

MINUTES  
ZONING COMMISSION  
DECEMBER 1, 2010 - 7:00 P.M.  
TOWN HALL ANNEX – COMMUNITY ROOM 2

I. ROLL CALL

Present: Cady, French, Hudecek, Marquardt, O'Neill, Sutherland  
Absent: Haviland  
Staff: Davis, Murphy, Gilot

Chairman Hudecek called the meeting to order at 7:00 p.m. and seated Cady for Haviland. Chairman Hudecek read the legal add for the public hearing.

II. PUBLIC HEARING

1. Proposed Zoning Regulation Text Amendments to Section 2 (Definitions); Section 6.11 (Erosion and Sediment Control Plan); Section 7.2-13 (Surfacing and Drainage); Section 7.4 (Landscaping, Screening and Buffer Areas); and Proposed New Zoning Regulation 6.14 (Stormwater Management Plan)

Staff gave a brief overview of the land use regulation update project and the purpose and scope of the proposed regulations for these public hearings.

In terms of process, staff said there will be one public hearing for all five sections, but that each section would be deliberated upon individually and that action (findings and votes) would be taken separately on each of the sections. Staff's suggestion for tonight is to simply initiate the hearing process, take information from the public, and to continue the hearing to allow staff and commission time to review and respond as appropriate to the public comments.

Staff distributed comments they received yesterday afternoon from David Kozak of DEP/OLISP. Mr. Kozak made reference to various sources in his comments, which staff would like to review. Staff said that they had not had sufficient time to review Mr. Kozak's extensive comments and that they would do so and report to the commission at the continuance. Staff's initial sense was that the comments went beyond the scope of a consistency review, suggested amendments that exceeded the scope of the legally noticed language, addressed areas outside the CAM zone, and raised general concerns that would be more appropriate to discuss in another venue.

Staff also distributed a memo to the Commission in response to Commissioners French and Sutherland's questions regarding CGS 8-2(b) and the legislative intent of the statute. Commissioner French said she also was concerned with Section 8-2(a) of the statute which was not referenced in staff's memo. Staff said the Town regulations do provide for e & s control, which is the clear intent of that part of the enabling language.

Staff entered the following referrals into the hearing record:

- Economic Development Commission (affirmative referral)
- SCCOG (no adverse inter-municipal impacts)
- Inland Wetlands Agency (suggested one minor language edit)
- Conservation Commission (affirmative referral)
- Planning Commission (affirmative referral with suggested minor edits)

Staff noted that referrals were also made to adjacent towns, but no comments were submitted as of yet. The Town Attorney's written comments should be completed soon, and will be included in the next agenda packet, but staff noted that his verbal report to staff indicated that he did not see any issues or concerns from a legal standpoint with the language as written.

The Chairman requested comments from the public.

Jim Furlong, 57 Fishtown Lane, Mystic, Director of GOSA, presented GOSA's comments to the Commission. Mr. Furlong distributed copies of the GOSA comments, as well as copies of a review of the proposed regulations, prepared by Steve Trinkhaus.

GOSA's suggestions included, but were not limited to:

- To update Section 1 of Zoning Regulations and include the language of CGS 8-2(b) as part of the regulations;
- To add a specific provision with regard to protection of and environmental impact on Long Island Sound;
- To add language addressing the protection of saltwater coves and estuaries which are not under the jurisdiction of the Inland Wetland Agency;
- that the WRPD regulations should be updated

Edward Martin, Chairman of the Groton Shellfish Commission, provided general comments regarding the need to protect shellfish areas and reviewed a map of estuaries, including certain areas outside the Town's zoning jurisdiction. Discussion followed regarding stormwater discharge into estuaries and the water quality necessary for shellfish to thrive. Mr. Martin discussed in general terms the relationship between impervious area and water quality as well as fecal coliform. He suggested that it was his understanding that the zoning board was going to adopt zoning regulations to enforce compliance with the water quality standards necessary to meet the needs of shellfish, including perhaps impervious surface requirements.

Staff advised that many of the comments received so far, while raising valid topics, were far too general and did not speak directly to the specific language being heard this evening. Staff qualified that the purpose of this evening's hearing is to review and discuss the language that was legally noticed and not to have a general discussion about water quality, stormwater management concepts, or the specific needs of shellfish. Staff noted that OPDS is and has been very involved in these issues in various ways and is very aware of relevant concepts, options and other general concerns. Staff also pointed out the complexity of how these issues are managed and that for instance, local zoning boards do not regulate stormwater quality in the manner being suggested. Staff also noted that it was not appropriate or necessary to include enabling language from the statutes, into the body of the regulations themselves.

Sidney Van Zandt, 3 Front Street then spoke in general terms about stormwater quality and distributed some handouts to the Commission regarding developments in Rhode Island, Ledyard and Waterford, flooding on Whitford Brook, capital facility improvements in Philadelphia, Chicago, NYC, Kansas City and Seattle, general guidance from CFE and the DEP (as to LID), and a recent editorial from the "Mystic River Press" regarding bacteria counts in Little Narragansett Bay and the Pawcatuck River.

David Kozak, DEP/OLISP, read portions of his advisory report. Mr. Kozak focused on LID standards, making general references to LID concepts, what the DEP is currently doing statewide with regard to LID, pilot projects in certain Farmington Valley communities in regard to LID, and other such general topics. His report also included specific suggestions with regard to certain proposed language, but Mr. Kozak did not include those in his presentation.

Staff noted that they were not aware that Mr. Kozak planned to attend this evening, that they were not given sufficient time or opportunity to review and discuss his comments, that his written comments and testimony concerned in large part the general topic of LID, were outside the scope of a consistency review and raised issues that could not be addressed within the scope of the legally noticed language. Staff opined that it was inappropriate for a state agency staff person serving the Town to take this approach to a consistency review. OPDS felt that if it was necessary to have a “workshop” on LID, staff would contact Mr. Thompson, OLISP Director, to make arrangements for that purpose. Staff did not feel that this hearing was the appropriate mechanism or venue for having this general discussion. Staff indicated that they welcomed the opportunity to meet with Mr. Kozak to educate him with regard to the facts concerning how the Town addresses storm water quality and storm water management, including the role and activities of the other land use commissions, public works department and others. Staff indicated that Mr. Kozak’s comments seemed to suggest that he was operating under some misguidance in that regard, or perhaps a general lack of knowledge of the Town’s programs and practices.

Raymond Munn, 26 Middlefield Street, a member of the Planning Commission, clarified the Planning Commission referral relative to the citing of examples, and the use of the word “plan” in reference to “site plan” consistently in Section 6.11-1B. Mr. Munn also recommended changing the word “certification” to “approval.”

Staff said “certification” is interpreted to mean approval of the e & s plan as part of the site plan approval.

Jim Furlong, 57 Fishtown Lane, made a personal comment that in response to staff’s reference to CGS 8-2(b) being “beyond the scope of these amendments”, he hoped the commissioners would be able to creatively insert items of interest and relevance in other sections to be updated.

Motion to continue the public hearing to the next regular meeting was made by O’Neill and seconded by French. Motion passed unanimously.

### III. APPROVAL OF THE MINUTES OF October 6, 2010.

MOTION: To approve the minutes of October 6, 2010 as written.

Motion made by French, seconded by Cady. Motion passed 4-0-1, one abstention (O’Neill).

### IV. PUBLIC COMMUNICATIONS

Staff said Tilcon submitted an application for a tower at their South Road property, but that application was withdrawn.

### V. CONSIDERATION OF PUBLIC HEARING

1. Proposed Zoning Regulation Text Amendments to Section 2 (Definitions); Section 6.11 (Erosion and Sediment Control Plan); Section 7.2-13 (Surfacing and Drainage); Section 7.4 (Landscaping, Screening and Buffer Areas); and Proposed New Zoning Regulation 6.14 (Stormwater Management Plan)

The public hearing was continued to the next regular meeting in January.

VI. NEW BUSINESS

1. 2011 Meeting Schedule

MOTION: To adopt the 2011 Zoning Commission meeting schedule as presented.

Motion made by French, seconded by O'Neill, so voted unanimously.

2. Receipt of New Applications

No new applications have been submitted.

VII. REPORT OF CHAIRMAN - None

VIII. REPORT OF STAFF

Staff said there will be a presentation of the final executive summary by ICLEI and DEP on the findings of the three workshops previously conducted by those agencies relative to their appointment of Groton as a "model city" for climate adaptation. The report will be presented tomorrow, December 2<sup>nd</sup>, at 6:30 in the Town Hall Annex in Room 1. Staff will distribute copies of the draft final report to all the commissioners at the next meeting. Staff also updated the commission on the Mystic Streetscape project.

Some commissioners felt that staff's approach to coastal analyst Kozak's comments was inappropriate. Staff attempted to explain that their actions were based on their professional obligation to defend the legitimate process in terms of the rights and responsibilities of the DEP and the Town in this specific type of proceeding, versus those of private citizens participating in a hearing on zoning text amendments.

IX. ADJOURNMENT

Motion to adjourn at 9:07 p.m. made by O'Neill, seconded by French, so voted unanimously.

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Zoning Commission

Prepared by Debra Gilot, Office Assistant III