

Planning and Zoning Minutes

The East Haven Planning and Zoning Commission held a special meeting Wednesday March 14, 2018 at the East Haven Community Center 91 Taylor Avenue East Haven Connecticut in order to transact the following:

Chairman DeMayo called the meeting to water at 7:03 p.m.

Pledge of Allegiance

Roll call: 4 Present (Gravino, Asid, Lang, and DeMayo) 1 Alternate Present and sitting on the commission (Carocci) 5 Members present.

Staff Present: Christopher Soto, Zoning Official, Sal Brancati, Director of Administration, and Assistant Town Attorney, Alfred Zullo

- 1a) Accept and Approve minutes of February 7, 2018.
Commissioner Gravino moved to accept the minutes of the February 7, 2018 meeting.
Commissioner Carocci second the motion.
Voice Vote - All in favor. None opposed. No abstentions.
Approved
- 2a) 31 and 63 Sperry Lane: Zoning Regulations, zone map change from R-5 to R-3.
Chairman DeMayo indicated that since the public hearing is closed the commission will proceed to the zone change from R-5 to R-3
Attorney Zullo noted that since 2a and 2b are interrelated we should address everything for both items once and make a motion as such.

The Clerk read aloud a letter from Anthony Martone, 20 Branhaven Drive, East Haven Police Chief, Edward Lennon, East Haven Fire Chief, Matthew Marcarelli. All letters are on record in the Planning and Zoning office as part of the record for 31 and 63 Sperry Lane Zone Change.

Attorney Zullo read aloud his letter addressing the legalities with regard to this zone change. This letter is also on record in the Planning and Zoning office as part of the record.

The Clerk read Fire Marshal, Mark Nimons comments submitted with the first application which was attached to a letter from Bernard Pellegrino, Esq. read aloud on behalf of the applicant. This letter is also on record in the Planning and Zoning office as part of the record.

Chairman DeMayo commended all the Departments for their full cooperation. It is probably one of the largest projects that this town and this Commission has ever seen and I think it's appropriate that we give it the proper attention on a complete basis so that all the

facts from all the Departments who participated. Chairman DeMayo thanked Attorney Zullo for coordinating all the comments with regard to this project. Chairman DeMayo believes that because it's such an important decision that they need to have an open discussion amongst the commissioners in front of the public on this matter and then we will be prepared to take a vote. Let's discuss the pluses and minuses and get a conclusion from this participation.

Commissioner Asid stated that she goes back and forth with this, it's a good idea but it's just not all there yet of what it could be or should be. She has gone back and forth about this and it's one of those things that look good on paper but I don't know if it's going to withstand all that it will have to go through, through the years and to continue to look good and be good for the town. Her concern has always been the traffic and how the age is set up and of course the infrastructure issue or the low density design for the town. She thinks again the way the age restriction is set up it's really not elderly housing. She believes it's greater than that and could have a greater impact on the town facilities.

Chairman DeMayo stated to the commission let's not forget it's important that we have a town plan of conservation and development, which we restore every 5 years or so. That area has been designated as a low-density area, we are going through the plan of conservation and development right now and I believe that area will again be designated a low-density area as well.

Christopher Soto, Zoning Official stated the current plan for that census tract says that it should remain an R-5 and I don't think we'll see a major change to that as looking at the plan of conservation and development.

Chairman DeMayo stated the other thing that struck him was the traffic situation and ask the traffic engineer about the traffic safety. They said that there is no light needed there. He doesn't think you need to be a traffic expert to know that you need a light there. It is also the commission's responsibility to protect the people, we cannot have 30 to 40% of accident there be on the commission shoulders. Then the project is a beautiful looking project. He believes Commissioner Asid said it correctly it's just not there yet and the other point is that we would be clearly in violation of a state law modifying something, section 27 that was read. There are a lot of pluses here but I believe Commissioner Asid put it correctly maybe it's not there yet. This could be a situation where are you cut your nose off to spite your face but we have to be very very careful of the people in that area and their safety. Along with the character of that area, he asked Mr. Pellegrino how would the character of the area be changed and he believes it would have an immediate impact on the character of that neighborhood and would not fall within the plan of conservation and development. But there are many pluses to this project.

Commissioner Lang stated he didn't have anything to say because he doesn't know where to begin with this. You all know that I think this is a good project listening to the Town

Attorney telling us what we can and can't do it's almost like we could have called this meeting off. What he looked at and he had to apologize for at the second meeting because the first time he spoke about it he spoke negatively he knew very little about it until he took everything home and started to look through it. He truly believes it's a good project first of all the words immediately is used quite a bit here, you're looking at something that could possibly take five to seven years before it's done so immediate has to be thrown right out there's nothing immediate here at all to start to approve something like this. Also the letters are a little bit discouraging when I received them from the fire department and police department, talking about how thinly we are stretched, the fire department and how our infrastructure is so weak we're stretched out in the police department and were weak in the fire department. We are in 2018, 18 years into the 21st century and we're weak in those two areas it shouldn't be. A project such as this upon its completion the taxman is talking about numbers up to 1.2 million dollars. I figure if we spend \$400,000 between fire and police, if indeed there is 1.2 million, which leaves the town with \$800,000 a year in tax revenue. I've been paying attention a little bit to what's going on in Hartford and we should all be somewhat concerned. The City of New Haven is suing for the pilot money that they haven't gotten yet from the State of Connecticut. He doesn't know if we have received ours but I'm pretty sure, if New Haven hasn't gotten theirs then he's pretty sure we haven't gotten ours. But the situation here is that the state is pulling back on what they've been giving to the towns, so to be able to just turn down a project such as this that's truly concerning. As the Attorney brought up there is a stopgap along the way throughout the plan if this isn't right or that's not right in the town has some say. There are so many things in here that can put a halt to even if it is approved again the word immediate does not exist here. The immediate here is getting the ball rolling getting this constructed. There is some other housing here that has not been brought into this picture Mill Street the Condominiums up on the hill and condos up on Foxon Hill those haven't even been talked about here. He believes that there are 75- 78 single family homes for sale right now in East Haven and if every one of those was immediately sold we would have immediately 320 new people living in town. The only thing that was left out of this report, Chairman DeMayo interjected that 320 people would be leaving.

Commissioner Lang stated a majority of those 78 houses have no children and Children and Families would be moving in and this I know for a fact. The only thing to make this sound worse is to accuse him of changing the climate. As far as he's concerned this is a good project, we should not be looking for ways to stop we should be looking for ways that it should be able to take place and happened in our town.

Commissioner Gravino stated that the tax benefit that goes along with this project does not outweigh the burden on the town's infrastructure, especially with regard to the fire and police departments. We all know how difficult it is to get money to increase our fire department and our police. The other thing is the traffic issue it is a big issue in that area, to say that you would have a turning zone on the shoulder of the road is absurd, the destruction of the neighborhood up there for those people who are settled in their lives.

We all have to ask ourselves we want this in our backyards as you know people always say not in my backyard. What about the people that live there what about the plan of conservation and development that is something that Mr. Brancati works on very diligently. Commissioner Gravino summed it up by saying that she is really on the fence about this project.

Commissioner Carocci indicated that he is new to this but he has listened to this throughout the hearings and every time there was a concern of this Commission the applicant addressed it. There were some lingering concerns, one being the traffic light he believes that there should be a traffic signal at the entrance of the site and I think we can deal with that through a condition of the approval. Let's put ourselves in the position of the applicant, I don't think there is any sinister motive saying one applicant has to be over 55 years of age. He thinks that it is contemplated that if there is a man or a woman and the man is 55 and his wife is 53 that they can both reside there. Let's talk this out, it's an expensive development it's going to be expensive to live there and they're targeting 55 and older. Commissioner Carocci stated that he's 53 years old and by the time that this development is finished he will be 55 years of age, he said he wouldn't consider what they're asking to pay for rent if there is some sinister motive at this price level. He can't imagine that someone with a drug abuse habit will be bringing in children and be able to afford living at this facility. By the way this is a beautiful facility. It wasn't really a concern of his until he heard the town attorney say that we can't put restrictions or conditions because of the deed restrictions, he wishes that it could have been brought up prior to tonight. We need to find a way to get this done its 1.2 million dollars in tax revenue how many developers from our town are knocking on our doors to say this is what we're going to build, it's going to be beautiful and were going to address all your concerns. They addressed every concerned that we brought to them Even the concerns with the fire department, he is willing to build a pump station and upgrade apparatus. The concerns with the police department have been addressed he's going to put a substation at the site. It's not as if they said here's the project take it or leave it but they said oh by the way we will address your issues. He believes they've gone above and beyond and from what he has scene it's a beautiful project. You cannot have progress without change so yes to make an omelet you have to break a few eggs. There are a few people who love their routine that's going to be upset for a certain period of time while this is being built. Yes there's going to be dirt in the roadway while the trucks are going in and out that is progress. You're not moving ahead you're standing still might as well just go backwards and at some point this commission has to say we are at a general development plan stage. What is general development do we want to develop East Haven and progress and move forward? Like Commissioner Lang said that the police and fire department stating that they are stretched thin as it is makes me as in East Haven resident nervous. It's 2018; let's use these 1.2 million dollars to improve our police and fire departments, so let's invest in those apartments so we're not stretched so thin. He can't imagine that we can't figure out a way to get this done, it's a beautiful project and there's no reason why it shouldn't get done. The presentation was great the engineer's came in and explained what could possibly be done

and as a commission we can approve this with some conditions based on how they responded in the past to our requests and that's the way they will respond again.

Commissioner Asid stated that she does not agree with the one person being 55 and older. It's going to create an issue where eventually it has the potential to become just an apartment complex. Then it's going to need policing, I've seen it, in the condo Community where I live. Where a drug addicts son moves in with his parents and his parents have died and his children move in with him and they created a drug house. It happens all the time who's going to police that the one person who is 55 who moves or dies how are they going to police that, who is going to know that that person is no longer there to say you have 6 months to get out and go by the way I'm still getting my rent. Another issue is that you were going to have kids going to school there. She thinks it's a beautiful place but like she said we are not there yet with all that.

Commissioner Carocci stated to Commissioner Asid, in your scenario the person paying the rent dies, and now he has a drug addict son who moved in correct, and you think he still able to pay the rent. No he's not this is not Section 8 there's nobody paying bills.

Commissioner Asid said well maybe it's just a daughter or a son moving in.

Commissioner Carocci reply you are missing the point the developer has a vested concern this is costing him a lot of money; again the developer has a vested interest.

Commissioner Asid said what if they do move in with children how are they going to get them out and if they're still paying the rent.

Commissioner Carocci stated that the developer went through great pains to get this zone change so we can make this 55 and older. If they were to let that happen his target market is no longer going to come and rent. They are going to leave, leaving him holding the bag of paying a lot of taxes and we have established that its 1.2 million dollars. I don't think that he wants 1.2 million dollars to come out of pocket because all 55 year older would leave. Now he is stuck with a regulation where one person has to be 55 or older correct, so if he were to let that deteriorate to a point where your scenario develops the 55 year olds aren't going to go there anymore and he stuck with the property that he's going to have to pay taxes on.

Chairman DeMayo now what are we stuck as a town if this is an LLC let's just say it is and now we have an abandoned building and or buildings. And yes it is a beautiful project but I believe that commissioner Asid hit the nail on the head when she said it's just not there yet there are still too many things that have to be resolved. I think the traffic is going to be a nightmare when these people are trying to get in and out. There are going to be fender benders. God forbid someone gets hurt badly, he loves the project absolutely loves it but it could be good at some point but I don't believe it's ready now. That is his only concern

right now and the other concern I have is Attorney Zullo's point. Unfortunately, the case law in the State of Connecticut is very clear the Planning and Zoning Commissions do not have the ability to waive the various requirements in any of their planning regulations. The Planning and Zoning commission simply does not have the power under the State of Connecticut to vary any portion of our regulations we would be trying to bury some of the regulations and he's not filling all the requirements. We don't have that power; the courts would throw us out. Again, I really love the project it's just not there yet where it should be.

Commissioner Lang stated that he has to ask a question then of the two Commissioners that don't think it's there yet what do you think you have to do to get it there.

Chairman DeMayo stated that's not for us to determine.

Commissioner Asid was speaking along with Chairman DeMayo it is inaudible.

Commissioner Lang stated we are denying it on, Chairman DeMayo stated we haven't taken any action yet.

Commissioner Lang said, okay we are not denying it yet but we are saying that it needs a tweaking before you would be satisfied with the way it's written up. As he looks at the conditions everything here has a stop-gap on it there's nothing in here that prohibits us from stopping work being done. He truly feels comfortable with the fact that the developer is not from out-of-state not even from another town he lives in East Haven he's in East Haven resident. Commissioner Lang stated that he has lived here since 1948 and he remembers the developer's family name all those years, where are they going. If he says he's going to maintain this property I believe he is going to maintain it. If there is a situation up there about what you all are speaking about, with drug addicts moving in I'm pretty sure this gentleman is going to take care of that before he dumps it on the town. You're not going to spend 40 million dollars and turn around and let it rot on the hill it's not going to happen. At least that's what I know of this fellow that's not the way he does business. To stop this, something just doesn't seem right about it.

Commissioner Carocci was correct in saying there are various regulations that we have in place with the state and the court system about they could do and say. With regard to the traffic light we can make that a condition as well. He doesn't believe that you can genuinely say that "it's not just there yet." That's not truly discussing the facts of what it needs.

Chairman DeMayo stated that he will put human life over 1.2 million dollars in taxes dollars any day.

Commissioner Gravino referred back to East Farm Village, the developer was there he did a good job took good care of it and then it was sold. Now it accepts low income and I'm not saying that this project will become low income. What happens if the family decides in 30-40 years that they don't want this project anymore and sell it? There are people moving in

and out of this all the time how do we write that into a condition. It sounds like a wonderful place but there are some questions that need to be answered. The tax revenue would be great but it does have to be tweaked and that has to be done between the people who have the training to do the tweaking not this Commission.

Commissioner Lang commented if we are voting on this will we be voting with conditions. If there are going to be conditions are we going to talk about them before we vote on them.

Chairman DeMayo said yes we can you can make motion with conditions and we can vote on it and see if it passes, there is no problem with that.

Attorney Zullo explained that the conditions be part of the motion.

Commissioner Carocci stated that his question is for the members who think the plan needs tweaking would any conditions that Commissioner Lang and he want to see put into the approval get this general development plan underway. Would any conditions help you or is this something you are saying not now. I don't want Commissioner Lang and I going back and forth trying to put in conditions that will alleviate some of your concerns, if your concern is in general it's not there yet. He believes the project is here it's right in front of you, some of the conditions that I would like to see on this are the widening of the road there is going to be increased traffic because there will be an increase residents.

Chairman DeMayo asked if he was speaking of Route 80 that a state highway and we don't do state roads.

Commissioner Carocci stated that's not my point, also a three way traffic light.

Chairman DeMayo stated for a light it is also a state road.

Commissioner Carocci stated yes we are at the general development plan now.

Chairman DeMayo referred to Attorney Zullo who did agree it is a state road and would be a state traffic light. How long did it take us to get a light place on a state road at Short Beach Road and Mansfield Grove Road?

Attorney Zullo stated that the developer would have to go to the state.

Commissioner Carocci stated yes that would be the condition they would have to go to the state for permission.

Commissioner Asid stated that they have already said no.

Commissioner Carocci replied that it doesn't matter if they said No. They said no during the public hearing and if you want the project to go forward then these are the conditions to go to the state and asking for a light.

Christopher Soto, Zoning Official stated just to clarify you are voting on a zone change based upon a general project that's going to follow. There are two items that the commission will vote on, you will vote on R-5 to an R-3 zone so you consider that independently. Then you consider and vote on the R-3 to PEFD and is it good and acceptable based upon the general plan presented to you. To say something very specific like an intersection should be widened to meet X or Y is a very specific condition at this level to consider. The developer would have to bring a site plan back to the commission to consider and in that site plan all the details will be flushed out. You all can say that you may be in your rights by saying I'd like to see a plan that includes these conditions and factors mitigated for. At this point you're not actually approving the site plan and this is the site you're going to work with.

Attorney Zullo stated that if you don't have those details in the plan now they don't have to come back and bring them. It has to be at this time.

Mr. Soto further stated if the general plan is not working for you folks right now then you're putting the developer to bring something back to us and eventually you're not going to be happy with and then you have the ability to revert the zone back to where it was. I think at this point we are discussing points that are a little too detailed.

Commissioner Carocci state it is his intent to get this general plan underway while addressing the concerns of the commission who don't think it's there yet.

Commissioner Asid asked if we vote yes with conditions they are bound to come back with something or they wouldn't come back with something.

Mr. Soto explained how the application works is that they have to come back within a year with a detailed plan that is what the commission will approve as the project. So right now they're presenting the general concept of the project we've discussed a lot of traffic. The regulations state at this point you should look at major traffic impact and the impact to the town. If that is not palatable to the commission then the commission is within his rights to say we don't agree. If there are areas where the commission disagrees with these issues and it can be worked out on the detail site plan then go ahead vote. If you think there are issues that can't be flushed out through the detailed plan then that should be an indicator not to approve right now as opposed to dragging it out down the road. So as you think about your conditions, this is a very specific condition we need the road widened and a light put in place as a condition that can't be determined here by this Commission. The state will determine that the likelihood of that might be how they proceed with the project. So this is how you should consider your conditions.

Chairman DeMayo asked Attorney Zullo, if the commission passes this in a year we have to get the detailed site plan if we pass this with conditions, how long will they have to wait to come back before the commission if we deny the zone change. Hold long will they have to wait to back before the commission.

Attorney Zullo indicated if it is denied without prejudice that can submit whenever they want to.

Mr. Soto said that the State regulation say that you do not have to accept it within a certain amount of time. But it does not say they are barred from reapplying.

Attorney Zullo stated that if it's denied without prejudice the applicant can come back anytime they want.

Commissioner Gravino wants to ask the applicant a question and was advised by counsel that she cannot but can talk among the commission. Commissioner Gravino mentioned there was some concern from the people on Branhaven Drive that these buildings were going to sit right above their property and they would lose their privacy and rocks would be falling.

Chairman DeMayo said they demonstrated the fact that the Topography of the land on Branhaven Drive is high enough that it really blocks out their view. The only building they could possibly see was number 5 and that building has been removed from the plan.

Commissioner Asid stated that the access road to the site would be a private road could a bus make it up that road or would those people with children would have to bring their children to be picked up on a bus along Route 80.

Mr. Soto stated by the nature of the project and if we have school buses going up there then that is different from the intent of the project. In either case the road has to be 25 ft. in width.

Commissioner Carocci stated that as five human beings we cannot anticipate everything that is possibly going to happened 5 to 10 years from now. The question is it this in the best interest of the town and has it been presented by a reliable source with that best interest in mind and he believes it has. He does not believe we can stop any unforeseeable event from happening. Down the road and as devious as you might believe...

Commissioner Asid interject that she does not believe it's devious.

Commissioner Carocci pointed out that you have buses going up into a 55+ facility.

Commissioner Asid stated that's life.

Commissioner Lang state that if people move in with children then they should know beforehand there won't be a bus stop. That's the bottom line right there, if the developer has that in his paperwork. It was brought up about 30 years from now, if I go back 30 years where we would have to pay for something if the developer was to decide to sell it and become something other than it is. He has been paying, his kids have been paying, and soon his grandchildren will be paying for a building, an old high school at 200 Tyler Street that cost us a quarter of a million of dollars a year use for a pigeon coop. There's nothing being done there other than a new windows missing here and there. If you want to talk about 30 years, 30 years back we should have done something with that building before we built a new one up on the hill.

Commissioner Carocci believes that should end the discussion I think we have all made our decisions.

Commissioner Gravino inaudible.

Chairman DeMayo stated that the commission has raised enough questions and as Commissioner Asid stated that it's just not there yet, he would have no problem denying it without prejudice in order to come back and address some of these concerns that are very important to the area, very important to the people, and very important to the town. We have to look at the whole broad thing there; we would be changing that area drastically. We have to look at it that way and they have a lot of variables that way the commission and the town will have no control over. The road the traffic lights and the size of the roads. He doesn't know the answer to that question if buses can go up on those roads, do you want 4 year olds getting off the bus along Route 80. He does not feel comfortable putting the area and the town potential jeopardy. We did a thorough investigation of this plan through our town attorney along with the fire chief and police chief. He has never seen reports like this before, it's very very important to this town. This is probably one of the biggest projects and we're never going to get it perfect but we have to get it a hell of a lot better than where it is.

Commissioner Lang stated we should give the builder what we want as conditions before he comes back before the commission, we can't just deny without prejudice.

Chairman DeMayo stated we do not make the application.

Commissioner Lang said yes but you are turning down the one that is in front of you. Chairman DeMayo said let them come up with another one we don't apply for them. They have to apply to the town and they have obviously heard our conversation and what our concerns are.

Commissioner Lang stated that he's not sure where are concerns are. We are talking about school buses, and if he is not mistaken the Board of Education has to know where children are living. We don't just send buses out on the road to pick up whatever kid they see.

Commissioner Asid stated policing of the age is her only concern, and that of the traffic.

Commissioner Lang stated that the developer address the police with a substation and the fire department as well.

Attorney Zullo advised that you are voting right now on a zone change from an R-5 to an R-3 zone. Then you open up item 2b and you make a motion to include all the evidence from 2a.

Commissioner Asid move to approve item 2a the zone change from R-5 to R-3.

Commissioner Lang second the motion.

Roll Call - Commissioner Gravino said yes and was asked by Town Attorney Zullo if she wants to approve the zone change. Upon her misunderstanding Zoning Official, Soto clarified that the motion was made in the affirmative, a yes vote will be to approve the zone change from an R-5 to an R-3 and a no vote will be to deny.

Commissioner Gravino voted No.

Roll call vote - 3 Opposed (Gravino, Asid, and DeMayo) 2 In Favor (Lang and Carocci)

Motion failed item denied without prejudice.

Commissioner Asid moved to add all the testimony, evidence, and discussion as it related to item 2a. 61 and 83 Foxon Road applicable and part of the record of item 2b.

Commissioner Lang second the motion.

Roll Call - All in Favor. None opposed. No abstentions.

Approved

- 2b) 100 and 31 Sperry Lane, 161 Foxon Road: Zoning Regulation, zone change to a Planned Elderly Facilities District (PEFD).

Commissioner Asid moved to approve item 2b as present with all the evidence for a Planned Elderly Facilities District.

Commissioner Lang second the motion.

Roll Call - 3 Opposed (Asid, Gravino, and DeMayo) 2 In Favor (Lang and Carocci)

Motion failed item denied.

Commissioner Carocci asked if you wanted to do this without prejudice as well.

Chairman DeMayo stated yes.

Attorney Zullo stated to put it in the record.

Chairman DeMayo stated he voted no but without prejudice.

Denied without prejudice.

Chairman called for a 5 minute recess.

- 3a) 151 Kimberly Avenue: Zoning Regulations, zone map change from R-1 to CB-1.
Accept for review and set a public hearing date.
Commissioner Asid moved to accept for review and set a public hearing date of April 4, 2018.
Commissioner Gravino second the motion.
Voice vote-all in favor. None opposed. No abstentions.
Accepted for review and public hearing date set for April 4, 2018.

- 3b) Text Change: Zoning Regulations, text change to section 25, Schedule B, (CB-1 Column)
Line #5 and Line #6.
To read as follows:
§25, Schedule B (CB-1)
Line #5 maximum # of stories for a building: 4
Line #6 maximum height of a building/structure (ft.): 60

Commissioner Asid moved to accept for review and set a public hearing date of April 4, 2018.
Commissioner Lang second the motion.
Voice vote-all in favor. None opposed. No abstentions.
Accepted for review and public hearing date set for April 4, 2018.

- 4a) 220 Main Street modified site plan place of worship schedule a, line number 15
Churches and places of worship, Parish Halls, schools, colleges, universities, educational, religious, philanthropic, and charitable institutions.
Approved Administratively

- 4b) 662 Coe Avenue: Zoning Use permit- to reopen the former Our Oasis under a new name.
Approved Administratively

Commissioner Lang move to adjourn.
Commissioner Carocci second the motion.
All in favor. Meeting adjourned at 8:43 p.m.

Respectfully submitted,

Roberta A. DeLuca
Commission Clerk