

**MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION
PUBLIC HEARING HELD AT 7:30 P.M. ON MONDAY, JULY 25, 2011 IN
COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE
CT 06410**

Present

Sean Strollo, Chairman; Earl Kurtz, Vice Chairman; Martin Cobern, Lelah Campo, S. Woody Dawson, John Kardaras, Gil Linder, Louis Todisco.
Alternates: Edward Gaudio and Leslie Marinaro
Absent: Tali Maidelis. Alternate - James Bulger
Staff: William Voelker, Town Planner.

I. CALL TO ORDER

Mr. Strollo called the public hearing to order at 7:31 p.m.

Mr. Strollo 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.

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| <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
PH 7/25/11
MAD 9/28/11</p> |
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Attorney Anthony Fazzone, Cheshire CT, represented the applicant.

The Commission was informed by Attorney Fazzone that he has had brief discussions with Attorney Barba, who represents the Old Towne Home Owners Association (HOA). The discussions focused on unit owners' concerns and issues regarding the subject application. Both parties are willing to continue these discussions. The major issue is the easement and continuation of use of

the easement granted to the HOA for the current access from Old Towne Condominiums to South Main Street.

Attorney Fazzone introduced a copy of the Deed for the record. He noted that at a past public hearing there was talk about a transfer from an entity called Hosewrights which built Old Town Condominiums to another entity called Innwrights. There was approval for a hotel and restaurant in the S.D.D. #4 in 1988. The easement document describes the area of the actual easement as being shown on the map which was displayed for the hearing. The map was entitled "Proposed Future Parking Spaces Plan" and Mr. Fazzone pointed out the area shown as the existing road.

For the record, Mr. Fazzone said the entire 200 Old Town Road property is outlined in a black, dotted line, on the map, and is substantially greater than the area that is shown as existing road. The upper portion of the map shows the restaurant and addition to the then existing building, which was approved as a special design project in March 1988. And, the hotel is also shown, which includes significant development on the remainder of 200 Old Town Road property, and is on the map showing the easement to Old Towne Condominiums.

The sequence of events was reviewed by Mr. Fazzone. The deed to Innwrights was September 1988; the easement to Old Town Condominiums was October 1988. In March 1988 Innwrights and Hosewrights had received approval to build the restaurant, with an addition to the then existing building, and the hotel on the site.

Mr. Fazzone entered the approvals of Old Towne Condominiums into the record of the application. This plan shows the master plan of the condominiums and the parcel of land which is the subject of this application, the right of way to South Main Street, and potential development on the 200 Old Towne Road parcel.

According to Mr. Fazzone he introduced all this information because at the last hearing a resident suggested or claimed that the easement prevents any further development of the 200 Old Towne Road parcel. This is disputed by the applicant and the easement, deeds, maps, are put into the record.

Attorney Fazzone cited the opinion of the applicant that this dispute or question is not an issue within the jurisdiction of the Commission or is required to decide. There is nothing in the record that disputes the applicant's ownership of the land under the easement, or the applicant's right to use that easement in conjunction with the unit owners. Since 1988 when it was granted and the restaurant and building on the site now was built, the property owners and their successors have continually used the easement for the commercial development already located on the site.

There was discussion and questions about the overall parcel having a shortage of 2 or 3 parking spaces, with respect to whether or not the space at the front of the restaurant was a handicapped space or valet parking space.

Attorney Fazzone introduced a letter dated 7/25/11 to Chairman Strollo from the PS 242 LLC, owners of the property at 242 South Main Street, former Slater Funeral Home, and read the letter into the record of the meeting. The letter, signed by Patricia Wallinger, member of PS 242 LLC, offers Old Towne Road LLC use of four (4) parking spaces on the north east corner of the parking lot at 242 South Main Street.

Attorney Fazzone submitted an exhibit, Section 33.1.5.7 A, B, C of the Zoning Regulations into the record. This section makes reference to the fact that parking must be located on the same lot with the facility, or on another lot or any part of which is within 300 feet in a direct line from the facility.

Attorney Fazzone introduced the Town of Cheshire Topographical Map which highlighted 200 and 242 South Main Street parcels. Map scale is 1 inch equals 100 feet, and these two properties are within 300 feet of each other, with one parcel separating them.

The map displayed for the Commission was the actual proposed site plan prepared by Milone & MacBroom.

Attorney Fazzone pointed out that exhibits given to the Commission includes copies of approvals of 200 Old Towne Road parcel as S.D.D. #4, and as a special development project. It was first approved in 1988 with a second approval in 2008. Both parcels include retail use, hotel use, restaurant use, and 2008 included individual residential uses. At the bottom of the site plan is the existing commercial building with the parking facility. The gray and green areas shows two lower buildings (brown) there is a light gray line which depicts all of the land to the bottom of the map, and all land to the south is already included in the S.D.D. and is already subject to the existing S.D.D. regulations which have been specially approved.

At the top or north side of the map, which includes running from South Main Street (Keeler Stove Shop and residential building which is still standing), the land runs back to the rear portion which is the actual portion subject to the zone change. The applicant is asking that this land now be zoned and made a part of S.D.D. #4.

Within the special regulations, which the Commission has as part of the new and old applications, all uses proposed by the applicant...restaurant, retail, office and residential...are all allowed uses within the existing regulations. And, they completely comply with the density and setback requirements, with one exception on the historic structures on South Main Street.

For the record, Attorney Fazzone cited Assessors Map 64, Lot 257-1, the 200 Old Towne Road parcel, and this is already included in the S.D.D. zone.

The property at 166-168 South Main Street is Map 64, Lot 259, and this is the parcel which is asked to be included in the zone change to S.D.D. #4.

Attorney Fazzone referred to the Town of Cheshire Plan of Conservation and Development (Plan). The parcel at 166-168 is one of those parcels of land which are clearly identified in the Plan as being ideally suited to be included under the S.D.D. regulations.

Page 64 of the Plan, Commercial Chapter, Town Center Chapter, was cited by Attorney Fazzone who read an excerpt of this section into the record.

“The third area of Town which needs to be addressed is the area immediately south of the Town Center. Some excellent development has taken place on both sides of Route 10, but there are still properties that should be upgraded or rehabilitated. There are problems on the east side, especially from the theater block northward to Wallingford Road. Some of the buildings are in a dilapidated state and many have very poor parking arrangements.”

It was stated by Mr. Fazzone that this application will take the worst offenders, or best examples referred to in the Plan. The residential dwelling at 166 will be restored pursuant to an application pending before the Historic District Commission, and also in accordance with the plans and specifications provided to the PZC. The Keeler Stove Shop will be replicated in its location.

On page 65 of the Plan, it refers to the Town Center, and says...

“Within this area it would be the intention to establish a zone that would maintain historic homes and other structures, encourage the Special Design District, create as much ambulatory attraction as possible, and to allow such uses that would lend an air of “centeredness” to the Town Center to increase its focal attention.”

Attorney Fazzone stated that it is the position of the applicant that this application does exactly as stated in the Plan and follows the Plan. The S.D.D. regulations follow the Plan to encourage mixed use development in the center of Town.

Attorney Fazzone submitted an exhibit for the record, pages 62, 65 and 8 of the Plan of Conservation and Development. He stated that these pages encourage mixed use development not only in the center of Town but in other areas as well.

In addition to the request for the zone change to S.D. D. #4 for the South Main Street property, the applicant is also asking that special regulations previously

approved be made applicable to that property, allowing the uses to meet those requirements.

The applicant is seeking two changes to the special regulations. Mr. Fazzino stated that the most important change sought is the setback with respect to historic structures. Neither the Keeler Stove Shop (which collapsed this winter) or the residential structure at 166 South Main Street, meet the setback requirements, and the stove shop portion encroached over the State highway taking line. The house is very close to the front yard. Attorney Fazzino said that the applicant is asking in the special regulation that those buildings, to the extent possible, be allowed to remain in their existing or prior locations, with the correction to move the stove shop back off the State sidewalk.

The second change requested is with respect to the parking area associated with the stove shop property. If this turns out to be the restaurant it would be the restaurant parking area. The applicant requests a change to the current regulation which states there cannot be more than a 3% grade in a parking or related driveway areas. The request is that this be increased to 4%. A one degree change will not result in any safety or drainage issues as a result of construction at the 4% grade.

Going back historically, Attorney Fazzino said the intent of the S.D.D. regulation was to promote growth, retail growth and business growth in the Town Center. The idea was to utilize existing infrastructure which maximizes the tax benefit to the Town. With this particular development, there will be public roads to be maintained, and the only Town service to be utilized will be the sewers. Both properties have previously paid sewer assessments, and there will be portions of the sewers coming under the WPCA capacity fee for increased use.

Included in the record is the letter from the Inland Wetlands and Watercourses Commission (IWW) dated 7/5/11, which granted approval of this project.

Attorney Fazzino commented on his prior references to the Plan, as well as reference to Section 45.1 of the Regulations. He has tried to identify the findings which the Commission has to make with respect to a project such as this, and where the applicant believes he has met most of that criteria.

COMMENTS AND QUESTIONS

Mr. Cobern commented on the Plan, page 64, and noted the last sentence of the paragraph quoted by Attorney Fazzino. He read this sentence into the record.

"This is another area that would benefit from a service road running along the easterly boundaries of these properties."

For the last 13 years he has served on the Commission, Mr. Cobern said there have been requests that new developments along the east side of South Main

Street, running from the high school up to Wallingford Road, grant the Town an easement to eventually obtain the property to put a service road parallel to Route 10 for use by school buses, commuters, and to improve the traffic flow. In this regard, Mr. Cobern asked if this would be possible to accommodate such an easement to improve traffic flow in the Town in the future.

Attorney Fazzone advised that the applicant has attempted to get an easement out to Wallingford Road to the property on the corner of South Main Street and Wallingford Road. This would not accomplish that service road type of concept, but it would present access from the light and people getting to and from Wallingford Road. In keeping with that concept, this proposal will eliminate a curb cut on Route 10 for the Keeler properties with all the parking being in the rear. The parking spaces to the north part of the site plan would be eliminated if some arrangement could be made for access onto Wallingford Road.

Mr. Todisco stated that he visited the subject property, and drove his car through Old Towne Condominiums. He cited one concern of the residents about people cutting through their property to get to Wallingford Road. In his drive, starting right at the end of the proposed development into Old Towne Condominiums, it is about one half mile to get to Wallingford Road. To come onto Route 10 you take a left on Wallingford and a right turn by the Town Hall building, and a left onto Academy Road to get back to Route 10. This is about 9/10ths of a mile from the subject property to get back onto Route 10. Mr. Todisco's point is that if a person wanted to get back onto Route 10, would not cut through Old Towne because you are driving almost a mile...when you could go through the subject property to the light, take a right turn and you are at the same spot going 1/10th of a mile. Even going to Academy Road you are driving about 8/10ths of a mile through the Old Towne Condo development. The only time it would make sense to go through Old Towne, but not a mileage basis, is to get to Wallingford Road and make a right turn.

Mr. Cobern said he drove through Old Towne Condominiums on a visit to the subject property. He came from Wallingford Road out to the subject property. His conclusion is that if you want to come down Wallingford Road to go south onto Route 10, the current configuration means there is a jog down Elm Street to Academy Road and then to Route 10. By cutting through Old Towne you only have to make the one left turn. Mr. Cobern noticed that Old Towne Road is a winding road, with two places with signs for a speed bump, but no speed bumps which might dissuade people from coming through the condo development.

Mr. Cobern visited the subject property and attempted to time the light at Old Towne Road and Route 10, and noted it is a variable light, depending on the amount of traffic.

Attorney Ronald Barba, 3308 Whitney Avenue, Hamden, CT, represents the Old Towne Condominium Homeowner's Association (HOA), and stated his

concurrence with statements of Attorney Fazzone regarding the efforts to reach an agreement. The timeline is short and things are fast paced. He is confident that there will be accommodations reached with regard to Old Towne's continued use and responsibilities of the easement. The highest priority for the HOA and its Board is the traffic impact. While there may be some inconsistency in the particular route, the Board and condo owners note there is substantial traffic at a fast pace throughout the condo development. There are discussions about ways to avoid a safety issue. Regarding reaching other agreements with the applicant, Mr. Barba said the Board is confident things will work out in the next weeks and months on the issues.

Mr. Linder commented on his being a long time customer of Cheshire Coffee Shop, noting there are 16 parking spaces in the lot of this shop, with one spot on Old Towne Road. For the record, he explained that he saw Mr. Bowman at the site, walked the property with him and there are 17 parking spots are in the lot.

With regard to the 4 parking spots at 242 South Main Street, Mr. Todisco asked if people would have to walk down Route 10 and then come back to the subject property. People would not know these spots are available.

In response, Attorney Fazzone stated that these 4 spots would be designated for employee parking only.

Mr. Todisco stated that a former Commission thought this area to be appropriate for development and granted approvals. He asked about the current proposal being more intense than the 1988 development in terms of traffic and people coming to the property.

Attorney Fazzone commented on the fact that this proposal has more land with the addition of the Keeler Stove Shop and the residence building with about one acre of land being added. The total acreage is 2.4 acres for the subject property, which is 75% more in land area than the 1988 plan. In that regard the proposed development is not more intense. With regard to the special regulation approved in 2008, Mr. Fazzone said the current application does not exceed the intensity or density of that regulation with respect to the prior existing parcel of land. With just the original piece, 6 units and office building could be built, with a few parking spaces short, and the office building could be slightly smaller.

It was noted by Mr. Todisco that some of the property has already been subjected to the Special Design District regulations.

Stating that was correct, Attorney Fazzone pointed out all of the coffee shop property and parking lot, Keeler Stove Shop property, the fence line which goes back and jogs over. All of this property, maybe 2/3rds of the subject property is

already zoned S.D.D. with the zone change already granted, with a set of special regulations already in place.

Mr. Todisco clarified that the zone change has already been granted to the portion of the property which is most closely adjacent to the private Old Towne Road with the easement being discussed.

Mr. Fazzino said that was correct.

Mr. Todisco said for that portion, a site plan could be submitted and the project could move ahead, because there is already zoning approval.

In response, Mr. Fazzino said it is a final development plan, and this could be submitted.

In that regard, Mr. Todisco said we are really just talking about the zone change for the property closer to Wallingford Road and Academy Road.

As a follow up, Mr. Cobern commented on the two changes in terms of the special regulations...the setback regulation and the parking grade...and their being applied to only the new portion of the development. The existing portion already meets the 3% grade for parking and is well back from the road.

Attorney Fazzino said it is the long run of the parking area going from behind the northern most area.

Questions regarding the traffic study were raised by Mr. Cobern. In figure #2, it looks at the existing traffic volumes at the intersection. Concentrating on the weekday afternoon peak hours, it shows a total of 28 cars existing from Old Towne Road...14 turn right, 4 go straight, and 10 go south. Going forward to table #3, it shows estimates based on current accepted engineering standards for these types of properties. There is a total of 90 trips in or out during the same peak hour, of which 50 go out. Combining the existing traffic with the current traffic there are 78 cars exiting Old Towne Road during that hour...which is 1.3 cars per minute. Mr. Cobern tried to time the light on Route 10 to determine how long someone must wait, but there are sensors depending on the number of cars waiting on Cornwall or Old Towne roads. The sequence changes.

Nick Fomenko, Traffic Engineer, stated that the signal at this intersection is also coordinated with nearby signals along Route 10 to improve flow along Route 10.

Mr. Cobern asked if there is a sense of the sequence, what it looks like, and how many seconds the light is green or red for Old Towne Road.

According to Mr. Fomenko, it is preferred to measure things in driver perception as far as how much delay a driver would experience.

The level of service is currently "C" and Mr. Cobern said the average driver would wait 15 to 25 seconds.

With modification of that signal, Mr. Fomenko said for the Old Towne Road approach the average driver will experience a 22 second delay, which is still level of service "C". There is approval of the State DOT required because this is a State highway.

For the worst case and doing nothing, Mr. Cobern said the level of service would be "D"...25 to 35 seconds of wait time.

Mr. Fomenko said this is for every vehicle approaching from every direction, and this is a weighted average. The vast majority of people waiting would be on Route 10.

Mr. Cobern asked if there is an estimate of the length of wait coming out of Old Towne Road compared to the base level.

It would be similar and Mr. Fomenko said the timing would help the overall operations because it would improve operations at the other locations. Old Towne Road approach would still have a level of service "C", with a similar length of delay, maybe a second or two difference, modified versus unmodified.

To summarize, Mr. Cobern said adding a little less than one car per minute coming out of the new development, 50 cars, one car per minute, the average delay coming out of Old Towne Road would be a few additional seconds delay compared to today.

Mr. Fomenko stated that was correct.

Mr. Cobern asked if there is any estimate as to how often one car would have to wait the one cycle to get out, and if traffic would back up to the extent that people could not get out on the first green.

Mr. Fomenko said people should not have to wait more than one cycle because the volume is relatively low, and 80 seconds is a cycle.

With the two attorneys trying to work together and there being a time issue, Ms. Marinaro asked whether both sides could address concerns and issues by September to the mutual satisfaction of everyone.

Attorney Fazzone could not say there were not serious issues. Part of the purpose of his presentation was that the Commission's decision should not hang onto whether there is a resolution to issues between homeowners and developer.

The Commission was informed by Mr. Fazzone that there is a sentiment amongst unit owners to block off access to South Main Street, abandon the easement, or put in an easy pass type gate so only owners have use of it. The owner/developer of the subject property has no problem with either of these solutions. Right now, Old Towne Condominium has sole responsibility, based on the easement negotiated and granted, for maintenance and repair of Old Towne Road easement. The process may be negotiating what will happen with that responsibility, whether they be taxed or not taxed.

Mr. Dawson asked whether this would be a separate application to the PZC, and it has no bearing on this application whatsoever.

In reply, Mr. Fazzone said that was correct. They realize what has to be done, and have been told the applicant would cooperate, has no objections to Old Towne HOA doing either of the proposed solutions.

The Commission was told by Mr. Fazzone that Old Towne was built in 1985.

Mr. Kurtz asked about the meetings held between the parties, and problems with traffic concerns. He asked if there are traffic concerns heading in from Route 10 to Wallingford Road, or is it more Wallingford Road out to Route 10.

Attorney Barba stated it is equal. In the morning, people from the Wallingford Road entrance way are trying to go south.

In that regard, Mr. Kurtz said he could not see how anyone coming in from Route 10 would want to take Old Towne Road to Wallingford Road...it would not speed up the process.

Going south on Route 10 is the main attraction, and Mr. Barba said there is also some traffic coming through Old Towne. Many delivery trucks use the road as a cut through, and this shows up on many of the satellite mapping systems. It is an increasing problem and the HOA sees the development as an additional impact.

Mr. Kurtz stated he does not see the additional impact of people coming off Wallingford Road to come to the development.

Attorney Barba said that the businesses that will be placed in the development and residential might find it helpful to take that route rather than get onto Route 10, and traffic flow will increase. The HOA is looking at ways, including

amending the original site plan, to introduce a gate system which would be approved by the Town safety agencies.

Mr. Cobern questioned why there are no speed bumps when there are signs indicating they are there.

The roads in the condo development are chip sealed, and Mr. Barba said the Board is discussing this issue. There is an issue with maintenance of the road, including snow plowing.

Tim Slocum, 1285 Lilac Court, stated that he believes this is a great project, is good for the Town, and all concerned parties would be satisfied with the outcome of this development.

Terry Frasier, 54 Old Towne Road, stated she went out Old Towne to Route 10, was the 4th or 5th car in line, and she went through the caution light. She said there will be more traffic and people sitting longer to exit the road.

THERE WERE NO FURTHER COMMENTS OR QUESTIONS. THE PUBLIC HEARING WAS CLOSED.

V. ADJOURNMENT

MOTION by Mr. Cobern; seconded by Mr. Dawson.

MOVED to adjourn the public hearing at 8:30 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk