

MINUTES
TOWN OF GROTON
ZONING COMMISSION
MAY 7, 2014 – 7:00 P.M.
TOWN HALL ANNEX – COMMUNITY ROOM 2

I. ROLL CALL

Regular members present: Marquardt, French, Sayer, Hudecek
Alternate members present: Bancroft
Absent: Smith, Sutherland, Middleton
Staff present: Jones, Galetta

Vice-Chairperson Hudecek called the meeting to order at 7:01 p.m. and sat Bancroft for Sutherland.

II. PUBLIC HEARING

1. Zoning Map Amendment #ZCH 14-01, 707–817 River Road and parcels east of River Road designated as 0 River Road, PIN #'s 261907581996, 261907592016, 261907591293, 261907592437, 261907590489, 261907590662, 261906499628, 261906498851, 261907583839, 261907583977, 261907594017, 261907594201, 261907593466, 261907593612, 261907592761, 261907591759, and 261907590849, RU-80 Zone. Proposal is to change the zoning district of 17 lots on River Road from RU-80 Zone to RU-40 Zone. Review is per Section 8.2 of the Zoning Regulations. (Richard Dixon, Applicant)

The Public Hearing was opened at 7:02 p.m. with Vice-Chairperson Hudecek reading the legal ad.

Attorney Richard Dixon represented the property owners, primarily Ante and Klaudija Ljubicic, and presented to the Commission. He referred to a narrative that the Commissioners were provided, which sets out the history of the subject properties and how they meet the requirements for a zone change. He also disclosed that he is a neighbor and former town councilor with firsthand knowledge of the area who also favors changing the zone. The area proposed to be rezoned is already developed and is closer to RU-40 than RU-80. The changes will be more in keeping with the existing land use. The property is bordered by State owned property and Town owned property. The applicant expressed the need to find a balance between the rights of private property owners and the public's right to legislate land use.

The only lot large enough to be divided under RU-40 regulations is 743 River Road which belongs to Dixon's clients. The Zoning Board of Appeals previously heard an application for a variance to create two non-conforming lots at 743 River Road, which it did not grant. That Board suggested the Ljubicic's come before the Zoning Commission to request a zone change instead. In the process of preparing for the variance application a perc test was done. A letter from Ledge Light Health District was provided stating that there are no reservations with the proposed division of land. The Commission referred to an e-mail from Ledge Light Health District that noted several conditions to be met before the system is approved.

Dixon reviewed the consistency of the application with the Plan of Conservation and Development (POCD). They are not asking to change the character of the area

from low density development. The current community character is one of homes on one acre lots. There are 9 buildable lots that have 9 houses on them. This proposal will allow one additional lot with one more septic system.

The applicant referred to a letter from David Kozak, of Connecticut Department of Energy & Environmental Protection-Office of Long Island Sound Programs (CTDEEP-OLISP), which found the application to be inconsistent with the Connecticut Coastal Management Act (CCMA). Dixon noted that the subject property is on the upland side of River Road. He also noted that the CCMA specifically states that its first goal is to ensure development consistent with the rights of private property owners. Dixon submitted a memorandum for the Commission to address the issues brought out in the CTDEEP-OSLIP letter.

The Commission noted that they recently amended Section 1.1 of the Zoning Regulations to include exercising reasonable consideration for restoration of Long Island Sound (LIS). The Mystic River runs into LIS and the Commission is concerned about another septic system and the possibility of a failure of the system and the impact that would have. Dixon reviewed an engineered system for the property that meets all health district requirements. He noted it would be very unlikely that the system would fail because of the design.

Dixon additionally noted that the letter from Kozak references the coastal flood hazard area. The lots are in the flood zone but in the past there have been no flooding problems. The new house will be set back far enough and building regulations will prevent it from being placed in an area of flood hazard.

Staff noted that the required mailings are in order. The staff report, which had several attachments and was provided with the agenda, was summarized. As background information, staff noted that this area of town was originally zoned RU-20. The Municipal Coastal Program, written and adopted in 1982, recommended that the area be changed to RU-80 because it was not sewered and there were no plans to extend the sewers, and because the area had steep slopes, poor soils and a number of natural resources. Additionally, the public wanted to preserve River Road. The Zoning Commission adopted the change in 1983. The sewer and environmental conditions are essentially the same.

The 2002 POCD recommended the area for low density development which is defined as 1 - 2 acre lots. The Planning Commission reviewed the application and voted (3-2) to support the change. The Southeastern Connecticut Council of Governments also reviewed the application and found no adverse inter-municipal impact. Staff referred to the CTDEEP-OLISP letter from Kozak noting there are other zoning regulations that could mitigate the adverse impacts such as Erosion and Sediment Control and Stormwater Management Regulations. She also reviewed a GIS map for the area with the flood zones overlaid on top. While some of the structures are located within the 100 year flood plain, the lot being discussed has considerable area outside of the 100 year flood plain as well as the 500 year flood plain.

Staff also discussed the property abutting the area. The Oral School property is zoned RU-80 and the Town owned open space was purchased with a bond in the 1980's. The Commission was concerned that the zone change might allow two adjoining properties to be combined and developed more densely. Staff stated that this could not happen without a variance.

Vice Chairperson Hudecek asked for public comments for or against the application.

Susan Graham, 761 River Road, spoke in favor of the zone change.

Tony Ljubicic, 743 River Road, addressed the Commission. He has lived in Town for many years, after relocating from New York. His family is trying to stay in the neighborhood and do the right thing to make it as comfortable as can be. Most of the neighbors are supporting the application.

The public hearing closed at 8:03 p.m.

III. APPROVAL OF THE MINUTES OF April 2, 2014

MOTION: To approve the minutes of April 2, 2014

Motion made by French, seconded by Sayer, 4 in favor, 0 opposed, 1 abstention (Hudecek). Motion passed.

IV. CONSIDERATION OF PUBLIC HEARING

1. Zoning Map Amendment #ZCH 14-01, 707-817 River Road and parcels east of River Road designated as 0 River Road (Richard Dixon, Applicant)

The Commission felt it had a better understanding of the application after the presentation. The 17 properties referred to in the description are not actually 17 buildable properties. They noted that most of the lots have less than 80,000 square feet. Staff explained that all of the lots were developed prior to zoning and that there should not be any concerns that this is spot zoning.

The Commission found the main issue to be the additional impervious surface associated with an additional house in the coastal area and whether that would have a negative impact on coastal resources. It noted that the septic system will be engineered to 2014 standards and the health code will require a reserve area. Additionally, dividing the lot will require additional land use approvals.

There was some additional concern about setting a precedent if the application is approved. All of the Commissioners are concerned with coastal preservation.

MOTION: To approve the Zoning Map Amendment (ZCH14-01) changing 17 parcels along River Road from RU-80 to RU-40 pursuant to the following findings and reasons for approval:

1. The Commission finds that the Zoning Map Amendment is consistent with the Plan of Conservation and Development and the Future Residential Densities Plan which calls for this area to be Low Density (less than one unit per acre, R-40 or R-80)
2. The Commission finds that the potential adverse impact on coastal resources involves a minor increase in residential density resulting in a

minimal addition of impervious area within the Coastal Zone. The Commission notes that any development in this area must meet the requirements of the Erosion and Sediment Control, Storm water Management and Flood Protection Zoning Regulations which will minimize any adverse impact on coastal resources.

The effective date of this Amendment shall be July 1, 2014

Motion made by Bancroft, seconded by French, so voted unanimously

Commissioner Bancroft found that the application would not cause overcrowding of land because there will be no great concentration of population as there would be in a subdivision for example. He felt this was the most appropriate use of the property. He had some concerns with estuary protection but modern technology relative to engineered septic systems and stipulations from other commissions should alleviate any problems. He felt it was appropriate to do and made the lot consistent with other surrounding lots.

V. PUBLIC COMMUNICATIONS

Commissioner French noted that this may be her last meeting. The Town personnel committee has decided to not renew her appointment and her term has ended. The Commission thanked her for all her service.

VI. OLD BUSINESS

1. Discussion of Revisions to Zoning Regulations; including Buildable Land Definition, Table of Permitted Uses, Animals in Residential Districts, and Special Permits

Buildable Land – Chairperson Sutherland was not present to discuss.

Table of Permitted Uses – Commissioner Hudecek has consolidated the table. It is reduced from 13 pages to 10 pages; however, going beyond that will require more time and effort and he is not prepared to go any further unless the Commission feels it's necessary. He looked at other like-sized communities as models for the consolidation. The Town, by far, had the most categories. He would like to get some input from staff regarding modern terminology, adding energy and technology uses, and formatting the table.

Animals in Residential Districts – Commissioner Sayer worked with staff on the wording for this regulation amendment. Staff noted that the next step is to file the application so the Commission will receive it at their next meeting. A public hearing date will be set at that time.

Special permits – Commissioner Hudecek noted that it might be a time to take another look at special permits. Staff compiled a list of all the things that require special permits and will distribute it to the Commission for review. Tracking and researching previous permits, application processing, and the role of the Planning Commission in reviewing Zoning Commission applications were also discussed.

2. POCD Update Report

Staff noted that the next meeting is scheduled for May 22, 2014. There are only 2 more Steering Committee meetings, May and June, after which the document will be turned over to the Planning Commission for review. The plan is to review it in workshop meetings, then at a community meeting, and finally mandatory public hearing(s).

3. Land Use Regulation Update Project

This item was not discussed.

VII. NEW BUSINESS

1. Report of Commission – None

2. Receipt of New Applications

- a. Special Permit #342, 27-29 West Main Street (CAM), Proposal is for a new standard restaurant and bar, (Fedus Engineering, LLC, Applicant).

The Commission scheduled a public hearing for June 4th.

VIII. REPORT OF CHAIRPERSON

1. Report on December 10, 2013 meeting with Town Council – Sutherland will give further details.

IX. REPORT OF STAFF – None

X. ADJOURNMENT

Motion to adjourn at 8:34 p.m. made by Sayer, seconded by Bancroft, so voted unanimously.

Susan Marquardt, Secretary
Zoning Commission

Prepared by Lynda Galetta
Office Assistant II