

Planning & Zoning Commission – April 4, 2017

PLANNING AND ZONING COMMISSION
TOWN OF SOUTHLINGTON
MARCH 7, 2017

The Planning & Zoning Commission of the Town of Southington held a public hearing & regular meeting on Tuesday, March 7, 2017 at the John Weichsel Municipal Center Assembly Room, 196 North Main Street, Southington, CT. Chairman Michael DelSanto called the meeting to order at 7:00 pm.

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The following Commissioners were in attendance:

James Morelli	Paul Chaplinsky
Susan Locks	Jennifer Clock
Michael DelSanto, Chair	

Alternates:	Bob Hammersley, Ross Hart & Ted Cabata
Ex-Officio:	Robert Phillips, Director of Planning & Community Development Mark Sciota, Deputy Town Manager/Town Attorney James Grappone, Assistant Town Engineer
Absent:	James Sinclair, Regular Member Joe Coviello, Alternate

The Chair seated Mr. Hart for Mr. Sinclair.

Pledge of Allegiance to the American Flag was recited by everyone in attendance being led by all the students.

4. APPOINTMENT OF COMMISSIONER

Mr. Chaplinsky made a motion to nominate Mr. Hammersley. Mr. Morelli seconded. Motion passed unanimously on a voice vote.

(Sworn in by the Town Attorney.)

Congratulations, Bob.

(Applause, applause)

5. APPROVAL OF MINUTES

A. Regular meeting of March 7, 2017

Mr. Chaplinsky made a motion to approve the Minutes as presented. Ms. Locks seconded. Motion passed unanimously on a voice vote.

Mr. Phillips read the legal notice for the public hearings into the record.

6. PUBLIC HEARING

A. Zone Text Amendment revisions to Section 6- Floodplain Zoning to incorporate the revised floodplain mapping and associated required language (ZA #591)

Mr. Phillips explained we have a section in our regulations relating to floodplains and development within floodplains. FEMA has recently conducted an update of their FEMA flood rate insurance maps. Those will be effective in May. In order for them to be effective, they want to be sure our regulations are up to date with reference to the new mapping.

There is a paragraph of very technical language that needs to be approved so we don't put ourselves in the position as a town to be ineligible for future funding from FEMA.

Mr. Chaplinsky referred to Line 8 of the proposed additional language. They use the term "ordinance". Do we want to change that term to "regulation"?

Attorney Sciota agreed he preferred regulation so there is no confusion with the town council.

Mr. Phillips said he would look into it to see if it was an issue for FEMA. Attorney Sciota stated if it is an issue for FEMA, we will go back to ordinance.

(Those speaking in favor of the application.)

None.

(Those speaking against the application.)

None.

The Chair closed the public hearing.

7. BUSINESS MEETING

A. Zone Text Amendment, revisions to Section 6- Floodplain Zoning to incorporate the revised floodplain mapping and associated required language (ZA #591)

This is ready for action. Mr. Chaplinsky made a motion to approve with the recommendation that if staff can change the word "ordinance" to "regulation" without bringing this back to this board that we go ahead and do that as part of the approval process.

Ms. Clock seconded. Motion passed 7 to 0 on a roll call vote.

B. Zoning Text Amendment of Lovley Development for proposed revisions to Sections 11-14.2, 11-14.23 and 11-14.4 of the Town of Southington Zoning Regulations (ZA #590) tabled from March 7

Mr. Phillips advised the applicant is requesting an extension to the next meeting, at least. We're good for another 72 days from today.

Mr. Chaplinsky made a motion to grant the 65-day extension. Mr. Hammersley seconded. Motion passed unanimously on a voice vote.

Mr. Chaplinsky made a motion to table. Mr. Hammersley and Ms. Locks seconded. Motion passed unanimously on a voice vote.

C. Bristol Trust LLC, site plan modification to construct 18,800 sf addition to existing facility, 110 Corporate Drive, in an I-2 zone (SPR #1729.

Sev Bovino, Planner with Kratzert, Jones & Associates presented the application.

This applicant is a distributor of Pepsi products. On the screen, lighter brown is the existing facility and the blue is the proposed addition. There is an existing parking area for trucks here in this area up against the loading docks. Parking for employees is here (indicating). And, we are proposed to extend the parking for employees and some additional parking for van spaces.

The property is an existing facility of 42,507 sf. It is served by public water and sewer. It is zoned I-2. The land area is 9.6 acres. The lot coverage allowed is 50% and this proposal is for 17%. The addition proposed is 28,800 sf which would be located to the north of the existing facility.

The materials used for the addition will be architectural metal panels and 8" insulated split faced cinder blocks similar to what is existing there now.

All proposed lights will be recessed, full cut off and directed towards the ground as required by your regulation.

The facility is generally lower in the ground than the surrounding properties.

The area surrounding this facility is all wooded. We have added a row of evergreens at the north side of the project to further shield the residential properties to the north. There is existing shielding already here (indicating) the last time this was approved.

To the east, the properties are zoned I-2.

We have shrubs throughout the parking area.

The current operation is about 46 to 50 employees. The plan is to add an additional 20 more employees.

We have received planning and engineering comments. We have addressed them by revising the plans and providing written responses.

The client is ready to start and if you see fit to act on this tonight it would be very much appreciated.

Any questions, I will be glad to answer them.

Mr. Hart asked how many spots are provided in the new employee parking area. Mr. Bovino pointed out 18 in this area (indicating) and an addition 12 to 30 spots here (indicating) for the delivery vans.

Mr. Chaplinsky brought up the runoff from the site. It looks like there is some new regrading and maybe a swale to the east. Mr. Bovino said it is right here (indicating). In the previous plan, there was a proposed swale that was constructed north of the building in this area (indicating) with the addition going here, we are relocating the swale in this area (indicating). The discharge is sheet run to a riprapped area heading west toward the pond.

Mr. Chaplinsky confirmed we don't expect any runoff to leave the site. Mr. Bovino said explained ZIRO. The water quality/detention area was pointed out and explained. We have provided drainage calculations.

Mr. Chaplinsky brought up the 40' setback from the residential zone. Mr. Bovino said a 40' buffer is required (indicated). Our activity is well past that.

Mr. Chaplinsky asked about tree cutting. Mr. Bovino said some trees are going to be cut. Very small amount. Right now, there is an open area here because we have an approval for a 19,000-sf addition last time. This was already prepared for that. Now we have 28,000 sf, so we have about 9,000 sf of addition.

Mr. Chaplinsky said he is supportive of the project but would ask the Planner if this is approved, we've had some extra clearing in parcels around town and we pay special attention since we have a residential zone buffering this to ensure that we're clearing the right amount of trees and we are not over clearing. Some good markings and verification by staff before we do cutting. Mr. Bovino said there may be expansion of this in the future within the boundaries of what is allowed.

Discussion.

Mr. Bovino said they would stake the clearing limits. Anything within that has to be cut to achieve the project.

Mr. Phillips commented there is no loading zone proposed so the regulations say you have to be comfortable with that if there is no justification for a loading zone.

And, also parking calculations are above what was required on the table on the plan. I wanted it to be updated to be reflective of what the tenant needed, but they supplied supporting documentation. It is the manufacturing that is driving the increase. Our regulations say it is based upon the number of employees. It is at the need of the applicant, so I am okay with it.

As to the loading zone, Mr. Bovino pointed out a loading area on the map. In a B zone, you require a 10 by 25 spot for a loading zone. We are in an industrial zone and this is actually a warehousing facility. We have the loading dock already. Mr. Phillips said it is not an issue.

Mr. Phillips noted it is ready for action.

Mr. Chaplinsky made a motion to approve with the stipulation that the applicant will stake out the limit of clearing area. Mr. Hart seconded. Motion passed 7 to 0 on a roll call vote.

D. Lovley Development, Inc., request to transfer completed value of work from Phases 3& 4 toward bonding of Phase 5 and release security agreement for Phase 5, North Ridge Estates (S #1302)

Ready for action. Mr. Chaplinsky so moved the motion to approve. Ms. Clock seconded. Motion passed 7 to 0 on a roll call vote.

E. Lacourse Pond Estates, request for 1st 90-day extension to file Mylar, 460 Marion Avenue (S #1315)

Ready for action. Mr. Chaplinsky so moved the motion for approval. Ms. Clock seconded.

Attorney Sciota said if they are going to come back for a second one, they need to give this commission a very, very good reason. From a tax standpoint, the sooner we get them on the rolls, the better.

Motion passed unanimously on a voice vote.

8. REGIONAL PLANNING COMMISSION UPDATE

Mr. Cabata said the meeting in March was administrative. They indicated who was appointed for 2017 and what the board does, who the officers are and we have GIS maps are a little bit better than what Google has.

Attorney Sciota stated the state just did all of the flyovers. Where do we stand with that? Mr. Grappone said Mr. Cabata just reported on it and the resolution is a little better than what the town has. We are incorporating the new flight into our GIS.

Discussion.

You can get it at Connecticut ECO. The Planner will send the link.

9. ADMINISTRATIVE ITEMS

Mr. Phillips discussed:

1. Queen Street Rezoning. The Chair indicated he had discussions with Lou Perillo. We tossed around the idea whether the town should do something about doing a business overlay zone and Lou had some pretty good recommendation. No matter what we do here, there has to be lots of education from the economic development coordinator and Brian Lastra, as well.

A lot of people were very passionate when the application was before us that we want to protect the neighbors. That's our intention and we want to be sure the neighbors are not disrupted and they can live there and do what they need to do without restriction in perpetuity. The town needs to ensure that.

Mr. Phillips added he had a couple of discussions with the former applicant. And, his desire to really convey that he needs to have the table set for his tenants and investors to join in and commit

themselves to a development. The only way to achieve that is to reduce the market risk as much as possible. When you don't have the correct zone for the uses you are looking for, you are introducing risk because you have to go through a process that isn't entirely clear. That involves a zone change which could be denied as it was before. That's the big issue he has got.

He says he can convince everyone to fall in line and he'll do what he needs to do to buy out the properties and move forward. He says it is a three to five-year process. No matter what.

In a certain amount of time in the future, I have no doubt that this will be business uses. The whole neighborhood. I don't see it lasting. It's an island of residential and it is just a matter of time before it becomes a different use; i.e.: business as it is surrounded by the business zone. Whether that happens sooner or later, you don't know what kind of development you'll get. Is it better to pursue it now or is it better to wait?

Attorney Sciota added he has explained to the property owners that are there and also the people who want to buy that property and he made it clear that he thought from a legal standpoint that it would be best if he could get everybody onboard. I would be able to support that from a legal standpoint once he had sign offs from everybody I told him.

I have a problem from a legal standpoint where the town gets involved in zoning something where you have your own citizens objecting to it. To me, that's always been a problem. I don't think we have ever done anything like that. The onus is on this particular future applicant. I made that clear last time we spoke and it is not a surprise to him.

I couldn't agree more with Rob. We know this particular piece of property was not in the correct zone for many years, but we have to respect the property owners who are there and are citizens of the town and pay taxes. It is going to happen in the future but we all have to be patient.

In my humble opinion as your legal advisor this could be done correctly if we just have some patience.

The Chair said the board made it clear we are very passionate about protecting the residents.

Attorney Sciota said it has been made clear that the commission is not going to be in a position at this moment to move forward on its own volition on behalf of the town for the zone change. I think that was made clear to the future applicant. The ball is in that person's court.

This board would not want to do this without a unanimous charge forward and there are very good points on both sides but it certainly wasn't unanimous. I caution you to move forward on a major zone change like that without having all 7 voting members onboard.

2. Food Trucks. The discussion was: should the town council look at it from an ordinance standpoint, should you do nothing, should you do something where you have a limitation on a specific site and distance.

The two main discussion points were, clarified the Chair, are we creating a problem where one doesn't exist or do we want to get in front of something before it becomes a problem.

Mr. Phillips said we have the regulation as it currently exists which is a special exception by ZBA to locate a food truck and it is good for one year. What they've done is they've approved and if there are issues within the first year, they have to come back. But if there isn't, the expectation is they don't have to come back.

Attorney Sciota further added the Chamber is meeting this week with their executive board to put something in front of Paul. Our point was currently the regulations say it goes to the ZBA. The ZBA gives a 12-month approval. Currently, they're saying if there are no problems, you can just continue on. You give direction to the ZBA. They are your regulations.

Our thought was for the time being, the ones that come in and the current ones, we inform them we are going to impose a 12-month period and they'd have to come back.

The festivals in town we don't make them back as long as there's no substantial change and there's no problem. They give a renewal automatically and they don't come back.

With food trucks, because of the issues of where they're from, are they paying taxes, et cetera, we should stick to the regulation that says every year they have to come back, file a new application,

new fee, and they're viewed each time. The ZBA could say 12 months have gone by and we've taken a different look at these. They've blown up throughout town and we're starting to cut back. It isn't a situation where they've invested in brick and mortar. Just as policy, we have too many in town and we're not going to be approving these. And that is something the ZBA, with your direction, could do.

The fee is \$260. Our point is twofold: (1) there should be some fee every year. (2) This would let the ZBA review it and say, well that area, maybe that's not the best area and we'll move you around on the site in a different location. Just another look at it. They'd look at it on a yearly basis.

The Chair said that solves both the discussions we had last time. It solves the problem that isn't a problem yet. And, it solves the whole let's get in front of it.

The ZBA can still do that automatic policy for the nonprofits and festivals. But something like this it is good to look at. There may be a policy shift in the future.

Discussion.

Attorney Sciota didn't feel it was a problem at this point, but we need to look forward because we owe a duty to the brick and mortar businesses.

Mr. Phillips said staff will advise people it will be one year from the approval date. Track all of them. We can do that.

Attorney Sciota said that is the recommendation at this point and we'll have that open until we get the information from the Chamber on what they wish us to look at. They'll send something to Paul as the continuous improvement committee.

Mr. Chaplinsky brought up the definition of a food truck. Do we need to look at defining what a food truck is? Attorney Sciota said that could be visited after input from the Chamber.

Mr. Chaplinsky said the spirit of the discussion is really to protect our brick and mortar businesses. We owe it to them we are protecting the investments they're making. We need to keep that in mind. I understand there is a mobile business we are talking about here, as well. There is a significant investment in a brick and mortar business in our town and we need to recognize that and hold that precious when we get the feedback.

It is incumbent on the businesses in our community, if they do have a problem with something approved by special exception, we need to hear about that. Come to this board and tell us. Tell staff. Open dialogue is important.

Attorney Sciota said when the special exception sign is posted, it is important if someone has an issue they come to the ZBA. They are all public hearings.

Mr. Chaplinsky said if we don't want to wrap additional language around this, staff mentioned it could be done through an ordinance at the council level. That's another process.

Attorney Sciota said it was felt if that is something you want the council to look at, it needs to come from this board. It is a use. It would be treated at the council very similar to how we treat the ice cream trucks. It is a regulation. They file for a one year permit with the SPD. They move around.

If it is an ordinance, that would be geographical. What zone do you want it in, how far from a brick and mortar restaurant?

From your last meeting, it seems as if it is not an issue right now and what can we do so it doesn't explode, i.e.: ZBA procedure noted above.

Discussion.

Enforcement through the ZEO was discussed. It was noted the health department could get involved, as well.

3. Open Space Subdivisions: This is a special permit process now. Mr. Phillips is convinced when an applicant comes through for the open space subdivision, they'd rather get an as of right approval than a special permit because of the development risk. The reason they do it is to get more lots out of it than with the traditional. That's good for the developer but we don't get meaningful open space in those developments. It usually ends up being a buffer. Loper Street was used as an example.

Some thoughts I've had, what if we mandate open space residential subdivision meaning it is an as of right and not a special permit and we do it on subdivisions of ten or more lots, which you have now, basically. I think we have to change the way open space is calculated. The ratio is unusual.

We could allow more flexibility. Maybe remove the minimum buildable squares and allow the reduction of lot frontage in exchange for more open space. Require the open space, maybe 50% is set aside for --- at the commission's discretion how you want to preserve the open space. It could be a conservation easement or a natural resource system or a river corridor. Passive recreation. A visual reason or active recreation.

If you have the discretion and the requirement that no more than 50% can be storm water infrastructure, unfunded mandates, the developers don't like them and we don't like them. If we split it down the middle it could be considered fair.

Those are some major point we could hit and we would end up with potentially better residential designs. The developer doesn't want to spend a lot of money on infrastructure costs. Reducing frontage allows less roadway which is allow better for the town for maintenance reasons. A lot of room for win/win here on both sides of the table.

It has been shown time and time again traditional layouts add to the sprawl and eat up the land.

One more thing, if we did the open space residential subdivision as a mandate over that certain number of minimum lot yield of ten, we could say you get the number of lots in the underlying zone if you were doing it traditionally. Then cluster them with the flexibility to allow that to happen.

Attorney Sciota said he is okay with the open space aspect of it. But the developer wins/wins initially when the roads are shorter. And, the town wins. I've never been a fan of having an open space subdivision where you can get more lots than a traditional subdivision. Never made sense. I never liked that. What is the reward? The town gets open space the general public can't use and the developer gets 3,4, or 5 more lots. That usually is a burden on the rest of the taxpayers.

When you look at these things, the developing costs for shortening the road, shortening the utilities, et cetera, that's the benefit to the developer. A reward is not necessary, in my opinion, where they get 3,4 or 5 more lots because they put in what is called an open space subdivision, which we all know, is not usable open space 99% of the time.

Discussion.

Attorney Sciota said unless it has a public use, he is not in favor of the town taking title to the open space. It should be done with the neighborhood. If the yield is the same for traditional and open space, that takes away the argument.

Discussion.

Mr. Phillips added people are buying for aesthetics of the neighborhood and not necessarily wanting 2 acres of grass to mow.

The benefit is not the number of lots, it is the savings in the development costs, concluded Attorney Sciota. It makes sense.

Discussion on all points above.

Discussion on preservation of land, untouched, unadulterated by Mr. Chaplinsky as opposed to open space.

Attorney Sciota spoke in favor of having the homeowner own the land with a conservation easement as opposed to an association.

Mr. Chaplinsky spoke about dialogue with some of the stakeholders and there is some agreement this direction is one that a lot of people would support. If the commission feels they would support us putting together some draft language with staff, Jen, Jim and myself will get together.

Mr. Phillips said he would forward Granby, Connecticut's flexible residential design regulation to the commission for you to look at it.

Discussion.

The Chair felt this is going on the right track. When this comes out, if people are against it, they have to come to the meeting and speak.

4. Miscellaneous Regulations: A long list of changes. Minor changes. The Chair said to go forward with the changes. Good housekeeping changes.

10. RECEIPT OF NEW APPLICLATAIONS

No discussion.

11. ADJOURNMENT

Ms. Clock made a motion to adjourn. Mr. Morelli seconded.
Motion passed unanimously on a voice vote.

(Whereupon, the meeting was adjourned at 7:53 o'clock, p.m.)