

MINUTES
GROTON ZONING COMMISSION
SEPTEMBER 5, 2007 - 7:00 P.M.
TOWN HALL ANNEX – COMMUNITY ROOM 2

I. ROLL CALL

Present: French, Haviland, Hudecek, O’Neill, Marquardt, Sutherland
Staff: Murphy, Davis, Silsby
Absent: Brandt

Chairman Hudecek opened the meeting at 7:04 p.m. and appointed Marquardt to sit as a voting member for Brandt.

II. PUBLIC HEARINGS

1. Proposed New Zoning Regulation 6.13 (Mixed Use Zones); Proposed Zoning Regulation Amendments to Section 3.1 (Classes of Districts), Section 5.1-3 (Table of Permitted Uses); and Section 5.2 (Lot, Yard, and Building requirements). (L & L Groton LLC, Applicant)

Hudecek reopened the public hearing at 7:05 p.m.

Staff noted that edits have been made to the proposal in accordance with comments received at the August 1, 2007 hearing. Staff will give a short presentation later in the meeting.

Attorney Tim Bates of the Law Firm of Robinson & Cole continued his presentation regarding a zone regulation amendment request on behalf of the applicant L & L Groton LLC. He distributed the latest revision, changes in *Italics*, which had previously been given to all Commission members and staff. He walked through the changes one by one and stated that staff will be giving a presentation in regards to Section 6.13a. Bates clarified the pre-application process in regards to page 5, Section 6.135a. He spoke about the option of endowment or a special taxing district, and spoke in detail about the difficulty in determining height limits for each node.

It was noted that the severance comment gives clarification to differentiate between a special permit and the master plan.

In referring to the Plan of Conservation and Development (POCD) and a Supreme Court case of *Irwin v. Litchfield Planning and Zoning Commission*, Bates spoke about whether the POCD is a binding document and provided a written memorandum dated August 20, 2007. He also responded to O’Beirne’s memorandum dated 8/31/07.

In regards to people’s concerns that this proposal is arbitrary and capricious, Bates spoke about the laws of the State of Connecticut regarding design districts and special zones. He spoke about floating zones, uniformity requirements, and spot

zoning. Bates distributed an article from the Hartford Courant dated 6/24/07, in regards to creating a successful neighborhood with the use of mixed use development.

Brian O'Looney, an Architect with Torti Gallas and Partners, Inc., gave some background about the success of his company and spoke in favor of the application. He gave a presentation (hard copy to be submitted) about the proposal, explained about the benefits of mixed use and its importance to Groton, and the goal to make Groton a "walkable place". He spoke about setbacks, utilizing a "build to line", and explained about the matrix that could be used. He noted that mixed use development presents a friendlier community and added that properties have already been assembled for this purpose. He apologized for his technical difficulties.

Bates gave his reasons as to the benefits of mixed use and why this proposal should be approved. The objective is to give flexibility to the Zoning Commission and potential applicants, and to grow communities. He referred to the public hearing process and the consensus that something like this is needed, though there are minor concerns. He urged the Zoning Commission to not wait in pursuing upcoming projects and explained what Mr. O'Looney's interest is in creating mixed use development near the Subbase.

Staff clarified that these nodes are identified as nodal areas in the 2002 POCD and that this regulation will create the framework to establish the basis for which mixed use development can be located. Staff gave a map presentation showing the specific four nodes and referred to a letter from the Town Attorney. Additional correspondence was provided. Staff suggested that the public hearing be closed tonight and do not recommend any other specific language changes. The Zoning Commission has the potential to determine buffers as projects arise and that residential areas should not be invaded. Staff referred to duplex zoning, lot sizes, and defining nodes. They clarified that while there could be lands physically located outside a node arc, the Zoning Commission could limit that. Staff stated that lot line issues would be addressed as projects are submitted.

Discussion followed about assembling the parcels and drawing new lot lines.

It was noted that nodes are part of the application and as such, some Commission members felt that changes to the zoning map should be concurrent with the proposed text changes.

Staff explained why it would not be feasible to make changes to the Town zoning map.

Further explanation was given that when a project is approved by the Zoning Commission, such as the mixed use project, this change, only then, becomes a new mark on the town zoning map. It was also noted that the changes are not boundaries.

Additional comments were given and it was noted that the Zoning Commission will consider each individual project according to its merits.

Staff stated that additional language could be added in the text and distributed written suggestions to the Commission in regards to Section 6.13-3a and node usage. This draft document could be used as the last supplement to the proposal. Staff believes that these suggestions would address the Zoning Commission's concerns.

Staff submitted correspondence from the Town Attorney, who suggested some refinements to the language. Staff felt these minor issues were not substantive. They noted that the Zoning Commission can give more guidance if so needed. The inclusion of an A-2 Survey was discussed.

Staff read into the record, an email they received at 4:41 p.m. this afternoon from Planning Commission Chairperson James Sherrard. Mr. Sherrard explained why he felt it was inappropriate to act on this amendment and requested that this proposal be withdrawn. Staff could not recommend withdrawing this proposal. Other correspondence received by the Planning Department was an email forwarded to them via the Town Clerk from resident Ed Johnson.

In regards to an article written in the local newspaper referenced in Mr. O'Beirne's August 31, 2007 letter, Staff believes that their comments were misconstrued and important facts were left out of the article. They noted the importance of standards and policies and added that the intent is not to allow stand-alone commercial development.

The Chairperson asked for public comment.

Sydney VanZandt, 3 Front Street, Noank, supports mixed use development. She referred to an article regarding a "walkable community" dated 7/16/06 and submitted a written exhibit. She believes that the issues of open space and sprawl, and the height of buildings should be more defined. She questioned whether the local fire departments can handle unlimited heights. Though more refining needs to be done, she felt the general idea was superb.

Jim Furlong, 57 Fishtown Lane, inquired how much bigger, in terms of area, would the circles be if extensions are given on the nodal line. He also asked how many areas are included thus far.

Staff stated that the idea is not to "expand" but to "fill-in". They referred to arcs included in the four designated nodes, and noted that the Zoning Commission can provide for buffing. This proposal does not entitle any future project. Future height requirements were discussed as well as the current requirements in the DDD zone. As noted in the Strategic Plan, the Town limits building heights when appropriate. Staff noted that currently, the DDD zone has no height requirements and that the Zoning Commission would have more control with mixed use zones.

The process for height requirements was explained.

The Chairperson asked for additional public comment.

Joan Smith, 58 Mohegan Road, a member of the Board of Directors of GOSA, expressed her concerns regarding environmental impacts and inquired what the Inland Wetlands role in this proposal is. She inquired if the Zoning Commission would have more capability than they have now, asking additionally if the Zoning Commission could turn a project down.

It was noted that the Zoning Commission would have a lot more discretion.

Discussion followed about Inland Wetland requirements.

Bates stated that the Zoning Commission cannot act until approval by Inland Wetlands is first given.

There were no other public comments.

Bates gave some suggestions as to what could be done to address the concerns about including this proposal on the town's zoning map. He noted that nodes on the zoning map are reference points only and should not be rezoned.

Some members disagreed and felt that changes to the town's zoning map should be made.

Discussion followed about map changes and staff explained why this would not be feasible. They added that nodes are to be studied in an application proposal and should be defined with each individual application. Placing them on the zoning map would imply project entitlement.

There being no further comment, the public hearing closed at 9:19 p.m.

III. APPROVAL OF THE MINUTES OF August 1, 2007

MOTION: To approve the minutes of August 1, 2007.

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

It was noted that a special Zoning Commission meeting would be held on September 19, 2007 in Room #1 at the Town Hall Annex, in regards to the Mystic Woods application, which had previously been scheduled for today, September 5, 2007.

IV. PUBLIC COMMUNICATIONS

Commissioner French noted that she had received a communication from Richard Cady and had assisted him with his concerns about a shipping container on a neighbor's property.

Staff explained that that issue has been taken care of and that in the future, it would be best to refer all citizen communications to the Planning Department, and to never provide zoning regulation interpretation, as that is the lawful purview of the Zoning Enforcement Officer. Commission members are prohibited by law from acting as a Zoning Enforcement Officer and providing false or misleading information could have serious legal implications.

Staff noted that Mr. Cady has applied to be a member of the Zoning Commission but no formal appointment has yet been made.

V. CONSIDERATION OF PUBLIC HEARINGS

1. Proposed New Zoning Regulation 6.13 (Mixed Use Zones); Proposed Zoning Regulation Amendments to Section 3.1 (Classes of Districts), Section 5.1-3 (Table of Permitted Uses); and Section 5.2 (Lot, Yard, and Building requirements). (L & L Groton LLC, Applicant)

The Chairperson stated that because of the amount of input received, he will suggest tabling this discussion until next month's regular meeting on October 3, 2007.

Discussion continued about defining nodes on the zoning map by including map overlays and including annotations on the zoning map.

Staff explained why that would not be feasible.

A Commission member still has concerns with not defining nodes and stated that he may file a formal application to the Commission to address procedurally, putting nodes on zoning maps.

Staff explained why that would not be beneficial. Instead, they suggested that the Zoning Commission could take this issue up as an entire Commission but to give careful consideration before moving forward. Staff stated that it is important to understand that this is a text amendment and not a zone change.

For deliberation purposes, it was noted that the following members were seated as voting members for this application: French, Haviland, Hudecek, O'Neill, and Marquardt. (all members except Sutherland).

Commission members were not opposed to mixed use zones but felt it was important to set forth constraints in order to limit what is built and where.

Some concerns that commission members had were related to combining parcels to meet land requirements and available parking.

Staff referred to the master plan and explained that the Zoning Commission has the authority to make decisions on each individual project that is submitted.

Design standards were discussed regarding whether or not to have it included with the proposal.

Discussion followed about the importance of a market study for companies that present project proposals. Staff explained that the market study would assist in evaluating each application; to determine if project phasing the mix of uses in each phase and other relevant matters.

Questions were raised about the boundaries and limiting mixed use to specific existing zones. Staff referred to their presentation maps and explained why map overlays would not be beneficial, noting that it would be better to take each individual project as a separate entity. Staff referred to nodal areas relating to depth and concentric issues and spoke about transition zones allowing mixed uses.

MOTION: To table this item until the October 3, 2007 meeting.

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

VI. OLD BUSINESS – None.

VII. NEW BUSINESS

1. 2008 Zoning Commission Meeting Schedule

MOTION: To adopt the 2008 Zoning Commission Meeting Schedule

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

Staff noted that additionally, there will be special meetings, posted as such in accordance with FOIA, as needed.

VIII. REPORT OF CHAIRMAN - None.

IX. REPORT OF STAFF

Staff stated that they have advertised an RFQ for zoning amendments and will be taking proposals up until 9/15/07, after which time they will begin the process to put together a committee that will choose a consultant. Staff hopes that some land use commission members will participate in the interview process, along with town staff, and asked if anyone from the Zoning Commission would be interested in assisting.

Hudecek stated that he would be interested and asked if a steering committee would be formed to deliberate on modifications to zoning regulations.

Staff added that the study of nodes could also be addressed in the zoning amendment review and that the Zoning Commission, Planning Commission, and Inland Wetlands would be involved.

The Commission inquired when they would receive the Zoning Enforcement report for August and staff stated that it would be mailed out tomorrow September 6, 2007.

A concern was raised in regards to what would happen if Inland Wetlands does not approve the "Mystic Woods" wetland permit application and staff stated they would monitor that.

X. ADJOURNMENT

Motion to adjourn at 10:00 p.m. by Haviland, seconded by Hudecek, so voted unanimously.

Richard Haviland, Secretary
Zoning Commission

Prepared by Robin M. Silsby, Office Assistant II