

**MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION
PUBLIC HEARING HELD AT 7:30 P.M. ON MONDAY, JULY 11, 2011 IN
COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE
CT 06410**

Present

Earl Kurtz, Vice Chairman; Martin Cobern, S. Woody Dawson, John Kardaras,
Gil Linder, Louis Todisco, Tali Maidelis

Alternates: Edward Gaudio

Absent: Sean Strollo, Alternates - James Bulger and Leslie Marinaro.

Staff: William Voelker, Town Planner.

I. CALL TO ORDER

Mr. Kurtz called the public hearing to order at 7:30 p.m.

Mr. Kurtz read the fire safety announcement.

II. ROLL CALL

Mr. Kurtz called the roll.

III. DETERMINATION OF QUORUM

Following roll call a quorum was determined to be present.

IV. PLEDGE OF ALLEGIANCE

The group Pledged Allegiance to the Flag.

V. BUSINESS

Town Planner Voelker read the call of public hearing for the applications.

- | | |
|---|---|
| <p>1. Combined Application for Zone Change to and Approval as a Special Development District (S.D.D.) and Approval of Special Design Project <u>PABCO Inc. and 200 OTR Associates, LLC</u> 200 Old Towne Road & 168 South Main Street Zone Change to and approval as a Special Design District (SDD) and approval of a Special Design Project (SDP).</p> | <p>PH 6/27/11
PH 7/11/11
MAD 9/14/11</p> |
|---|---|

Attorney Anthony Fazzone represented the applicant in the presentation of the application. He informed the Commission that this public hearing was continued from June 27th, and he presented the full application at that hearing. Present for this public hearing for the applicant are Matthew Dusgay, P.E. Milone & MacBroom, Nick Fomenko, Traffic Engineer, Milone & MacBroom, and Jay Willerup, Architect.

Mr. Fazzone advised that he and Mr. Bowman (applicant) met with representatives of the Old Town Board of Directors and their attorney, Mr. Barba. It was a very good meeting, and all of the issues raised in the Old Towne Board letter of June 20, 2011 letter were addressed. These issues include splitting the cost of the fence to be located between the residential units on 200 Old Towne Road project, and the existing Old Towne units. Drainage issues will be addressed by Mr. Duscay. There is agreement to enter into a sanitary sewer use and maintenance agreement, whereby the developer and successors in ownership, will agree to share in and be responsible for any issues with the Old Towne sanitary sewer main that is caused by the proposed project. There is agreement to assist Old Town in trying to remedy their cut through traffic issues.

Matthew Duscay, P.E. Milone & MacBroom, informed the Commission that one engineering department comment has been addressed by the applicant regarding the drainage discharge point. On the map, Mr. Duscay pointed out the proposed development with the Town topography overlaid on the back. The one comment was that the contours on the site plan did not depict the intermittent water course which the underground detention system is discharging to. The site was inspected by certified soil scientists.

It was pointed out on the map by Mr. Duscay where the sudden dip in topography takes place. At this dip the ground water begins to break out and forms the upper echelons of an intermittent water course. This water course flows west to east on the northern boundary of Old Towne condominiums; it crosses the driveway; and begins the upper formation of the Mill River which flows north to south on the site. The condominiums associated with Old Towne are between 10 and 25 feet above this water course. This documentation has been submitted to the Town Engineering Department, and they have signed off on that comment.

Mr. Duscay noted that this water course flows west to east along the northern boundary of Old Towne Condominiums, prior to turning south and forming the upper end of the Mill River. He pointed out the contours of the area, the condominium property line, and in this area the units are 8 to 10 feet above the intermittent water course, and 20 to 25 feet above going further south.

Mr. Cobern asked how this compares with a 100 year flood.

In response, Mr. Duscay said there is an underground detention system on site, and it is such that under existing conditions the flow generated from the increase in impervious on-site is detained or throttled back...to mimic existing conditions. Essentially, the underground detention system has been designed to mitigate the increase in peak rates of runoff from all storms to the 100 year storm. An engineering report has been prepared and reviewed by the Town Engineer. Under the proposed conditions the site should function as it does today.

Mr. Cobern has concerns about the intermittent water course in a 100 year flood.

According to Mr. Duscay there will be a discharge to the intermittent water course, and under existing conditions the entire site flows to that water course. As part of the response to the engineering department comments, Mr. Duscay advised that an existing conditions water shed map was prepared. This map shows that the entire site gets to that point, and whatever is there today under a 100 year storm event, will still be the same.

Stating he was not concerned about the discharge, Mr. Cobern said he is concerned about the fate of those condominiums in the event of a 100 year storm, and water coming from upstream.

Mr. Duscay said there should be no impact on those units under the 100 year storm event. Given the elevation change between the intermittent water course and those units, there should be no impact, and the engineering report is designed to account for all storms through the 100 year event.

For the record, Mr. Duscay submitted documentation from the RWA which has looked at the site plan and said it has the ability to serve the site in terms of capacity and pressure.

Town Planner Voelker submitted copies of information on the traffic issues to the Commissioners.

A letter dated 7/7/11 regarding the traffic information was submitted to the Commissioners.

Nick Fomenko, Traffic Engineer, Milone & MacBroom, informed the Commission that a letter was submitted regarding the parking study related to the shared use on the site. This letter addresses some comments from the public hearing.

The site plan, as proposed, has 72 parking spaces. Based on the land uses on site, sizes of the land use, the S.D.D. #4 zoning requirement indicates a need for 73 to 75 parking spaces. This range is based on two options proposed on site, with an exchange of restaurant versus office space in one building. The approach of the study was to indicate the demands during each hour of a day from each land use on site. The condominium portion was excluded from the report, with the focus on the office, retail, residential and restaurant space.

The residential peak time for parking demand exists primarily from 11 p.m. to 6 a.m. The office space is throughout the morning and earlier parts of the afternoon. Retail starts mid-day and extends past the typical business hours to 7 p.m. Restaurant space will experience peak demand in the after work hours, 5 to 6 p.m. When all these land uses are weighted to come up with an overall site demand, noon time will realize the highest demand on site. At noon time the peak parking demand is estimated to be 53 to 56 parking spaces. There are 72

parking spaces on site which will be adequate for the on-site parking when a sharing effect comes into place. Based on the requirements in Zoning Section 33.5 for joint and shared use, this site meets these requirements and has adequate parking supply.

Attorney Fazzone stated that in the exhibit submitted to the Commission at the last public hearing, he noted there were two prior applications approved by the PZC for this parcel of land. Copies of the letters of approval are in the exhibit as well as the special zoning regulations approved at that time. The two approvals are – 1988 approval which included a restaurant (Squire House) and proposed 19 room hotel; and, in 2008 the approval was for the property as it now exists.

Attorney Fazzone requested that these approvals be made part of the record of the subject application.

Regarding the parking, Mr. Linder visited the site and counted 16 spaces at the coffee shop, not 17 spaces, and he asked for an explanation on this issue.

According to Attorney Fazzone, one of the spaces along Old Towne Road is a handicapped space, and he pointed out the space on the site plan.

For the six residential units, Mr. Linder asked if they are condominiums or rental units.

Mr. Fazzone replied that these are condominium units.

Mr. Todisco asked if the parking associated with the town houses is excluded from the 72 spaces, and where guests would park.

Mr. Fazzone stated that the residential units have a two car garage, and guests would use the overall parking areas. These spaces are excluded from the 72 spaces.

PUBLIC COMMENTS AND QUESTIONS.

Sarah Beaulieu, 131 Old Towne Road, submitted a petition with 86 signatures in opposition to the S.D.D. project, and she read the petition into the record. She asked that the number of residents in opposition to the project be given consideration.

Jean Murphy, 22 Old Towne Road, stated interest in the cut out by Sally Bowman Real Estate, and said it is not marked for handicapped parking, and has been a problem for people coming in and out of Old Towne. If someone parks there, the road is reduced to a one way road, and this is an existing problem. Most people are concerned about the traffic issues, which will pose an immense problem for the residents and people utilizing the new buildings. Regarding the business building in the center, if it is a medical office, it will be busy with people

coming and going. There will be few empty parking spaces, and there will be creation of a larger problem.

Jack Murphy, 22 Old Towne Road, stated his interest in the danger involved with safety issues where three driveways coming at 200 feet, 300 feet and 400 feet to be utilized by all the buildings. He stated this will change the lifestyle of the condo unit owners, and he is opposed to it.

Ronald Barba, Attorney for the Old Towne Homeowner's Association (HOA), reminded everyone that he spoke at the first public hearing. Subsequent to that meeting, he and his client, the HOA, had the opportunity to meet with Mr. Bowman and Attorney Fazzone to discuss issues in the June 20th letter to the Commission.

In that regard, Attorney Barba said he was pleased to state that everything was very constructive and fruitful in addressing the concerns of the HOA. Primary among the concerns was the negative impact of traffic caused by this project, and concerns about increased vehicular and pedestrian traffic.

Attorney Barba informed the Commission that he and his client, the HOA, have a clear understanding of how best to eliminate the problems. A summary of this meeting was prepared and is being distributed to the Old Towne condo owners. It is hoped the HOA will educate the owners on the issues discussed and some areas of agreement with Mr. Bowman. The HOA Board is satisfied that the traffic and sewer maintenance/repair, drainage, private fence, common boundary issues have been addressed in a positive manner for the HOA. There will be an HOA meeting next Tuesday to discuss these issues.

It was stated by Attorney Barba that Mr. Bowman and Mr. Fazzone have been very helpful and accepting of the HOA's concerns, and there is a good working relationship between the parties. One of the concerns voiced was the makeup of this property going forward, and the fact it is being organized as a condominium with a corporate entity to act in perpetuity for its interests. It permits his client, the HOA, to work with that entity in the area of overlapping interest, which is important in areas of sewer drainage, storm water drainage and other issues which can arise. The meeting was helpful, and Mr. Barba believes that once the members have an opportunity to hear the details and summary, some of the negative comments will be rested.

Mr. Barba informed the Commission that there are 122 condo units in Old Towne.

It was noted by Mr. Cobern that there were 86 people with signatures opposed to the proposed project, representing 64 units. This is more than one-half of the units.

Stating that this is a valid point, Attorney Barba said the HOA is taking notice of the number of signatures, and the areas of concern voiced by the people are also the primary concern of the Board. The Board is, pursuant to the declaration and the statutes, authorized to enter into these types of negotiations and agreements on a continuing basis, and they are elected to do so. He believes the Board represents a general sense of the way the community feels about this project, and going forward, these concerns can be resolved.

Chairman Kurtz commented on the HOA meeting of next Tuesday, noting that the issues will be discussed, and the public hearing would be continued to July 25th.

Nina White, 115 Old Towne Road, looked at the site plan, pointing out the office buildings, restaurant, retail and apartment in the existing home, and commented on the only egress being Old Towne Road.

Attorney Fazzone stated that it was correct that Old Towne Road is the only egress for these buildings.

Ms. White questioned the possibility of another egress to Route 10 to alleviate the problems.

In response, Attorney Fazzone said the answer is "no" for another egress onto Route 10. However, one of the comments and provisions in the Town's Plan of Conservation and Development (Plan) with respect to the Town Center and S.D.D. is to coordinate curb cuts and develop properties exactly in the way this project is being developed. The applicant is trying to conform to the Plan and the overall scheme of the special development regulations.

Mr. Cobern asked about the last public hearing regarding the number of daily trips in and out and the peak hourly number of these trips.

Mr. Gaudio asked about the restaurant on the north side backing up to the Johnson building, and if any thought was given to going out this way and alleviate traffic.

This was given thought, but Mr. Fazzone advised that Mr. Bowman contacted the owner of this property. There are two parking spaces there now which would have to be replaced. In the area behind the restaurant building, there could be a connection to the parking lot at the Johnson building, if the owner were to agree.

Mr. Gaudio asked if anything is being done with the additional parking lot behind the stores with some cross easements in there.

This was explored and Attorney Fazzone said the owner did not have an interest in doing this. Both of these options have been explored, and the exit onto Wallingford Road will continue to be explored.

Mr. Fomenko replied that these numbers were given and he recited them for the Commission. Traffic Study, 6/8/11 – in the morning there will be +75 new site trips; the afternoon peak hour will experience 90 site trips; and a trip is either an entering or exiting vehicle.

Ms. Beaulieu commented on the noise and light pollution and obstructions of natural light by this development on the condo units. She also stated that the HOA should not have to expend its funds for a privacy fence. The developer should not be impinging on the rights of the condo owners.

Ms. Murphy informed the PZC that 4 of the HOA Board members are in opposition to this project.

Mindy Steinhart, 133 Old Towne Road, commented on the traffic patterns with the coffee shop and hotel, this would not have everyone leaving and coming in at 9 and 5. There is a traffic light at the end of the road. She questions what will happen at 9 a.m. and 5 p.m. when businesses all close and everyone tries to leave through this one piece of road, and where the back up will be. The traffic will back down the private road and affect homeowners trying to go to work.

Adrian Sperruzzi, 56 Old Towne Road, expressed concerns about the traffic, and noted that her mother and sister also live in Old Towne. She stated that her mother suffered injuries in an accident on the road, and many other unit owners have had near miss accidents at the coffee shop site. People try to beat the light; the traffic is compounded by the car parked on the road where the “handicapped” spot is located. Adding more traffic will make the situation worse.

Attorney Fazzone mentioned that one of the original plans for the Old Towne condominiums was to provide for the project to exit further south on RT 10. The physical space of the road is owned by 200 Old Towne Road Associates, and Old Towne condominiums has an easement over that road. It was always intended that the proposed development project would own the road and it would be developed at some time in the future.

Mildred Zinger, 40 Old Towne Road, informed the Commission that she was involved with this project from the beginning. She said the cutoff by the old Squire House was never intended to be a handicapped unit, and the unit was placed back with the other spaces. This space was designed as a drop-off for the valet parking for the restaurant, with the Town being very strict about parking on Old Towne Road. The restaurant was advised of this on many occasions; cars were never left in this space; and there is information in the records on these facts.

Regarding the easement on the road in the back, Ms. Zinger said that Old Towne wanted to come out this way rather than out as now shown with the light. The Town decided this could not be done, and wanted the road to go out as it is now, with a requirement of a traffic light, paid for by the HOA. Now there are two entrances. The easement road on the far side was abandoned, and no provision was ever made for a road to be made out of this. To do this now, some of the buildings would have to be destroyed, or the area between two of the buildings taken out and made for a pass through. The road as it stands now is what was required by the Town back when the original plans were drawn. Ms. Zinger stated that this easement area is owned by the Old Towne HOA, but is not usable.

According to Ms. Zinger, House Rights gave the easement to Old Towne to use the road as an egress for their property. Old Towne HOA would maintain the road and this is what has existed throughout these many years.

It was clarified by Attorney Fazzone that House Rights transferred the title to Inn Rights which granted the easement to Old Towne Condominiums.

Mr. Murphy commented on homeowners not being professionals, but trying to make a point against professionals and it is lop sided. He said there is a provision in the easement, #4, that there is an agreement for no building in the area. From day one, Mr. Murphy said the HOA lawyer has said there is no problem and everyone was happy, and this is not so.

Attorney Barba addressed the issue of the easement, noting that #4 refers to the ability to change the terms of the easement if there is any substantial change to the property in question. The easement as it stands is granted to Old Towne subject to its obligation to maintain and repair that road. The character of the application is substantial enough change to alter the terms of the easement, and there is discussion with Mr. Bowman and Mr. Fazzone to address many of the concerns stated.

For an understanding of the easement and impact of some of these things, Mr. Todisco commented on someone having the right to change the terms of the easement, which now allows for Old Towne residents to use Old Towne Road to come out to RT 10. If there is a substantial change, someone has the power to change the easement...and he asked if this was accurate.

Attorney Fazzone said that the owner of the property, the applicant, does not agree with this interpretation of para.#4. However, the applicant has agreed to cooperate with the HOA in an attempt to help them alleviate their traffic problems.

Mr. Todisco asked if it was correct that Old Towne HOA interest claims that they can change the easement to make it do as they want, and the applicant is saying they cannot do this.

Attorney Fazzone said that was correct.

Mr. Todisco stated this can be resolved by an agreement or resolved by the courts.

Attorney Fazzone said that was correct.

THE PUBLIC HEARING WAS CONTINUED TO JULY 25, 2011.

2. **Special Permit Application** **PH 7/11/11**
Joseph Michaelangelo, Director **MAD 9/14/11**
Of Public Works
525 South Main Street
Approx. 3.660 cubic yards of material to be
Excavated, replaced and graded for a new
Synthetic turf field.

Public Works Director Joseph Michaelangelo represented the Town of Cheshire and the Public Building Commission (PBC).

The Commission was informed by Mr. Michaelangelo that the Town approved the capital project for synthetic turf replacement on the main field at the high school. The project has been designed by Milone & MacBroom and administered by the PBC and the Town of Cheshire. As part of the design of the field the entire earth area inside the track will be removed and replaced by a specialized dynamic stone which is the base of the carpet. Everything inside the existing track is removed, pushed up by an excavator, put into a truck and hauled off. The excavation needs to be about 18 inches deep, yielding 3,650 cubic yards of material, with about 182 truck trips.

At this time the project is out to bid; bids are due in July 14th. The truck routes to remove the material will be across the existing track on the southeast portion of the existing track. It will run about 120 feet to the back access road around the field. The timing for the project has a start date of August 3rd, and completion date of October 14th. This will coincide with the Music in Motion event, and loss of only two home football games. The removal of the material is the first thing to be done for the project, with drainage and material put back. The trucks can use the high school access road until school starts. There is existing irrigation on the field, so dust is not anticipated.

The material is to be delivered to the PW Dept. yard. It will take about 5 to 10 days to remove the material, with work taking place 8 a.m. to 5 p.m. Monday through Friday. It is expected there can be combined trips to remove and deliver

material, but due to the specialized nature of the stone, the contractor may not find a local source. There will, probably, be an equal number of trips into the site after the material is removed.

Mr. Cobern asked about the trucks making a left turn out of the high school, go through the center of Town, to the landfill area, and noted the actual number of days for the work will be 5 days.

In response, Mr. Michaelangelo said the trucks will be on the main roads, and the removal of material will be between 5 and 10 days.

With this time line, Mr. Cobern commented on the work being done before school starts, and the work not bothering the residents on Elmwood Drive.

Stating that was correct, Mr. Michaelangelo said this is most likely what will take place.

Mr. Gaudio asked about their being room at Bartlem Park, on the south side of the fields, to put this material.

There is a spot on the high school property where the material could be placed, and Mr. Michaelangelo said this has been discussed, but it would be very limited. There is another field on the side of the school, an old sand trap which was used for the golf team, and this is an area in which material could be left on site. The Town of Cheshire owns this material, and Mr. Michaelangelo said that some of the material could be left on site. He noted that top soil has a value to it. As a turf project, the decision was made to plan for the worst case scenario, bringing everything to one site. If some material stays on site it will be less than 3,650 cubic yards, which is the maximum to be removed.

The public hearing was closed.

V. ADJOURNMENT

MOTION by Mr. Cobern; seconded by Mr. Kardaras.

MOVED that the public hearing be adjourned at 8:30 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk

