

**Planning and Zoning Commission  
Public Hearings**

The East Haven Planning and Zoning Commission held Certain Public Hearings Wednesday November 2, 2016, which commenced at 7:00 at the East Haven Community Center, 91 Taylor Avenue in order to transact the following:

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

Roll Call – 4 Present (Cianelli, Metzler, Colangelo, and DeMayo)

Staff present: Christopher Soto, Zoning Official, Kevin White, PE, Town Engineer, and Joseph Zullo, Esq., Town Attorney

**Public Hearing #1**

18 Wheelbarrow Lane; Application for Special Exception: Removal of rock from property.

The Applicant, Mr. Steven Madonna stated that he wants to renew the original plan with a retain wall.

No public comment

Chairman Cianelli clarified that Mr. Madonna does not want to remove any additional rock just feather it back what is loose with a retaining wall.

Kevin White, Town Engineer recapped that even though it says removal of rock there is none and you will do what we discussed previously spread the material that's there with a retaining wall. No more removal of rock. No problem with this application

Commissioner DeMayo indicated a time frame should be added to the approval and contact the Zoning Official when it's complete.

Mr. Madonna indicated it shouldn't take more than a week to a week and a half.

Chairman Cianelli asked if Mr. Madonna has heavy equipment on Rock Road.

Mr. Madonna indicated "No."

Chairman Cianelli closed the public hearing.

## **Public Hearing #2**

93 Hemingway Avenue: Zone Change Application: RA-1 to CB-2

Chairman Cianelli recognized Attorney Timothy Lee who represents the owner applicant of 93 Hemingway and 75 and 83 the adjoining properties. Ultimately, they are interested in mix use of the site possibly a medical office or retail along with 78 age restricted units of housing at this site. To develop the three parcels with the zone change at #93 to a CB-2 it is currently RA-1 and the change would allow for the commercial component as well as the residential. We think this is a good concept for the town for tax revenue.

The other two parcels are already zoned CB-2 for commercial use of a 10K sq. ft. commercial building along with 78 housing units, this will reduce the originally approved 144 units at this site, which could currently accommodate that many units. If this change goes through we only propose 78 housing units and a commercial space, which is a much better plan. The site is surrounded by all CB-2 zones and is consistent with what is in the neighborhood right now, across the street and CB-1, down towards the water is all CB-2 and to the right multifamily homes and commercial and retail. In addition, the plan is consistent with the Plan of Conservation and Development recommends age restricted housing and commercial development in this area. Based on these factors we ask the commission to approve the zone change so that we can move forward with the plan to develop the site.

Chairman Cianelli recognized Attorney Treifers 611 Quinnipiac Avenue New Haven representing Mrs. Patel who is in a residence right across the street from the site and is in opposition. The Town Plan of Development and Conservation indicates commercial use up to Dodge Avenue and the Green. I would like to make a few technical comments, when she got the notice it was not clear as to what the zone change is and if you wanted more information you should go to town hall.

Chairman Cianelli stated to Attorney Treifers that with all due respect, you're here, you knew there was a hearing tonight.

Attorney Treifers commented that the postman approach Mrs. Patel and told her he had these additional letters to deliver to entities across the street; such as in the wetland and tenants at the apartment house. Let me briefly address the application itself, it says commercial use and what that says to Mrs. Patel that anything can go on this site. I realize there is going to be elderly housing on the site but what you are proposing is to ask her to live across from any type of commercial unit it can be a variety of uses. It also says under

#7 it is consistent with the plan of development. He differs, because it should be commercial use and should stop at Dodge Avenue.

Chairman Cianelli stated that we have the same uses along Main Street, Foxon Road, and High Street since the beginning of the town where we have all these mixed uses and that is why the original application had to be withdrawn. I was in the office today when Mrs. Patel came in and she was questioning the notices.

Mr. Soto indicated that a list of notification addresses are in the file that Attorney Lee submitted and they are addressed to those on the tax assessor's site, we cannot speak to the postal service. I don't see handfulls of mail addressed to her and the applicant has met the requirement.

Attorney Treifers stated that he will reserve his comments for the application for the proposed site.

Mr. Soto stated that we will be setting the public hearing for the proposal.

Attorney Treifers indicated that it is helpful to have elderly housing in the area but to put commercial use directly across the street where the Plan of Development indicates it should stop at Dodge Avenue constitutes spot zoning. We will respond to what the commission will hear later.

Chairman Cianelli recognized Niki Whitehead 9 Hilton Avenue submitted a package for the record.

Ms. Whitehead stated the presentation may or may not be built, which includes this piece of property for the zone change and may not be relevant. I would like to address the underlying point made by Attorney Treifers. When making a zone change sometimes not doing this or tying into anything else is significant. Anything is then possible as soon as you make the zone change. First she addressed the Plan of Development map of usage on a very small scale. She caught the tail end of what Attorney Lee stated that this zone change and application are consistent with the Plan of Development and Conservation and they are not. She will show on the map why not, it does mirrored what the previous speaker was saying about Dodge Avenue. The Plan's map is being described where there is a color change at Dodge Avenue and that is really significant. It shows commercial up to Dodge Avenue and stops. It is what the plans says and that's what we want. Then it shows medium to high density residential on the brown side of the map with a hard break that is not there by happenstance it was done through a planning exercise and an adopted plan. The plan was adopted through public hearing for Planning and Zoning and it is their plan in

place currently. We have a hard break between residential and commercial, so there cannot be a claim made that this zone change or application it is consistent with this plan, north on Hemingway Avenue becomes less dense. On the west side of Hemingway north of Dodge Avenue it's entirely residential there is 1 house on every lot; except for the bank, which is an adapted re-use of a historic structure at the top of Hemingway Avenue. Plan does indicate some commercial at the top of Hemingway at Main Street.

Chairman Cianelli stated that they all understand Plan of Development and Conservation, which is due to be revised in 2017, this is the one in affect now.

Ms. Whitehead said this is our plan until it is revised, it will go through public hearings and then be adopted and at that point we will know if it is altered in some fashion but for right now this is the plan in effect.

Commissioner DeMayo asked why it's being revised.

Ms. Whitehead stated that it is a statutory revision process every 10 years. This is the plan now until you go through a planning exercise for a new one. But for right now this zone change is not consistent with it. Something said was unclear why the prior 1980 zone change CB-2 stopped at Dodge Avenue, on the west side of Hemingway Avenue there was a zone change in 1988, that changed all of the lavender portion on the map to CB-2 and stopped short on Dodge Avenue. The reason for that zone change made sense from Light Industrial to Commercial up to Dodge Avenue. *Inaudible*, Chairman stated too much confusion, let's stay on track. We understand this comprehensive plan very well and many of us think it's archaic. For our town to grow we need to have commercial use that's part of the process.

Ms. Whitehead just wanted to make a point that your support of the project is prompting the zone change. It may be important to mention that the residential project for the elderly, *inaudible*, can be built in a RA-1 and CB-2 zone or a combination of the two. So this zone change is not required by the desire to put up the elderly housing. The second item given to the commission shows the commission that you are opening the door for uses that are not currently permitted and you are opening the door for applications that are usually submitted by special exception.

Chairman Cianelli stated that you have said the magic word "special exception" nothing commercial is permitted without this commission's approval. This is a comprehensive plan the town needs commercial use to grow and in order to grow it prompted a zone change.

Ms. Whitehead stated the use is by right not by Special Exception it is the exception to the rule it goes with a place and a zone in combination. A chart was submitted as permitted use in the CB-2 zone and not in RA-1 and the majority of use differ greatly. The one change that jumped out at her was that in a RA-1 zone a single family house is allowed but not in the CB-2 zone. The rest go in the other direction they were prohibited in RA-1 and now are permitted. Just pointing out a few on page 3 of 5 use line 39 allows for service station, this is a big lot 2.7 acres and anything can happen with this zone change and could have an impact.

Chairman Cianelli stated that we know our regulation what we are trying to do in this part of Hemingway and Route 80 we are trying to encourage people to come in with business, we have to grow our tax base with commercial use or we will not survive as a town.

Ms. Whitehead stated that she understands, but would like to bring forth these facts and be completely clear and bring it to light.

Chairman Cianelli stated that you keep mentioning permitted use whether it is permitted or not they would have to come before this commission with a site plan and we have the ability to reject it.

Ms. Whitehead stated that she does not see that as an argument, if it is as of right it is her understanding that as of right really carries weight and I'm not an attorney and don't pretend to be one. I think if a site plan is submitted and it meets all your regulations you would have a hard time denying and not facing a challenge. I pointed out line 39 because a gas station is permitted by right with a site plan and #14 is very similar. I mention those two because as you review those uses are vastly different from residential. Also, adult entertainment is only allowed in the CB-2 zone by special exception. *Inaudible.*

The Bulk Standards are the standards that govern the intensity of the use of this commercial property, as well as the residential use of that commercial property, the rear property set back is decrease by a full 60% the side setbacks are reduce by 33% and gives 150% more lot coverage, more spread out. This gives .88 acres of more building and impervious surface.

Commissioner DeMayo stated that you are pointing out the extreme; I don't think that is what the applicant wants to do. At some point you have to give some faith and credit to the staff and commission that possibly we are looking at it in a different vein. Let's use a little practical common sense.

Ms. Whitehead stated that she is not going to the extreme, I'm just pointing out what someone can do by right. The commission cannot say you cannot go all the way to the back

or side of the property. I understand we can't make a decision based on the plan we can only make a decision as to how the zone change reads because that is what is before you and that is how it reads. The density of this is important in a lot like this because it is in a Flood Way and the building will have to be raised up and it requires much more impervious surface. There is one more thing, there is no such thing as mixed use in the zoning regulations, and it's a planning concept. *Inaudible papers being moved.* There is a distinct difference between commercial and residential, one could argue that there are compatible commercial use and but we do not have the standard of mix uses that would allow you to approve something that is compatible, which verses something that wouldn't be compatible.

Christopher Soto, Zoning Official indicated that they are seeking to change the zone to a CB zone for a lot of practical reasons pertaining to adult use section they would have to be a certain amount of feet away from places that sell alcohol, restaurants and that particular property would be rule out by its location to restaurants, liquor stores.... Ms. White is correct in ways as to what is allow by site plan or by right but would still have to meet Inland Wetland, DEEP, etc. The commission would have leverage due to the impact on the land and requirements of the DEEP.

No comment by the Town Engineer.

Attorney Lee when my client acquired these three properties several months ago it was our intention to build the 144 units previously approved. They worked very closely with the town's staff to include this commercial component to the plan. This is the result of lengthy discussions with the town. As my comments with regard to the PCOD, there are properties that abut this property and all along Hemingway Avenue, including the other two parcel his clients own that could be developed based on what is allowed in that CB-2 zone, we are not opening the door up a host horrors.

Mr. Soto indicated that this property is basically at the corner of Dodge Avenue, Mrs. Patel lives next to a convenience store and if you look at the records you will see that there is common ownership there. We believe that the plan is basically within the designs of the Plan of Conservation and Development; we are splitting hairs for that purpose, it is almost directly across from Dodge Avenue.

Attorney Lee read from the Plan of Development, continued growth of the town's economy is essential and increase the employment base and try to increase the tax base. Page 22 to increase the development of the business district which is very close to the site. To increase development along the main arteries in town. Page 24 encourages residential and

retail development along Short Beach Road, Coe Avenue, and Hemingway Avenue.  
*Inaudible.*

Commissioner DeMayo asked what they plan to utilize the commercial building.

Attorney Lee indicated possibly a Medical Building.

Chairman Cianelli indicated to Mr. Brancati before he spoke that Mr. Brancati called him in to say that the approval for the 144 units was expiring and was surprise it was approved 10 years ago.

Mr. Brancati stated the town felt that a development of that many units would be too dense and it was our opinion that if it was a mixed use (for lack of a better term) would offer a less dense residential development in the rear and we felt it was consistent with the Plan of Development. This abuts the properties mentioned in the Plan and is extension of the commercial along Hemingway and Short Beach and we did not feel at the time it was a violation of the Plan of Development and Conservation because this property is directly across from Dodge Avenue. This is consistent with what we have wanted to do for years in this commercial strip in town. In the new Plan of Development we are going to be pushing for this kind of development throughout town.

Chairman Cianelli closed the public hearing.

### **Public Hearing #3**

35 and 47 Sharon Drive: Application for a Re-Subdivision: 13 Lots.

Attorney Joseph Zullo disclosed that Mr. Ralph Mauro is a client of his firm.

Mr. Mauro stated that due to some concerns of the Town Engineer he respectfully asked to leave the Public Hearing open.

Mr. Soto stated that revisions were just made and too late to address. This is a 13 lot subdivision, no variance is required, and the drainage system will go through an easement on Swan Way. This is an R-1 and R-2 District and are all sized to those zones.

The public in attendance protested that fact that they can't ask questions of the applicant.

Chairman Cianelli allowed the public to ask questions.

Susanne Wardle asked if the houses have to be built within the lot lines?

Mr. Mauro indicated yes within the dotted line on the plans.

Nicole Brooks 2 Pondview Terrace indicated her yard floods every time it rains because the drainage is overburden on Laurel Street and Sharon Drive, this will not further flood her yard.

Mr. Mauro indicated due to certain elevations the water will be picked up in the new drainage line designed for the 200 year storm. This might help your situation because the controlled water will be piped away.

Barbara Parson, 16 Sharon Drive asked about the increase in traffic on Sharon Drive, does it meet all the town's regulations with all these lots. Does the density allow for Sharon and Eldred Drive to be One Way streets?

Kevin White, Town Engineer, stated "No."

Barbara Parsons will the new sanitary sewer coming through Lisa Lane help the overburden system.

Mr. Mauro it might possibly help because we are abandoning a portion of line.

Mr. Soto indicated that the applicant meets all the bulk standard there will be no need for a variance because each lot meets the higher standard of buildable square footage.

Ed Chase asked due to all the rock and ledge will they be blasting.

Mr. Mauro indicated that they will not be blasting they will be working with the contours of the land.

Betty Delmonico, Eldred Drive is concerned with her property lines.

Mr. Mauro stated that we will be giving you the property in which you are encroaching on currently.

Mr. Soto indicated this public hearing will remain open until November 30, 2016.  
Chairman Cianelli closed the public hearing at 8:40 p.m.

Respectfully submitted,



Roberta A. DeLuca  
Commission Clerk