

## Planning and Zoning Commission Meeting

The East Haven Planning and Zoning Commission held its Regular Scheduled Meeting Wednesday, June 5, 2013, at the East Haven Community Center, 91 Taylor Avenue, East Haven, CT

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

Roll Call – 5 Present (Commissioners Cianelli, Colangelo, Ruocco, Raymond and alternate Metzler)

Staff Present – Town Engineer, Kevin White, PE, Assistant Town Attorney, Alfred Zullo, Esq., and Zoning Official, Frank Biancur

Item # 1      Accept/Approve of Minutes from May 1, 2013, Regular Meeting.

Vice Chairman Ruocco moved to accept the minutes of May 1, 2013, meeting.

Commissioner Colangelo second the motion.

Voice vote- all in favor. None opposed. No abstentions.

**Approved**

Item # 2

a.      Text Change to Zoning Regulations “Schedule A” Line 40

**Withdrawn**

b.      Entire Release of Bond for 744 Foxon Road.

Chair Cianelli asked Mr. White, Town Engineer if everything is in order.

Mr. White indicated that he has been monitoring the site since 2012, he held the bond and the improvements requested have held up and the bond should be fully released.

Roll call vote - All in favor. None Opposed. No abstentions.

**Approved**

c.      Accept for Review Cingular Wireless Application/Proposal and Set Public Hearing Date.

Mr. Biancur stated that the date of the next meeting is the day before a holiday therefore; we should set the public hearing date for July 10, 2013.

Commissioner Metzler moved to accept the application for review and set the public hearing date for July 10, 2013.

Commissioner Colangelo second the motion.

Roll call vote - All in favor. None Opposed. No abstentions.

**Accepted for Review/Public Hearing Set for July 10, 2013.**

Item # 3      92, 100, 110, 118, 126, 180 & 242 Strong Street - Autumn View Affordable Housing Proposal.

Chairman Cianelli thanked all parties for their time, patients, and hard work.

Mr. White, Town Engineer stated that after the last meeting he reviewed the retention pond where he found a major grading error on the plan itself. If built in that fashion the

grading would end up in the road, the applicant would lose lots and it can not be built at that location.

Attorney Zullo made the following statement:

At the end of the last public hearing, applicant's counsel requested that the public hearing remain open to allow them sufficient time to respond to the comments by staff as well as the third party engineers and third party urban planners. Specifically, they requested time to submit the supporting data and documentation that both the Town Engineer and the third party engineer indicated was not included with the application. He requested that it be submitted by the end of business on Monday, June 3, 2013, and alternatively by end of business on Friday, May 31, 2013. Both our third party engineer and our town engineer indicated that they would not have enough time for them to review the same and report back to the Commission.

At the beginning of the public hearing it was made clear on the record that the public hearing would begin and end on Wednesday, May 29, 2013. This would allow the commission sufficient time to review all of the additional documentation so that they could make an informed decision on the application. The public hearing was closed over the objection of the applicant's attorney for reasons that were stated on the record at the time. The applicant by his letter of June 4, 2013, has accused the town of hold the report back to just prior to the hearing, which is untrue.

It was my hope that the applicant would take the Commission's and the planner's recommendations to heart and submit a meaningful modification. Instead he chose to submit a modification which essentially contained the same high density and solved none of the problems that were pointed out by our staff at the earlier public hearing aside from widening the roads and sidewalks. It is for this reason that I requested that the hearing date be set for far enough ahead to allow us to obtain third party reviews of both the engineering and the drainage and the housing plan. I did so as a result of the substantial amount of I have read where the opinions of staff have not been given much weight by reviewing courts absent outside corroboration. Although our Town Engineer was of the opinion that the drainage plan was insufficient for 27 foot roads and it would be clearly insufficient for 30 foot wide road, it was agreed that the third party review would be prudent in the event of an appeal.

We encountered two major problems relative to obtaining an engineer to perform this third party review. The first problem stems from the fact that many of the engineers that we were referred to had worked with Attorney Hollister and Mr. Nafis before on other projects and they felt a conflict and might be adverse to them. The second was finding an engineer who simply had the time to do the amount of work necessary to provide an appropriate third party review. I was ultimately referred to Mr. Jacobson by an engineer whose schedule full therefore he was unavailable. He was referred to Mr. Jacobson April 12, 2013, spoke with him that afternoon and met April 15, 2013. One week before the public hearing a revised hydrology report was emailed to the Zoning Official, and then emailed to our Engineer.

I immediately emailed the report to Mr. Jacobson who had yet to forward us his report and asked him if it would affect the conclusions he had come to relative to his review on the 24<sup>th</sup>. As of his email, Tuesday, May 28, 2013, at 1:44 p.m. at which time I

was able to prepare my report in final. The Engineer and I saw the final report the day before the hearing.

I understand the applicant's position that the intention of the statute is to be remedial. However, the applicant is still required to abide by all of the local Town ordinances and state statutes when preparing their submissions for them to be able to obtain the remedial relief of the statute. The applicant's complaint of surprise carries no weight in light of the fact that most of Mr. Jacobson's and Mr. McGuire's criticism is that the application contains only summaries of their calculations with insufficient supporting information for anyone to confirm to the Commission that the calculations were valid as is required under State Law and Town Ordinance. I am sure that the applicant and his Attorney and Engineer are genitive of the requirements of our local ordinances and state statutes. One can only believe these items were not submitted is that the applicant did not want the Commission to see them.

The applicant kept the Commission uninformed throughout the process. He chose not to meet with the Engineer and Zoning Official prior to submitting the application and on the day of the public hearing submitted supporting information, giving the commission no time for review. They then submitted the revised hydrology report a week before the public hearing and submitted additional supporting material the date of the modified hearing.

Mr. McGuire is very qualified engineer and pointed out the same deficiency as the third party engineer.

The applicant's Engineer, David Nafis attempted to explain the discrepancy between his statements regarding unsuitability of the site for rain gardens and the use of impact ground water infiltration to support this statement that the modified plan will result in no additional water runoff than is currently being generated from the site. His conclusion confirms that the majority of the site is not appropriate for water infiltration basins. He then indicated that these basins were inappropriate in the front yards or side yard lots. He further indicated that after each house was built he would dig a test pit to determine if a water infiltration basin was appropriate for that property.

It would have been much more practical to do the test borings prior to construction and during the application process.

The applicant may be unhappy with the decision to close the public hearing to give the Commission the appropriate amount of time to review the voluminous amount additional information submitted relative to the application. However, they have had every opportunity from December to the date of that hearing to comply with state statute and local ordinances by providing all of the supporting documentation for the town's review. The claim that it is unfair to them to not be allowed to do so at the last minute simply carries no weight.

Chairman Cianelli made the following statement: He and this commission have listened to hours of information, digested countless pages of documents, technical data, reviewed maps and drawings provided and presented by the applicant. To propose 103 dwelling units at this site leaves very little land for other uses. The plan provides no open space and insufficient containment of storm water runoff and the concerns for safety of the retention pond leaves him to believe the entire plan has great inequities and is unsuitable.

Vice Chairman Ruocco made the following motion to deny the amended site plan application should be denied for public health and safety, quality of life reasons and for failure to comply with CGS 8-30g for the following reasons:

The project remains too dense and is inconsistent with surrounding neighborhoods and is not conducive to public health and safety.

The project fails to abide by the applicant's own development standards as to setbacks and building location.

The application fails to comply with the town's standards relative to 4 ½ foot sidewalks on both sides of the street and street lights to ensure health and safety of the homeowners.

The plan has insufficient off street parking for residents and visitors to ensure health and safety in the event of fire or police emergency.

The plan still has insufficient drainage and the applicant has no agreement in place relative to drainage of ground water into Grannis Lake.

The application is devoid of any data showing no increase in runoff from the site and the drainage plan is conclusory at best and a risk to public health and safety of surrounding neighborhoods.

The application because of its density would put a severe strain on public services including but not limited to education.

The retention basin No. 1 as shown on the plan is inappropriate and inconsistent with the town's zoning regulations and Connecticut State Guidelines for soil erosion and sediment control and dam regulations. In addition, the dam/berm comprising retention basin No. 1 endangers all of the homeowners across from Strong Street in the event of a failure.

The berm/dam contained in retention basin No. 1 is essentially a structure which can not be located in a setback area.

The proposed application as an 8-30g proposal still fails to provide an adequate affordability plan in that it fails to provide an accurate calculation of sales price as required by the statute and fails to designate an affordable manager that would manage the plan throughout the forty years of its life.

I would further move that the modified application be denied without prejudice to the applicant reapplying for a site plan approval in the future as recommended by the Zoning Official, containing at a minimum:

- A. No more than 60 units.
- B. 4 ½ foot sidewalks and street lamps on both sides of the street.
- C. Minimum road frontage of 60 feet.
- D. Minimum sidelines of 15 feet.
- E. Minimum front yard setbacks of 25 feet.
- F. Minimum rear yard setbacks of 30 feet from the retention basin and 25 feet otherwise.
- G. The location of the retention basins in the middle of the development.
- H. A legitimate pricing calculation that provides 60% and 80% median income purchasers with appropriate affordable pricing of the affordable units.
- I. An agreement with an administrator such as a Town or State Agency that would be available after completion of the project to administer the program throughout the 40 years of its term.

In addition, to his motion he has concerns that the engineered drawings are inappropriate. Commissioner Metzler second the motion to deny.

Roll call vote - All in favor. None Opposed. No abstentions.

**Denied**

Commissioner Colangelo moved to deny the modified application for health, quality of life reasons and for failure to comply with CGS 8-30g for the following reasons:

The development remains too dense and will put a drain on town resources and services and is simply incompatible with surround neighborhoods.

The development will contain numerous children and 4 ½ foot sidewalks on both sides of the street and street lights are necessary to avoid harm to the health and safety of the residents.

Insufficient off street parking to avoid traffic issues and allow fire and police service to serve residents in an emergency.

The plan fails to meet its own minimum standards. The plan calls for 15 foot sidelines yet most of the units in the subdivision have 7 ½ foot sidelines.

The allowable zone definition simply does not promote affordable housing in other areas of town and it should be consistent with the zoning official's proposed Affordable housing Statute amendment.

The proposed application fails to comply with 8-30g and that it fails to present an accurate calculation of sales price and it still does not designate an affordable manager that would manage the plan throughout the 40 years of its life.

I would further move that the application be denied without prejudice to the applicant reapplying for text change accompanied by appropriate applications similar to the recommended changes suggested by the zoning official. Said re-application to provide at a minimum the following:

- A. No more than 60 units.
- B. 4 ½ foot sidewalks and street lamps on both sides of the street.
- C. Minimum road frontage of 60 feet.
- D. Minimum sidelines of 15 feet.
- E. Minimum front yard setbacks of 25 feet.
- F. Minimum rear yard setbacks of 30 feet from the retention basin and 25 feet otherwise.
- G. The location of the retention basins in the middle of the development.
- H. A legitimate pricing calculation that provides 60% and 80% median income purchasers with appropriate affordable pricing of the affordable units.
- I. Amended dimensional standards which would accommodate the amended principal building standards and site plan standards;
- J. Sufficient off street overflow and visitor parking;
- K. An agreement with an administrator such as a town or state agency that would be available after completion of the project to administer the program throughout the 40 years of its term.

Commissioner Raymond second the motion to deny.

Roll call vote - All in favor. None Opposed. No abstentions.

**Denied**

Commissioner Raymond moved to deny this amended application for a zone change on the grounds of public health and safety and quality of life reasons as well as failure to satisfy Connecticut General Statutes 8-30g. Both the application for text change and site approval by the applicant has been denied. In light of the denial, changing the zone would be moot as there are no standards available to control development in the area.

I would further move that the application be denied without prejudice to a reapplication by the applicant for a zone change in the future accompanied by a text change and site plan application with the recommended changes suggested by the commission as reflected in this record of the applicant's amended request for text change and site plan approval this same day.

In addition, Commissioner Raymond stated that he has great concerns that the berm can not be built as drawn.

Commissioner Colangelo second the motion to deny.

Roll call vote - All in favor. None Opposed. No abstentions.

**Denied**

Item #4 Vice Chairman Ruocco moved to accept for review an Affordable Housing Plan Draft and create a subcommittee for the purpose of holding workshops to discuss and create a plan.

Commissioner Metzler second the motion.

Voice vote- all in favor. None opposed. No abstentions.

Approved

Commissioner Colangelo moved to adjourn.

Commissioner Metzler second the motion.

Voice vote- all in favor. None opposed. No abstentions.

Meeting adjourned at 7:37 p.m.

Respectfully submitted,

Roberta A. DeLuca  
Commission Clerk