

**PLANNING AND ZONING BOARD MINUTES FOR MEETING HELD
TUESDAY, 4 DECEMBER 2018, 7:30 PM, CITY HALL AUDITORIUM, 110 RIVER STREET**

The meeting of the Planning and Zoning Board came to order at 7:30 p.m.

A. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

B. ROLL CALL

Members Present: John Grant, Brian Kaligian, Peg Kearney, Scott Marlow, Carl S. Moore, Tom Panzella, Jim Quish, Robert Satti

Not Present: Nancy Austin, Denise Doucette-Ginise

Staff: David Sulkis, City Planner; Meg Greene, Board Clerk

Chairman Quish opened the meeting and announced the items that had been postponed.

C. OLD BUSINESS

1. **16 Ross Street (ZONE R-5)** – Petition of Thomas Lynch, Esq. for a Change of Zoning Map to CCD-1, on Map 66, Block 813, Lot 22, of which John E. Rogers is the owner; to clarify vote outcome of 11/20/18 as APPROVED and advise effective date of approval is 12/17/2018.

Mr. Sulkis stated that the Zone Change motion to approve made at the last meeting did pass, contrary to previous interpretation.

D. NEW BUSINESS

None.

E. PUBLIC HEARINGS

CLOSE BY January 8, 2019; VOTE BY February 7, 2019

1. **43 Erna Street (ZONE CDD-1)** – Petition of Thomas Lynch, Esq. for a Special Exception to establish a Dog Day Care Facility, on Map 43, Block 304, Parcel 41; of which Gabor Pernyeszi is the owner. **POSTPONED by Applicant**
2. **3-5-7 Cherry Street (ZONE RO)** – Petition of Kevin Curseaden, Esq. for a Special Exception for Conversion of Dental Offices to Residential Units and a Minor Lot Line Adjustment, on Map 65, Block 817, Parcels 09 and 8A; of which Red Cherry, LLC and Molar Manor, LLC, are the owners.

Attorney Curseaden described issues surrounding the property, including shared parking between 2 parcels. He introduced the land surveyor.

Robert Hiza, PE, LS, 209 Old Tavern Road, Orange, displayed a map with highlighted lot lines and location of the structures on the lots. He reviewed the placement of parking spaces, noting that parking requirements would be met via 1974 ZBA action. He said the deck for 85 Prospect Street was projecting into the 3-5-7 Cherry Street lot, creating the need for a small portion of the Cherry Street property to be conveyed to the Prospect Street property; he noted this was possible as both properties have the same owner. He stated that the buildings date back to 1890 (thus predating zoning regulation) and were not zoning compliant. He said the property was not in a flood zone. He noted that the submitted plans were intended as feasibility studies and were not for construction because an architect will be required for the final construction plans. He reviewed the landscaping, which he deemed well managed; he shared photographs of current plantings. He also shared a floor plan for the additional residential units.

Mr. Marlow asked about a compact car space and whether it might inhibit an emergency vehicle entering the parking lot; **Mr. Hiza** said there was enough space for such access.

Mr. Sulkis said the compact car space dimensions probably would not satisfy current zoning requirements. **Attorney Curseaden** and **Mr. Sulkis** discussed the compact car space, noting that the previous variances allowed the parking requirement to be met.

Chairman Quish invited the public to speak; no one came forward.

Motion: Mr. Grant motioned to approve.

Second: Mr. Marlow seconded.

Discussion: None.

Vote: Motion carried unanimously

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3. **690 New Haven Avenue:** (ZONE CDD-4) – Petition of Kevin Curseaden, Esq., for a Special Permit, Site Plan with Coastal Area Management Review for an 18 Unit Housing Development, on Map 68, Block 711, Lot 10, of which 690 New Haven Avenue, LLC is the owner.

Attorney Curseaden introduced civil engineer Ron Wassmer and described the recently completed approval process through the inland Wetlands Agency (IWA). Attorney Curseaden said the IWA required that a building be removed from the plan while adding wetland mitigations. He reviewed previous considerations of various uses and the desire to pursue a residential use, consistent with the Plan of Conservation and Development (POCD). He said the Fire Department originally failed the application due to lack of adequate space for big vehicles to turn around, but that a plan revision successfully addressed their objection. He noted private trash removal and parking considerations.

Ron Wassmer, PE/LS, 158 Research Dr, displayed a color rendering of the site plan, as well as some aerial images. He pointed out wetlands designated as Open Space behind the property and stated that these wetlands drain through Gulf Pond. He reviewed other surrounding properties with commercial uses. He stressed that the project is not an affordable housing 8-30g plan. He reviewed the floor plan and townhouse-style elevations. He stressed the plan's conformity with CDD-4 regulations. He said each unit would have 2-4 parking spaces plus the entire complex would provide 10 visitor spaces. He described 2 watercourses on the site. He said the plan featured a first finished floor that is 2' above Base Flood Elevation. He stated that the proposed storm water drainage system would reduce current runoff and was approved by the City Engineer. He said soil investigation also supported the drainage system design. He said tidal wetlands were not reflected on the drawing. He said the site doesn't require excessive fill or excavation. He reviewed utilities, several of which were underground. He displayed the landscaping plan and the wetlands mitigation plan to create a buffer and habitat plantings. He noted that a fence along the wetland would help protect it from human intervention. He discussed the plan for maintaining the landscaping and infrastructure that could affect the wetland as well as snow removal protocols. He reviewed sedimentation and erosion control plans including a silt fence and a 6' chain link fence to protect the wetlands; these would be replaced by a permanent fence on completion of construction. He showed engineered drawings regarding the grade. He reviewed the building plans comprised of 6 townhouse type buildings. He reviewed the floor plan and said the staggered profile of the façade helps the buildings adapt to the grade while providing architectural detail.

Mr. Satti asked about the departmental approvals. He referenced a last-minute memo provided by the Milford Tree Commission expressing a concern about a species selected for shade trees. **Mr. Wassmer** said he would be happy to work with the tree commission to revise his plan. **Mr. Satti** asked why CT DEEP's request to remove Building 6 had not been honored. **Mr. Wassmer** said IWA had jurisdiction in that matter, rather than DEEP, and that extensive efforts were already in place to respect buffers.

Mr. Grant thought that the 2- or 3- bedroom units were likely to be occupied by families with children; he asked if a safe area could be added to accommodate children waiting for the bus. **Mr. Wassmer** said such an area could be added. **Mr. Grant** asked if any units could be designated as affordable; **Attorney Curseaden** said the site development costs balanced at the current construction plan; more units would have to be constructed to introduce an affordable component.

Mr. Sulkis and **Mr. Quish** discussed correspondence between the applicant and DEEP. **Attorney Curseaden** said he had sent DEEP comments during IWA review. He said he responded to John Gaucher at DEEP by asserting that because the project was on the landward side of the coastal jurisdiction line, the state would not have jurisdiction.

Chairman Quish invited the public to speak; no one came forward.

Motion: **Mr. Grant** motioned to approve with conditions of including a safe area for school bus pickup and incorporating the recommendations of the Tree Commission report dated 12/4/18.

Second: **Mr. Panzella** seconded.

Discussion: **Mr. Marlow** asked if the safe zone had to be defined; **Mr. Wassmer** was invited by the chair to sketch in a safe area in collaboration with the City Planner. **Mr. Satti** said he was concerned that the DEEP recommendation to reduce the number of units had not been followed.

Vote: Motion carried with **Mr. Satti** voting against the motion.

4. **0 and 990 Naugatuck Avenue:** (ZONE HDD) – Petition of Jeffrey Gordon, for a Change of Zone from HDD to WDD, on Map 40, Block 300, Lots 2 and 3B; of which Recycling, Inc. is the owner.

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Mr. Gordon introduced Franklin Pilicy, Caswell Cove Condominium attorney, and John Guedes of Primrose Companies. Mr. Gordon described the surrounding parcels, including a portion of the Caswell Cove Condominiums development plan that was approved but never built. He said the area was the site of Recycling, Inc. Mr. Gordon noted submission of abutting notification documents. He cited standards of development that pertained to the project as documented in the POCD. He said the property was under utilized and that environmental issues for the Housatonic River would be addressed. He stated that restoration of the bulkhead and public access provisions would be addressed with the CAM application. He said there had been a trend for reduction of traffic in the utility corridor along the Housatonic River with truck traffic moving closer to highways. He said there would be support for the goal of remediating brown fields. He said the POCD supports greenways and trails. He referred to the fiscal impact analysis submitted with the application, saying affordable housing would be allowed in the HDD zone, due to the permitted use of extended stay hotels in the zone. He referred to an analysis of tax revenues and of school enrollment indicating a decline since 2003-04 versus current tax revenue. He stated that waterfront industrial use had been important in the 19th and early 20th century, but the industrial use of waterways is no longer prevalent. He reviewed the current site plan including removal of existing structures. He noted current road access to Caswell Cove and discussed the remaining development of approved Caswell Cove condominiums. He said the application was in harmony with proposed residential use.

Mr. Satti asked about specific items in the fiscal impact report regarding tax revenue. Mr. Satti and Mr. Gordon discussed extrapolated figures in the report that indicated a negative impact of an affordable housing use versus market rental rates.

Mr. Sulkis said the POCD states that the utility use in the area should be promoted and therefore residential use is actually contrary to the POCD.

Chairman Quish invited the public to speak.

FAVOR

Franklin Pilicy, Esq., Watertown, spoke as legal representative of the owners of Caswell Cove. He said the recycling use had been a serious problem for condo residents. He said residents support cleanup of the brown field area and a new non-industrial use for the parcel. He urged approval.

Dotti Bateman, President of the Caswell Cove Association, 632 Popes Island Road, said she's resided at the complex for 25 years, that residents accepted that there are adjacent industrial uses, but that the recycling use had been a big concern. She stated that more units would provide more tax revenue to the city. She said another recycling use would result in the condos being completely surrounded by industrial uses. She said there was strong support for the application among condo residents.

Patricia Schein, 531 Popes Island Road, said she was concerned about air quality and odor from the nearby water treatment plant and the former recycling plant. She said she was anxious to see the final development phase completed in the complex.

Andrew Taylor, 1431 Windward Road, expressed support.

Sandra Shokite, 623 Popes Island Road, expressed support.

Debbie Weinstein, 121 and 131 Popes Island Road, said she was an original owner and was anxious to see the complex completed for residential use.

Henry Olszewski, 812 Popes, said odor from recycling had been bad and wanted action taken to beautify the area.

Betsy Ratner, 1423 Windward Road, said the industrial use was outdated and should be residential.

Mark Kuba, 514 Popes Island Road, expressed support.

McCorvie Wham, 713 Popes Island Road, supports, lived there 25 years, trying to protect and improve property.

Charlie Gee, 1124 Windham Road, supported efforts to beautify the river area of Milford.

Nancy Citarella, 1236 Windward Road, expressed support.

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Rhoda Myers, 628 Popes Island Road, said she had been a resident for 26 years and that the beauty of the cove should be expanded and protected.

Tatiana Murphy, 538 Popes Island Road, Condo Associations Treasurer, expressed support.

Emilie Mones, 525 Popes Island Road, expressed support.

Ian Kalna, 1137 Windward Road, expressed support.

Thomas Collins, 813 Popes Island Road, expressed support.

Jean Cianciolo, 624 Popes Island Road, expressed support.

OPPOSED

Kari Olson, Esq., of Murtha Cullina Attorneys at Law, with offices in Hartford and New Haven, stated that she had filed a protest on behalf of Devon Power, a neighbor of Caswell Cove that directly abuts the parcel under consideration for development. She addressed remarks to the condo owners of Caswell Cove who had spoken in favor of the project as a hedge against another recycling or similar use, saying her client didn't support the recycling use either, but that Devon Power doesn't condone residential uses abutting industrial uses. She discussed what her client deems appropriate buffers and transitions between the 2 uses. She said CT DEEP hadn't approved the property for residential use and that a high intensity residential use would not be compatible with industrial use. She disagreed with Mr. Gordon's assessment and said that changing the zone from HDD to WDD would not, in her view, be consistent with the Milford POCD. She stated that when residential uses abut industrial uses, problems can arise that negatively impact preexisting industrial uses. She noted that residents testifying in favor had already complained about odor, air quality, and environmental contamination. She said transitional zones are an important part of land use planning and that bad impacts can be created where none previously existed. She referred to previous case law on nuisance and trespass to illustrate her point. She suggested finding another transitional use that is not residential. She noted that Devon Power is part of the regional emergency power supply system, while also being both a significant Milford taxpayer and local employer. She said her client is worried that the proposed change would impact the conduct of current business, as well as limit her client's ability to expand or upgrade. She said the power plant also has to comply with regulatory rules can be imposed on them due to the proximity of the residential use, such as light trespass or noise issues. She asked that the application be denied.

REBUTTAL

Mr. Gordon reiterated that highway access to this part of Milford had lessened and migrated to other parts of Milford. He underscored the presence of nearby greenways and hiking trails. He posited that the abutting residential use will create better behavior from industrial neighbors. He said the new units would incorporate buffers. He referred to the original site development's goal of leveraging the best views and limiting awareness of the industrial neighbors. He said there was a high standard to cleanup required for residential development. He reiterated that the developer has done similar work with similar property in Shelton.

John Guedes, Primose Companies, 1425 Noble Avenue, Bridgeport, owner, said he understands Devon Power concerns, that he knows the history of the site, and that nothing currently stops the recycling company's activities from being reinstated. He said if the proposed zone change was adopted, current lawsuits would be terminated and the site would be cleaned. He said if the zone change takes place, the previous operation would cease. He stated that great care would be taken to buffer the power plant.

REBUTTAL

Attorney Olson said changes to air modeling, safety and security concerns, the potential presence of children, and other new regulations could be imposed. She said the fiscal impact analysis was ill-founded and incomplete, and neglected analysis of Devon Power potentially having to truncate operations; neither did it include the benefits to the City of Devon Power. She said she had detected an implied threat of 8-30g development. She said that hotels don't create residential uses, especially where regulations prohibit residential uses.

REBUTTAL

Mr. Gordon said his client was not threatening an 8-30g project. He stressed that current regulations permit extended stay hotels in the zone, which would place people in close proximity to the plant now.

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Mr. Quish suggested leaving the public hearing open pending response with DEEP. He asked the board if they wanted more time to digest new information. **Mr. Grant** agreed that he would like more time to review.

5. **Proposed Change to City of Milford Zoning Regulations:** Article 3, Section 3.13.2.3 Special Uses, 3,13,3 Building Requirements and 3.13.4.3 Accessory Uses, Multiple Family Dwellings, in the WDD Zoning District proposed by Jeffrey Gordon as agent for applicant Primrose Companies/Recycling, Inc.

Mr. Gordon presented proposed text changes regarding grading and spacing such that industrial parcels changed to a WDD zone could accommodate increased densities. He suggested changing the regulations in such a way that change in height only take place where zoning is changed from a prior industrial use and could not be done retroactively to current WDD properties, and that it be limited to approvals in 2019 and thereafter.

Mr. Satti asked about an illustration presented by **Mr. Gordon** as to whether it was part of the record. **Mr. Marlow** confirmed with **Mr. Sulkis** that zone changes have to be uniform and would of a necessity affect all WDD zones. **Mr. Gordon** said adaptive reuse for industrial zoning is supported in POCD. **Mr. Sulkis** said regulations could not be limited by prior uses.

Chairman Quish opened the public hearing.

FAVOR

Attorney Pilicy reiterated his support.

Dotti Bateman, 632 Popes Island Road, noted that many residents had left the hearing due to the hour, but was convinced that all would support the regulation change.

Grayce Bernstein, 627 Popes Island Road, said she did not want to see a recycling plant in the area again and supported the change.

Andrew Taylor, 1431 Windward Road, expressed support.

OPPOSED

Attorney Olson said the intensity of the residential use will overcrowd the site by doubling height of buildings, doubling the number of bedrooms per acre, and changing parking requirements. She said it sounded like the proposal was to create a floating zone. She said that, speaking as a land use attorney, her opinion was that any other WDD zone in the City could increase its density at will, if the zone text change were enacted. She also said she foresaw access issues to the property for 210 units if it were developed as proposed. She noted that approval was also needed by the nearby railroad.

Attorney Pilicy stressed that the proposed change was that only property previously zoned as ID would be subject to the WDD regulation.

Mr. Sulkis reminded that the hearing is for research.

Mr. Grant praised Attorney Olson's articulation of his own concerns.

6. **Proposed Change to City of Milford Zoning Regulations:** Article 3, Section 3.22.4.2 Minimum Yard and Open Space Requirements, (3) Buffer Strip for the ICD Zoning district proposed by Chris Smith, Esq. as agent for applicant Turnpike Lodge, Inc. **POSTPONED by Applicant**
7. **1040 and 1052 Boston Post Road:** (ZONE ICD) – Petition of Chris Smith, Esq., for a Special Permit and Site Plan Review for a Hotel and two Retail Buildings, on Map 77, Block 832, Lots 2 and 2A, of which Turnpike Lodge, Inc. (1052) and Connecticut Foods, Inc. (1040) are the owners. Applicant: Turnpike Lodge, Inc. **POSTPONED by Applicant**

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F. LIAISON REPORTS

G. REGULATIONS SUBCOMMITTEE Mr. Grant noted that there had been a meeting prior to the hearing and that proposals will be forthcoming for regional review.

H. APPROVAL OF MINUTES 11/20/2018, unanimously approved.

I. CHAIR REPORT None.

J. STAFF REPORT: None

K. ADJOURNMENT was at 10:14

Attest:

M.E. Greene, Board Clerk