 8:39 p.m. Chairman Zatorski called for a 5-minute break. The meeting reconvened at 8:48 p.m.

Mr. Hintz asked if there is any advantage of separating out the residential parcels from commercial property. Attorney Jezek replied other options were

considered. Mr. Smith stated the reason to not separate property is due to square footage. Attorney Jezek made closing arguments including institution of sewers as a possible reason for zone change in 1990, cited compressive plan submitted into record to review. Ms. Wright made a motion to close public hearing. Application PZC-21-022: Atlantis Marketing, 1&5 Colchester Ave and 157 Main St. for a Zone Change from R-2 to Commercial. Map 07A/ Block 56/ Lots 21, 22, 24. The motion was seconded by Vice-Chairman Kuhr. **Vote: 7-Yes; 0-No** Mr. Tamaro stated he does not support the application with 5 main points: concerned with risk to health and safety with expanding gas use in a residential neighborhood, increased traffic at location, not supported by POCD, does not believe erasing non-conformities are relevant to this discussion as there will still be non-conformities if zoning is changed and expressed concern with spot zoning. Vice-Chairman Kuhr stated as far as health and safety concerns anything to help that intersection would be beneficial to the Town, environmentally there currently is an existing gas station at that location and there are protections in place, traffic will always be an issue and believes the applicants proposed plans could improve Route 16. Vice-Chairman Kuhr made a motion to approve Application PZC-21-022: Atlantis Marketing, 1&5 Colchester Ave and 157 Main St. for a Zone Change from R-2 to Commercial. Map 07A/ Block 56/ Lots 21, 22, 24 for the following reasons: it has potential to make a safer area of intersection and beneficial to Town. Mr. Tamaro asked if conditions could be imposed on specific buildings. Mr. DeCarli stated he did not believe you could in this case because this application is for a zone change. Mr. Rux seconded the motion. Roll call was taken for votes: Mr. Sennett: No; Vice-Chairman Kuhr: Yes; Ms. Wright: No; Mr. Tamaro: No; Mr. Gauthier: No; Mr. Rux: No; Chairman Zatorski: Yes. ***It did not receive a super majority vote therefore the motion failed.***

B. Amendment to Zoning Regulations - Sections 2.2, 4.1.B, 4.2.B, 4.3.B, 4.4.B and Addition of Section 8.4.O and 8.4.P to allow for Home Occupations and Home-Based Businesses. Tabled to next regularly scheduled meeting February 2, 2022.

C. Enact Opt-Out Provision for Accessory Dwelling Units as Provided for in Section 6(f) of Public Act 21-29. Tabled to next regularly scheduled meeting February 2, 2022.

7. New Business:

A. Review Commercial Zone Boundary at 265 West High Street. Mr. DeCarli explained 2018 zoning map changes occurred and the 30ft strip in question was never officially incorporated into commercial zone change as any action by the Commissioner and not included in a memo at the time of the map update. Mr. DeCarli proposes correcting the 30ft strip as R2 on zoning map. All Commission Members supported decision.

8. Old Business:

A. Application PZC-21-021: Global 66, LLC, 265 West High St., Site Plan Modification, Map 6/Block 12/Lot 9. Attorney Timothy Furey representing the applicant, clarified for the record when the applicant purchased the property town records indicated the 30ft strip was commercially zoned. They have addressed this to modify plans and removed commercial activity in the 30ft strip. Attorney Furey stated he is

responding into record the Petition of Intervention filed and addressed several claims in petition. Attorney Furey stated the petition stated the drainage swale to the back of the property and adjacent to subdivision is an invaluable resource that the applicant is not protecting by construction and an old water cistern on Rt. 66. Attorney Furey said these two issues were vetted in depth when applicant received IWWA permit for the adjacent subdivision and reviewed by PZC. Attorney Furey stated the drainage ditch along the front of the property will not have damage but improvements will be made. Attorney Furey addressed claim made in petition regarding storage facility creating harm to environment due to hazardous waste in the facility. Attorney Furey said the use of the building is permitted. Attorney Furey stated the applicant operates an adjacent 50,000 SF storage facility and provided a sample contract that is used in all applicants' facilities specifically prohibiting storage of liquids and hazardous waste or anything of that nature. Attorney Furey explained the only item in the 30ft strip is an existing underground fire suppression tank and an additional proposed tank has been removed from plans in 30ft residential strip. James Sipperly, Soil Scientist & CT Wetlands Scientist, presented a summarized report from a site investigation conducted November 14, 2020 regarding watercourse coming from Charles Mary Drive and determined where wetlands are on the property. Mr. Sipperly briefly discussed the detention pond conditions and main function is to convey storm water. Mr. Sipperly explained previous uses and existing function condition of the cistern near Rt. 66. Mr. Sipperly stated that IWWA reviewed proposed plans and issued a permit. Rob Baltramatis, Engineer, presented revised proposed changes to site plan. The largest change is removing detention basin and modified plans to deal with stormwater. New proposed plans will be an underground detention system with 180ft long 30" perforated pipe. Additionally, changes were made to the pavement area and has been reduced to remain only in commercial property. Lastly, fire suppression system has been removed from 30ft residential strip to the commercial property. Mr. Rux asked if the perforated pipe drains into drainage swale or percolate into the ground. Mr. Baltramatis replied that it is combination of both as some water will infiltrate to ground and outflow to a rip-rap drainage swale. Mr. Baltramatis explained there are three catch basins on the property. Mr. Rux asked if there is a written report for cleaning the catch basins. Mr. Baltramatis explained that he could provide suggested maintenance schedule for detention basins as a condition of approval. Vice- Chairman Kuhr asked if the drive aisle will be gravel. Mr. Baltramatis explained the drive aisle will all be paved. Mr. Kowalczyk asked if there is a retaining wall and location. Mr. Baltramatis explained retaining wall locations on the site plan. Vice-Chairman Kuhr asked if there was a benefit to having gravel versus pavement from a wetland's perspective. Mr. Baltramatis explained gravel is difficult for winter maintenance and proposed plan has less impervious area then with original plan and 15,000 less of Upland Review area total impact. Counsel Earl Philips representing Peter Pach explained the Intervention Petition process and explained submitted petition. Attorney Furey briefly summarized why the proposed plans do not have any unreasonable impacts. Commission Members discussed timing of received documents for application. Attorney Furey requested an extension. Mr. Tamaro asked if a site walk of property could take place and stated he believes work has commenced and asked what work was currently taking place. Attorney Furey replied he will ask his client what activities were occurring if any. Mr. DeCarli stated building permits were approved for interior work and minor exterior work based on the storage use

approval. Chairman Zatorski made a motion to continue application PZC-21-021: Global 66, LLC, 265 West High St., Site Plan Modification, Map 6/Block 12/Lot 9 to the next regularly scheduled meeting February 2, 2022. The motion was seconded by Mr. Rux.

9. Planner's Report – January 24, 2022 – online only - is a Regional housing plan meeting hosted by RiverCOG. There is a separate meeting for East Hampton scheduled for February 10, 2022, intended to fulfill statutory requirement for an affordable housing plan.

10. Set Public Hearing(s) for February 2, 2022 – A public hearing was set for Agenda Items: 6A, B and C

11. Adjournment – Chairman Zatorski made a motion to adjourn at 10:03 p.m., seconded by Ms. Wright. The vote was unanimous in favor

Respectfully submitted,



Cheryl Guiliano
Recording Secretary