

MINUTES
PLANNING COMMISSION
AUGUST 14, 2007 – 7:00 P.M.
TOWN HALL ANNEX – COMMUNITY ROOM 2

I. ROLL CALL

Regular members present: Pritchard, Roper, Sherrard, Steinfeld
Alternate members present: Fitzgerald, Kane
Staff present: Cullen, Davis, Glemboski, Murphy, Stanowicz

Chairman Sherrard opened the meeting with roll call at 7:03 p.m. and seated Fitzgerald for Munn.

II. APPROVAL OF THE MINUTES of July 10, 2007

MOTION: To approve the minutes of July 10, 2007 as amended.

Motion made by Pritchard, seconded by Steinfeld. Motion passes, 4-0-1, 1 abstention (Sherrard).

III. PUBLIC COMMUNICATIONS

Fitzgerald attended two meetings of the Flanders Road Utility Study Committee.

Roper said there will be a public hearing on the final draft of the Regional Plan of Conservation and Development on October 15, 2007, at SCCOG in Norwich.

Kane attended two meetings of the School Design Committee. They are proposing to visit some schools out of town. The Board of Education is debating one or two middle schools, and the committee is waiting for their decision.

IV. SITE PLANS

1. Mystic Run Condominium Modifications, Allyn Street

Chairman Sherrard recused himself from the discussion and left the room after seating Kane as a voting member and Pritchard as Acting Chairman for the Mystic Run Condominium Modifications application.

Nuria Stockman, landscape architect with DiCesare-Bentley Engineers, presented the application. The condominium project was originally approved in 2001. The development is an active adult condominium development. One of the tenets was that there would be a level entry for each unit. During the final inspection, Town staff noted that Unit G had steeper walks than first approved. Ms. Stockman said these walks have 11.7% – 13.9% slopes. Steps and a handrail are proposed to be installed and a lift will be offered to the residents who purchase those units.

Staff explained that steps were allowed previously in some units. In this last building for the entire project, the builder raised the finished floor elevations two feet, increasing the slope of the walkways. When inspected this past winter, they were already built and the determination was made that

something had to be done because the walkways were too steep. Staff doesn't believe the existing slope is appropriate for a main entry. Staff recommends keeping the slopes at 8% on the site. Six of 42 units would need stairs and handrails.

Clint Brown, DiCesare-Bentley Engineers, explained that the project was built this way and was not apparent to anyone until the grades of the final building were inspected by Town staff. DiCesare-Bentley was not retained for construction management. Staff said the landscaping at the front is as shown in the approved plans.

Ms. Stockman said that the handrail would be installed on the downside of the slope, constructed of metal. The Town's road and drainage standards allow for a maximum of 8% slope. The details and the type of lift to be installed in each unit's garage were discussed.

MOTION: To approve a site plan modification for Mystic Run, Allyn Street, subject to the following modifications:

1. The alternative design with steps and handrails for Units # 31-34 shall be shown on the final plan. Maximum slope of the walks shall be 8%.
2. A "lift" within the garage to access the units shall be installed for Units 31 - 34. The lift type and design shall be reviewed and approved by the Office of Planning and Development.
3. Prospective owners shall be made aware of the units that do not provide barrier free access by way of legal instruments acceptable to the Director of Planning and Development.
4. A revised front yard landscape plan for Units # 31-34 shall be submitted and approved by the Office of Planning and Development.
5. Additional design details for the rear drainage system behind Units # 31-34 shall be shown on the final plan and approved by the Office of Planning and Development.
6. All staff technical items shall be addressed.

Motion made by Pritchard, seconded by Steinford. Motion passes, 4 - 1, 1 opposed (Roper).

V. PUBLIC HEARINGS

Chairman Sherrard was reseated.

1. Mystic Business Park Subdivision, Flanders Road & 1085 Noank-Ledyard Road (1 lot) - Continued

Clint Brown, DiCesare-Bentley Engineers represented the applicant, Tim Tylaska, of Mystic Business Park Subdivision. Access, utilities and open space were the three outstanding items from the last meeting.

Mr. Brown showed the Commission some exhibits of the existing Lot 11 and the proposed new lot design. Mr. Brown reviewed the location of the wetlands and possibilities for access along Flanders Road. Noank Ledyard Road was also reviewed as a potential future access with a cul-de-sac. A fifty foot wide access easement was proposed as a secondary access to Lot 11 from Flanders Road. The Fire Marshal requested two means of future access to this property, one from Noank Ledyard Road and one from Flanders Road. The sight lines from the proposed access on Noank Ledyard Road were reviewed. The intersection of Noank Ledyard Road and Flanders Road was reviewed.

Mr. Brown reviewed the utilities, including a sewer force main system on Flanders Road with a pump station. The applicant is proposing that the same access easement would be used for both water and sewer access.

Mr. Brown discussed open space requirements for a commercial subdivision. He stated that the Town's master trails plan shows a future trail north of I-95 through the parcel to Flanders Road. A trail could be provided across the "other land" to serve as the open space for this subdivision. Any development proposed for the "other land" would need to be approved by the Planning Commission.

Staff said the notifications for the mailing were completed on time and in an appropriate manner. A memo from Ken Richards, the Fire Marshal, dated August 14, 2007, was read into the record, requesting that the applicant provide for good fire apparatus access on the site and future access from both Noank Ledyard Road and Flanders Road. A memo from Ledge Light Health District dated August 3, 2007 approving the septic system was read into the record.

Staff discussed the waiver request of Section 5.4-1 to allow issuance of building permits for Lot 11 prior to completion of public improvements. Staff reviewed the suggested potential trail and the existing wetlands. An easement or land dedication must be at least 50 ft. wide to allow for vegetation to buffer the trail. Frontage shade trees and sidewalks were reviewed.

Mr. Tylaska said the flow rate for the well has been approved and the water now has to be tested. No building permits can be issued until the entire water system is built.

It was explained that Mr. Tylaska will have to submit a site plan application for any building that will be put on Lot 11.

The potential future trail was discussed.

The development of the "other land" was discussed. The access, utility access to the rear property, and emergency access from Flanders Road was reviewed. Flexibility for access was discussed.

Staff reviewed the note on the plan regarding the open space. The concepts of open space as a trail and open space within industrial subdivisions were discussed.

Chairman Sherrard asked for comments from the public and there were none.

MOTION: To close the public hearing for Mystic Business Park Subdivision, Flanders Road & 1085 Noank-Ledyard Road.

Motion made by Roper, seconded by Pritchard, so voted unanimously.

The Chairman called for a short recess and the meeting resumed at 9:03 p.m.

VI. SUBDIVISIONS

1. Mystic Business Park Subdivision, Flanders Road & 1085 Noank-Ledyard Road (1 lot)

Chairman Sherrard said the voting members for this application will be Fitzgerald, Kane, Pritchard, Roper and Steinfeld.

The Commission discussed the possibility of taking the entire ten percent of the property for open space, an easement for the trail, or the ten percent fee in lieu of open space. Staff felt that the Commission should not endorse in this case a fee in lieu of open space, based upon the demonstrated desire for a trail in this location. Staff also did not feel that using a trail as open space in this case, established a precedent that precluded some other approach in some other circumstances. The Commission discussed the requirement of the applicant to tie into the public water and sewer if these services become available.

MOTION: To approve a waiver to Section 5.4 (1) of the Subdivision Regulations to allow the issuance of building permits on Lot 11 prior to the completion of all public improvements and offering for acceptance by the Town. The Commission finds that:

1. The subdivision is for the additional development of Lot 11 and involves limited public improvements. The acreage designated as "Other Land" will be subject to a future subdivision approval prior to any development of this acreage and additional public improvements shall be required based on this future subdivision application.
2. A performance bond shall be posted for all public improvements prior to recording the plans in land records.
3. The granting of the waiver will not be detrimental to public safety, health, or welfare and does not compromise emergency services vehicular access.
4. The waiver is not in conflict with the provisions of the Zoning Regulations, or the Plan of Conservation and Development,

and conforms to the criteria specified in Section 1.10 of the Subdivision Regulations.

Motion made by Pritchard, seconded by Steinfeld, so voted unanimously.

MOTION: To approve a subdivision plan for Mystic Industrial Park – Reconfiguration of Lot 11 (1 Lot), 800 Flanders Road, with the following modifications:

1. Development within the proposed 50' wide access and utility easement shall be designed so as to not impede the ability to provide utilities and/or access to the "Other Lands" in the future. Lot 11 shall tie into public water and sewer if these services become available to the area in the future.
2. Note # 17 shall be modified to include that a 50-foot wide easement or dedication of land to the Town of Groton shall be included as part of the development of the future trail.
3. Note # 24 shall be modified to include that a certificate of occupancy (CO) for any additional development on Lot 11 shall not be issued until an onsite well is constructed and the well receives the appropriate State Certificate and Local permits and approvals or an alternative public water source is provided.
4. A 5-foot concrete frontage sidewalk for Lot 11 shall be required as part of this subdivision.
5. A note shall be placed on the plans stating "Shade trees along the Lot 11 frontage shall be required in accordance with Section 4.10 (2) of the Subdivision Regulations, unless the existing tree canopy is substituted for all or part of this requirement with the approval of the Director of Planning and Development at the time of final clearing and improvements. Any future development or subdivision of the "Other Lands" may require the placement of shade trees in accordance with Section 4.10 (2) of the Subdivision Regulations."
6. All staff technical items shall be addressed.

The Planning Commission finds that the proposed 50-foot wide easement or land dedication and the construction of a future trail at such time as the "Other Land" is subdivided or developed for industrial use serves to satisfy the Open Space Requirement for the entire tract as described in Note 17 of the Subdivision Plan.

The Planning Commission finds that street lights along Flanders Road will not be required as per Section 4.8 (Underground Utilities and Street Lighting) of the Subdivision Regulations as the subdivision is the reconfiguration of Lot 11 that will add only 85-feet of new frontage on Flanders Road and will not create any new streets.

Motion made by Pritchard, seconded by Fitzgerald. Motion passes 3 – 2, two opposed (Roper and Kane). Roper and Kane were opposed based upon their opinion that the condition regarding the trail as open space would limit the Town's future open space options at the time the remaining lands are proposed for development.

VII. SITE PLANS

2. JJMA Realty LLC, 1280 Gold Star Highway

Nuria Stockman, DiCesare-Bentley Engineers, represented the applicant, JJMA Realty LLC. Ms. Stockman reviewed the location on Gold Star Highway and Candlewood Road. The building was formerly a bank with a drive-thru teller window. The eastern portion of the building would be retail space and the western half would be a Dunkin' Donuts store. The stacking for the drive-thru was reviewed. Ms. Stockman explained the wetlands and Inland Wetlands Agency permit granted for a frontage sidewalk. The Inland Wetlands Agency did not allow the applicant to build into the upland review area for the drive-thru stacking. A 15 ft. variance was granted by the Zoning Board of Appeals for front yard stacking. The lighting, the reserve area and the existing septic system, new signage and drainage were reviewed. The site is located in the WRPD and all WRPD requirements are met. Parking, site traffic, pedestrian circulation and sidewalks were detailed. The applicant has agreed to install a solid stockade fence as a buffer to the residential neighborhood at the back of the property. Tree plantings were reviewed.

Staff said that approvals from Ledge Light Health District and Groton Utilities are still outstanding. Public Works and the Fire Marshal have approved the plan. The basic water design has not yet been approved by Groton Utilities. The requirements of the wetlands permit have been met. A landscape easement was described. Staff reviewed the site traffic flow and WRPD standards. An existing older HVAC rooftop unit is being investigated by Groton Utilities.

The applicant granted an extension for the site plan application to the September 11, 2007 meeting.

Ms. Stockman said no cooking or frying is done onsite. The increase in permeable surface was discussed. This will be a 24 hour store. The dumpster area, recycling and fence material were reviewed. The access to the retail area was reviewed. The stacking lane and possible alterations for the lane were discussed.

Chairman Sherrard asked the applicant to present traffic flow solutions, and to address the seating and the retail use at the next meeting.

MOTION: To accept an extension of action for JJMA Realty LLC until the next meeting on September 11, 2007.

Motion made by Sherrard, seconded by Roper, so voted unanimously.

VIII. OLD BUSINESS

1. ZBA referral for August 22, 2007 public hearing

Staff explained that a substantial amount of supplemental information has been received regarding the referred application since the Planning Commission made its original referral. Staff asked the Commission to reconsider their response to the ZBA. Staff explained the application and the use of the property. A Connecticut Forest and Parks Association (CFPA) easement on the property was explained to the Commission. The reasonable use and conservation of this property was discussed. The applicant is not allowed to subdivide this property. This can be considered a use variance. A zone change or map amendment was discussed. The potential for public access to a trail that runs through the property was discussed. The applicants said they have no plans for events on the property.

The Town generally does not support use variances, but in light of the additional information provided to the Planning Department, the Planning Commission would like the ZBA to consider a trail, limit the number of horses, site plan conditions, and no events. The applicants stated that they will live on the site. Potential health issues relating to manure management were discussed.

MOTION: The Planning Commission rescinds the motion regarding the referral of ZBA #07-10, Hummingbird Hill Farm, of July 10, 2007.

Motion made by Pritchard, seconded by Roper, so voted unanimously.

It was the consensus of the Commission to send the following information in a report to the Zoning Board of Appeals:

1. As a matter of general policy, use variances are not supported, as they can potentially undermine the Town's planning and land use policies. However, in light of the additional information provided, the analysis of that information by OPDS staff, the Commission's open space policies, and the applicant's general agreement to consider certain limitations and/or conditions, the Commission recognizes that this particular circumstance is unique and that as a consequence, subject to certain limitations and/or conditions, approval of a use variance may in fact allow the Town to accomplish certain objectives of its 2002 POCD.
2. Should approval of a use variance be issued, the Planning Commission would like the record of any such approval to state that such approval in no way undermines or obviates the Planning Commission's ability to consider and/or regulate now or in the future, attributes that are not within the scope of said use variance. For instance, it should be clear that the use variance is limited to uses and not to physical plan components, with the possible exception of the "development envelope" concept discussed in the CFPA's conservation restriction.
3. Any such approval should also contain as a condition, provisions for a public access easement for purposes of a passive recreational trail, extending northerly from Route 1 generally along the easterly portion of the parcel to its northern boundary abutting the existing Town open space. This potential future trail is depicted in the Town's

“Trail Master Plan” and will serve as an important link through the parcel to the “Pequot Woods” open space. There is an existing trail on the parcel, and the applicant has generously agreed to accommodate this public amenity. This public trail will in no way conflict with the existing or any potential future covenants affecting this parcel. Finally, in that “subdivision” is the conventional means of acquiring public open space, and in that this parcel is subject to a conservation restriction in favor of the CFPA that precludes subdivision, absent that potential opportunity the Town’s ability to implement its POCD in this specific instance has been greatly diminished. Therefore, the Planning Commission feels that it is proper and reasonable to acquire this amenity at this time, if the use variance is granted by the ZBA.

4. Any such approval should include as a condition, a separate and perhaps identical conservation restriction in favor of the Town of Groton. The 2002 POCD depicts this parcel as potential future open space. While the parcel is presently subject to the CFPA restriction, the Town has no control over that limitation and, while remote, the possibility does exist that the CFPA restriction could be revised, reduced in area or perhaps even eliminated by agreement of CFPA and the present owner or any successor at some future date. The Planning Commission feels that because this use restriction is being offered as an essential part of the justification for the use variance, the Town should ensure that if the variance is granted, the restriction remains in perpetuity, especially since the use variance would run with the land in perpetuity.
5. Any such approval should clearly stipulate that a Site Plan approval by the Planning Commission is required. The Commission also would like the ZBA to very carefully consider the details of the proposed use(s), and to craft any such use variance in a very clear and comprehensive manner, so as to eliminate or greatly reduce the potential for future conflicts over interpretations of the grant. The applicant should not misconstrue a use variance as limiting the Planning Commission’s ability to regulate the design via any required Site Plan application process.

2. Zoning Commission referral for September 5, 2007 public hearing

Staff gave a brief description of the special permit application for a 211 unit active adult community on Fort Hill Road and Flanders Road. The wetlands, access, roadway layouts, fire staging were reviewed. Staff explained that the Zoning Commission will be concerned with the traffic circulation, harmony with development, and environmental impacts. The Zoning Commission will open the public hearing at a special meeting on September 19th. Previously, an ERT was completed on this proposed project. The traffic issues were reviewed. The principal access would be on Flanders Road with improvements made at the intersection on Flanders Road. A sewer extension is proposed, reinforcing that the sewer should be sized for future growth. All slopes above 20% will remain undeveloped. Setbacks and buffers were also discussed. The Commission asked staff to distribute additional information in the next agenda packet.

MOTION: To table the Zoning Commission referral until the next regular meeting on September 11, 2007.

Motion made by Roper, seconded by Pritchard, so voted unanimously.

IX. NEW BUSINESS

1. Report of Commission

Roper said that the Mystic River Task Group will be meeting at 8:00 a.m. on August 20, 2007, at the Mystic Chamber of Commerce.

Roper said that the public meeting held in Groton for the Regional POCD was well attended with a lot of useful input and comments.

Roper said he received information from the University of New Hampshire Stormwater Center report on stormwater treatment systems.

Steinford invited everyone to help build the playground equipment for the new Tercentennial Playground. Volunteers will work in shifts of either 7 a.m. - 1p.m. or from 1 p.m. - 5 p.m. on Saturday.

3. Recommendation for appointment to Flanders Road Utility Study Committee

Staff explained that Munn was originally appointed to the Flanders Road Utility Study Committee. Munn is also on the Charter Revision committee, which meets on the same night as the Flanders Road committee. Staff recommends that Fitzgerald be appointed as the permanent representative.

MOTION: To nominate Fitzgerald as the Planning Commission's permanent representative on the Flanders Road Utility Study Committee.

Motion made by Sherrard, seconded by Pritchard, so voted unanimously.

IX. REPORT OF CHAIRMAN

X. REPORT OF STAFF

Staff said the Berg case, Meridian Street Extension, has been resolved and the Town's court costs have been recouped.

Staff said the Candy Lane Subdivision lawsuit was received.

Staff distributed an article to Commission members about growth management.

Staff distributed the dates for the Mystic water taxi.

An RFQ for the comprehensive regulation update will be published starting tomorrow, with a response date of September 15th. The legal ad will be in the Hartford Courant and on several websites.

MOTION: To add a request for a bond reduction for Copp Subdivision to the agenda.

Motion made by Roper, seconded by Steinfeld, so voted unanimously.

XI. SUBDIVISIONS

1. Copp Subdivision, Pleasant Valley Road South

MOTION: To reduce the bond for the Copp Subdivision, Pleasant Valley Road South, to \$115,615.00.

Motion made by Roper, seconded by Steinfeld, so voted unanimously.

XII. ADJOURNMENT

Motion to adjourn at 11:27 p.m. made by Roper, seconded by Steinfeld, so voted unanimously.

Jeffrey Pritchard, Secretary
Planning Commission

Prepared by Debra Stanowicz, Office Assistant II