



**REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION
MIDDLETOWN CONNECTICUT
FEBRUARY 26, 2020**

1. Pledge of Allegiance

Chairman Devoto called the meeting to order at 7:03 PM with the Pledge of Allegiance.

2. Roll Taking

Present: Commissioner Stephen Devoto
Commissioner Nicholas Fazzino
Commissioner Richard Pelletier
Commissioner Tyrell Brown
Commissioner Thom Pattavina
Commissioner Catherine Johnson (left meeting at 9:27 PM)
Commissioner Kellin Atherton
Commissioner Shanay Fulton (seated for Commissioner Marcus Fazzino)
Commissioner James O'Connell (seated for Commissioner Johnson)

Absent: Commissioner Marcus Fazzino
Staff: Marek Kozikowski, City Planner

3. Items removed from the agenda and why

Marek stated that Item 6.2 was postponed by the applicant because the signs were not posted in time. Item 6.4 was also postponed by the applicant because they want to make some changes to the proposal.

4. Public comment on items on agenda which are not currently scheduled for a public hearing

None

5. ZEO Certification that all public hearing signs have been properly noticed (when scheduled)

Marek said that the signs were properly noticed for the two (2) remaining public hearings.

6. Public Hearings (when scheduled)

1. Special Exception application proposing a 17 Unit Multi-Family Development at 0 & 61 West Street in the MX Zone. Applicant/agent DeFavero Associates, Inc. SE2019-9

Dennis Ceneviva, Attorney will be representing the applicant. He gave a background of the process they have gone through since October 2019. Tonight they will be seeking a waiver of the electric charging station requirement.

Richard Reynolds, Project Engineer with the LRC Group distributed colored plans to the Commission so it would be easier to follow. He gave a presentation of the plans and the layout of the parcel.

Jeff DeFavero said there were some concerns from staff about the original plan. He said he asked his engineer to redesign to take the staff comments into consideration and that is what is being presented tonight.

Commissioner Johnson asked why the one story units were not designed to be a two-story unit.

Commissioner O'Connell questioned the width of the open space that abuts the road and asked if it was safe from traffic for anyone using it.

From the public:

Elizabeth Holder of 29 Long Lane, Chair of the Conservation Commission said the Commission already has the Conservation comment. She is here to speak as someone who has a geology degree and is quite disturbed at this proposal. She said this plan does not respect the waterway.

Bruce Pond, Aston Lane, this is a well-travelled street now and with a minimum of 34 additional cars, he has a lot of traffic concerns.

Bill Brown, 33 Middlefield Street asked what will they do with guests parking?

Beth Emery, 76 West Poplar agrees with much of what Liz Holder said. She thinks this river is a very valuable environmental resource. It's not a question of if the river is going to flood, it's a question of when flooding is going to happen. There is no way they will protect the river with their plans. They need to add sidewalks to make it pedestrian friendly. Beth said that a fence right up to the roadway would make pedestrians walk on an already busy street.

Dennis Ceneviva and Rich Reynolds responded to the comments from the public. Whatever is necessary to protect the river would be included in the final rendition of the plan. They will only use environmentally friendly fertilizers. As far as guest parking, they have 34 spaces instead of the required 27 which is 7 extra spaces for guests. The site is approximately 21 feet above the 100 year flood elevation.

Comm. Atherton asked why they are putting a pool since Veterans Park is less than a mile from this location. Rich Reynold said that there isn't a pool. There is an existing pool which will be demolished. Comm. Atherton asked what the anticipated cost of these units will be and the cost of the monthly HOA. Jeff Delfavero said that it depends on the economy and when there will start the project he thinks it will be about \$200,000. Comm. O'Connell stated that the IWWA

Commission approved this application with conditions. He asked what the conditions were. Marek said that there were standard conditions as well as an additional condition for additional borings in the drainage basin to make sure there was adequate depth to properly infiltrate storm water. Comm. Pelletier asked for an explanation why sidewalks could not put in along West Street. Rich Reynolds said there is some grading issue but cannot see a reason that it could not happen. Comm. Fazzino asked who is responsible if there are any issues with flooding. Marek said that it would be the property owners that are responsible for any damage. Comm. Fazzino said he does not want the City to be burdened for it as taxes will rise. He asked if they would have flood insurance. Comm. Johnson asked why the house at the corner of Middlefield and West Street have to be demolished. Jeff Delfavero said it will be torn down because it will be in the way of his project and it's falling apart. Comm. Johnson asked why they are using the same pattern over and over for the townhouses instead of a combination of building types. Jeff said that that is what he does; builds townhouses. Ms. Johnson asked what the purpose of the front door is.

Bhushan Baba of 57 West Street does not understand what they mean when they say they have extra guest parking spaces. If they have 17 units and everyone has 2 cars and everybody is home, that would be 34 spaces needed with no ample parking.

Commissioner Nicholas Fazzino moves to close the public hearing. Commissioner Thom Pattavina seconds the motion. The chair calls for the vote. It is unanimous to close public hearing with 7 aye votes. The chair states the matter passes unanimously with 7 affirmative votes.

Commissioner Catherine Johnson moves for approval for a Special Exception application proposing a 17 Unit Multi-Family Development at 0 & 61 West Street in the MX Zone. Commissioner Richard Pelletier seconds the motion.

A motion was made and seconded by Comms. Pelletier and Fazzino for a 3 minute recess at 9:02 PM. All in favor. Meeting resumed at 9:05 PM.

Comm. Fazzino would like to add the following conditions: 1) Applicant should provide drainage maintenance records on the land records and give scheduled maintenance activity with reports to staff; 2) Install sidewalks around boundary on West Street; 3) Install street trees 30 feet on center; 4) Provide 10 Million dollar flood insurance for any damage to the Coginchaug River if Counsel finds it acceptable; 5) Address all staff and departmental comments.

Commissioner Johnson moved to vote on each condition separately. Motion was seconded by Commissioner Fulton. The Chair called for the vote. Motion approved unanimously.

The Chair decided to vote for each condition separately.

- **Drainage:** Motion was moved and seconded by Comms. Pelletier and Pattavina to add as a condition that drainage maintenance records be filed with the town records and give scheduled maintenance activity with reports to staff. The Chair calls for the vote. Approved unanimously.
- **Sidewalks:** Motion was moved and seconded by Comms. Pelletier and Fulton to add sidewalks along West Street as a condition of the approval. Chair calls for the vote. Approved unanimously.

- **Eliminate Open Space to rebuild the existing house:** Motion was moved and seconded by Comm. Johnson and Comm. Fazzino to leave the existing house which can be rebuilt or restored. The Chair calls for the vote. Vote was 1 in favor and 6 against. Motion was denied.
- **Street Trees:** Motion was moved and seconded to approve adding street trees 30 feet on center by Comms Pelletier and Pattavina. Chair calls for the vote. Approved unanimously.
- **Insurance:** Motion was moved and seconded by Comms Fazzino and Johnson to approve as a condition that the applicant get \$1-2 million insurance policy for any damage to the Coginchaug River caused by the development. Chair calls for the vote. Vote was 2 in favor, 3 against and 1 abstention by Comm. Fulton. Motion was denied.
- **Staff Comments:** Motion was moved and seconded by Comms Pattavina and Pelletier that all staff and departmental comments be addressed. Chair calls for the vote. Approved unanimously.

These four (4) conditions that were approved are now conditions to the approval.

The Chair calls for the vote to approve application for a Special Exception proposing a 17 Unit Multi-Family Development at 0 & 61 West Street in the MX Zone. It is unanimous to approve as amended with 7 aye votes. The chair states the matter passes unanimously with 7 affirmative votes.

Commissioner Johnson leaves the meeting at 9:27 PM. Commissioner O'Connell will now be seated.

2. Special Exception application for a Home Day Care for children at 72 Pond Place. Applicant/agent Valerie Demeze SE2020-1

Public Hearing was postponed until 3/11/20.

3. Re-subdivision application to convert parcel (30-0201) Brown Street into a building lot. Applicant/agent Brad Baker S2020-1

Brad Baker, Old Lyme, CT represented the application. Purchased the property at corner of Brown Street and Randolph Road. He was unaware at time of purchase that it was not a building lot. Marek read some of his staff comments. The original subdivision did not reference this as a building lot. To make it a building lot, the applicant was recommended to submit a resubdivision application. This parcel is not part of the open space calculation for the original subdivision. Based on a wetland investigation by city staff in 2015 and reaffirmed in 2017.

From the public:

- Brian Kronenberger of 1480 Randolph Road which is directly across from the property in question. He said that during the approval of the original subdivision application, there were several issues with this lot which led to the approval of this lot not becoming a building lot. It was established that the former field where the property sits, was in fact a

wetlands that continually acts as a vernal pool. Due to these facts, the lot was not approved for a building lot.

- Dan DeConti of 95 Guarino Drive has lived in the development since 1991. He said his parents purchased this property in 1991 as wetlands and not as a building lot. He said there is a lot of significant water there when it rains.
- Carlos Rosa of 38 Brown Street has been in his home since 2015 and concurs with his neighbors in that every time it rains there is standing water there.
- Gene Salvatore of 48 Brown Street has lived there since 1991. He said that he questioned the owner of the subdivision in 1991 and he was told that it was supposed to be deeded to the city. Then the original developer went broke and maybe all the paperwork didn't get processed. He continued to give some history of the lot.
- Bob DiFiore of 103 Guarino Drive lives in the property with all the water around the shed. Because they let the grass to grow, it heightened the lot and the water comes onto his property. It's been worse in the past 2-3 years.
- Debbie Baker co-owner of the proposed building lot have purchased the property from the DiConti's about three years ago. When purchased, it was classified as a building lot and was being taxed as a building lot. They purchased it with the intension of building their home there.
- Brad Baker said that in 2013 the tax assessment changed dramatically which would appear that the town saw this as a building lot.

Marek said that only the P&Z Commission has the authority to create building lots. The City Planner and the Tax Assessor cannot create building lots. He cannot explain why it was taxed as a building lot. The applicant can address that with the Tax Assessor and there is an appeals process for that. As far as the wetlands that may or may not exist on this parcel, the original subdivision map makes no reference to wetlands on this parcel. He read some of the comments from the Planning and Environmental Specialist, Michelle Ford, "based on her evaluations of soils and vegetation at the property and is consistent with the City's mapping of the Inland Wetlands, she did not observe any regulated wetlands and did not see any need for wetland permitting or mitigation should you purchase this property". Marek explained that as per the State of CT, wetlands are based on the soil type.

- Brian Kronenberger said he has had a lot of issues with this property over the past 35 years and gave a history on why this should be considered a wetland.
- Gene Salvatore said that a real estate agent has to go to the City Hall and investigate the records on this piece of property. It seems somebody didn't do their due diligence.
- Brad Baker said that he was paying \$400 for taxes and it jumped to \$4,000. He went to City Hall to question the increase and was told that it was taxed as a building lot.

Commissioner O'Connell said he was confused about the documentation because according to Michelle Ford's June 12, 2015 report, states that she did not observe any wetlands at the property and does not see a need for a wetland permitting or mitigation should you purchase this property. He just wanted this recorded into the minutes.

Commissioner Nicholas Fazzino moves to close the public hearing. Commissioner Tyrell Brown seconds the motion. The chair calls for the vote. It is unanimous to close public hearing with 7 aye votes. The chair states the matter passes unanimously with 7 affirmative votes.

Commissioner Nicholas Fazzino moves for approval of a re-subdivision application to convert parcel (30-0201) Brown Street into a building lot. Commissioner Richard Pelletier seconds the motion.

Comm. Devoto said he accepts the Inland Wetland Specialist that there is no wetlands on this parcel. He also said that this parcel was never converted into a building lot. He knows that it's a decision only the P&Z Commission can make but he also is concerned about the oral history of the lot from the public. Comm. Pattavina would like to go on record that this is an unclear issue. It was sold as a building lot but never filed as a building lot. The tax changed in 2015 as a building lot and the Commission doesn't know how that happened. He'll be voting on the negative. Comm. Pelletier asked if it's not designated as a wetlands and they were to approve it as a building lot, would any future building have to mitigate any water problems the land may have. Marek said the Commission will have to make conditions of approval. Commissioner Pelletier made a motion to add as a condition that drainage infrastructure be installed as to not increase storm water runoff at adjacent properties subject to the City Engineer's Review. Commissioner Fazzino said that with the information he received, he will not be voting for this. Commissioner Fulton said that she thinks this should be tabled as there is not enough information. Marek said that the public hearing has been closed and a motion is on the floor, they cannot receive any more information. O'Connell said he would be voting in favor based on Michelle Ford's report.

The chair calls for the vote. It is 3 aye votes by Commissioners Devoto, Pelletier and O'Connell and 4 nay votes by Commissioners Fazzino, Brown, Pattavina and Fulton. The Chair states the matter failed with 3 affirmative votes, 4 in opposition.

4. Petition for amendment to Section 61 of the Middletown Zoning Code to allow motor vehicle uses in the Transitional Development zone. Applicant Agent/John Sheil. Z2020-3 (Postponed until March 11, 2020)

Application was postponed by applicant.

7. Old Business

None

8. New Business

None

9. Public comment on topics which are not or have not been the subject of a public hearing

- Gene Salvatore of 48 Brown Street spoke about a lot on his street across from his house that is wetlands. Comm. Devoto said that they would give the information to the ZEO/WEO.

10. Minutes of the Regular Meeting, Transcripts, Staff Reports and Commission Affairs

10.1 Minutes of February 12, 2020 Meeting

Commissioner Thom Pattavina moves for approval of the minutes of February 12, 2020 Meeting. Commissioner Shanay Fulton seconds the motion. The chair calls for the vote. It is approved with 6 aye votes and one abstention by Comm. Brown. The chair states the matter passes unanimously with 6 affirmative votes.

10.2 Other Commission Affairs

- a. RiverCOG Report
- b. By-Laws Subcommittee Report

10.3 Staff Reports

11. Adjournment

Respectfully submitted,

Marek Kozikowski, AICP
City Planner