

**MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION PUBLIC HEARING SPECIAL MEETING HELD ON MONDAY, MAY 29, 2019, AT 7:30 P.M. IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410**

Present

Earl J. Kurtz Jr., Chairman; Sean Strollo, Vice Chairman; Jeff Natale, Secretary; Members: Robert Brucato, S. Woody Dawson, John Kardaras, Gil Linder, Louis Todisco. Alternates: Tom Selmont  
Absent – Matthew Bowman; Alternates - Robert Anderson and Donald Walsh  
Staff: William Voelker, Town Planner

**I. CALL TO ORDER**

Chairman Kurtz called the public hearing to order at 7:31 p.m.

Chairman Kurtz read the emergency public service notice.

**II. ROLL CALL**

The Clerk 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**

Secretary Natale read the public hearing notices for the applications.

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| <b>1. Zone Text Change Petition</b>              | <b>P.H. 4/22/19</b> |
| <b><u>Miller Napolitano Wolff, LLC and</u></b>   | <b>P.H. 5/13/19</b> |
| <b><u>Tri-Star Development LLC</u></b>           | <b>P.H. 5/29/19</b> |
| <b>To Amend Section 45B Interchange</b>          | <b>MAD 8/2/19</b>   |
| <b>Special Development District (I-C.S.D.D.)</b> |                     |
| <b>And Amend Section 23 Definitions</b>          |                     |
| <b>Interchange Special Development Project</b>   |                     |

Attorney Anthony Fazzino, Two Town Center, Cheshire CT represented the applicant.

This is the third public hearing on this application to amend Section 45B for large scale development in the I-C zone. The I-C Zone has four (4) large quadrants, Highland Avenue to In-691, cross street is Johnson Avenue to the south and Town of Southington to the north. In the 2016 Plan of Conservation and Development (POCD) the Commission recognized that development in the I-C Zone should be stimulated;

removed the 30 acre minimum size requirement (page 18); and stated there should be consideration of smaller lots in the I-C Zone.

At the last public hearing, Mr. Fazzone highlighted some of the points in Dr. Poland's presentation...the fact that large scale development/retail is no longer taking place. The proposed changes to the regulation are intended to address development conditions that have, and continue to change. If approved and adopted, this regulation applies to the four (4) quadrants of the I-C Zone and not just the applicant's property.

The Commission was told by Mr. Voelker that the changes would apply to all quadrants, but only one is S.D. D.

Mr. Fazzone reviewed the two step process for the zone change.

Step 1-(master plan) zone map change before the Commission, i.e. changing I-C Zone to I-CSDD (Section 70 Zone Map Change); site plan with all streets, highways, water courses; key map 1"=400'; applicant presents special regulation to the Commission, shows what is different from what is allowed in the I-C Zone; inclusion of standards, complete set of architectural features and landscape elements, master plan of the entire proposed I-CSDD, potential use...and if approved, the process goes onto the 2<sup>nd</sup> step.

Step 2 – applicant submits special permit; public hearing is required; there is overlap; site plan, architectural plan, WPCA sewer feasibility approval, submission of traffic reports, market study report for residential use, fiscal impact of the development to the town, engineer's report, storm water management, etc. The development must adhere to the special development plan, master plan, previously approved in the zone change.

If the Commission has concerns about its discretion going through the steps, Mr. Fazzone stated there is lots of discretion, with denial of the zone map change for whatever reason.

On May 23, 2019, Attorney Fazzone filed the changes to the regulation which resulted from the last public hearing. He noted the original changes are in red; changes from the first public hearing are in red with yellow highlights; the new changes (for 5/29/19 public hearing) are in red and shaded.

Attorney Fazzone explained there may not be a defined line for each space; mentions of a particular use may be moved around; the Commission is approving a special permit, and if it does not comply, has the right to not approve the application.

Definitions – these apply to the 30 acre development and make it impossible for smaller scale development. Now, the definition says that everything must conform with Section

45B, as the overall new proposed regulation. At the last public hearing, Mr. Fazzone noted the Commission's concern for having 100% residential, which would not be approved, nor be in compliance with the context of the S.D.D.

At the last public hearing there was public comment for no changes to what already exists in the I-C Zone. This zone was created in 1984, 35 years ago and there has been no development in the zone. The 2015 POCD recognizes something must be done to stimulate activity in the north end and the Commission expected to receive changes. Everything being proposed is consistent with the POCD. Mr. Fazzone pointed out the main (new) portion is the shaded addition to the application.

Mr. Todisco said we are talking about changes to one (1) or part of a quadrant when someone proposes I-CSDD for a portion of a quadrant. He asked if a number of applicants, at different times, can propose different special development districts within the same quadrant.

In reply, Mr. Fazzone said "yes"...it could be the same landowner or a different landowner.

Regarding the second step, Mr. Todisco asked what this adds, and what happens in this step.

Mr. Fazzone restated the two step process. Step #1 plans are more conceptual in nature. Step #2 has more detailed information for engineering, architectural, etc.

Step 1-(master plan) zone map change before the Commission, i.e. changing I-C Zone to I-CSDD (Section 70 Zone Map Change); site plan with all streets, highways, water courses; key map 1"=400'; applicant presents special regulation to the Commission, shows what is different from what is allowed in the I-C Zone; inclusion of standards, complete set of architectural features and landscape elements, master plan of the entire proposed

I-CSDD, potential use...and if approved, the process goes onto the 2<sup>nd</sup> step.

Step 2 – applicant submits special permit; public hearing is required; there is overlap; site plan, architectural plan, WPCA sewer feasibility approval, submission of traffic reports, market study report for residential use, fiscal impact of the development to the town, engineer's report, storm water management, etc. The development must adhere to the special development plan, master plan, previously approved in the zone change.

In Section 45B.1, Mr. Brucato said Mixed Use is taken out. He thought we wanted Mixed Use...and questioned why it was removed.

The definition of "Mixed Use" is in the current zoning regulations and applies only to large scale developments, and Mr. Fazzone said Mixed Use would severely restrict what an application can be. It would affect the flexibility of use. The change would be seen when an applicant comes in for a requested zone change (step #1) with the

regulation showing the allowed use in the zone. He cited “residential only” not being consistent with the purpose.

Town Planner Voelker read the definition of “Mixed Use” into the record.

Mr. Fazzone stated that no mixed use is a very technical change, and the current mixed use definition requires more that might be put on a 10 acre development.

Mr. Natale commented on the Commission having the discretion to determine whether to approve or not approve. He said the public hearing process worked, and Attorney Fazzone listened to the Commission and the Town Attorney during the process. He understands the economics of the proposal, and likes the two step process.

It was pointed out by Attorney Fazzone that the regulation does not prohibit a large scale development. In response to a question about Section 40, he said this section does apply.

CHAIRMAN KURTZ CLOSED THE PUBLIC HEARING.

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| <b>2. Zone Text Change Petition</b>               | <b>P.H. 4/22/10</b> |
| <b><u>The Cheshire Housing Authority</u></b>      | <b>P.H. 5/13/19</b> |
| <b>To Delete Existing Section 44A</b>             | <b>MAD 7/17/19</b>  |
| <b>Omnibus Affordable Housing Development</b>     |                     |
| <b>Regulation and Add:</b>                        |                     |
| <b>Section 44A Affordable Housing Development</b> |                     |

Attorney Fazzone represented the applicant for the zone text change petition. The revisions were submitted on May 23, 2019; they are highlighted in yellow with Town Attorney applicable comments now typed into the regulation. The changes from the first public hearing are in red; Town Attorney changes are in red with yellow highlights.

Page 2, Section 44A.3.1 (3) – Mr. Linder stated the naming of streets is antiquated and obsolete, and this section implies a project can only be on those stated roads. He asked if this is correct, and recommended changing this section.

Stating that is correct, Mr. Fazzone advised these roads are named in the Planned Residential Development regulations for multi-family and higher density areas. These are arterial roads or secondary roads, and other roads can be added.

Mr. Linder asked about density of housing, 10 per acre, and the source of this.

Attorney Fazzone explained the theory of building affordable housing, which is to improve the density so a developer can cover costs of selling or renting these housing units below market rates. This increases the density. The Commission can approve 11 units per acre...or 15 units per acre...and the statute allows consideration of this under

8-30g. Someone could come in with a supplemental regulation, wanting 15 units per acre. The statute allows this to be considered, and if 15 units were denied, the Commission must have a substantial grievance for this denial.

Mr. Linder questioned not having the density in the regulations, as there is no limit because it depends on what is being proposed.

According to Mr. Fazzone the applicant would not object to this. The Commission would want to consider that the development would be attractive enough, under the POCD suggestion, that a developer will come in for a 10 acre parcel, and follow the subject regulation rather than doing 20 units per acre. The wording in the regulation states for "substantial public interest", which far outweighs the need for public housing...and this could be defense against the proposal for higher density. Mr. Fazzone pointed out this very rarely happens.

Mr. Natale said he understands properties needing and having public utilities on the base line, and the named streets would have that...other streets would not have this requirement. With the special permit, Mr. Natale noted the Commission has more discretion and put a project out to public hearing.

Mr. Todisco commented on not stating 10 units per acre as a guideline because this is the law under the regulations. If someone wants 10, 12, 15 units per acre, the regulation must be changed first.

The Commission was told by Mr. Fazzone that someone could come in with their own regulation and challenge the Commission to turn them down.

Mr. Voelker stated the cited roads are arterial, listed in the POCD, and he read them into the record.

Mr. Fazzone stated the applicant has no objection to adding streets...or re-wording the language to "such other roads as the Commission may consider suitable."

CHAIRMAN KURTZ CLOSED THE PUBLIC HEARING.

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| <b>3.</b> | <b>Partial Waiver request of Section 6.10.1<br/>Of the Subdivision Regulations<br/><u>Ricci Construction Group Inc.</u><br/>257 Fenn Road<br/>To allow sidewalks to be constructed on the<br/>west side only.<br/>APPLICATION WITHDRAWN</b> | <b>P.H. 5/13/19<br/>P.H. 5/29/19<br/>MAD 8/2/19</b> |
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Town Planner Voelker read the withdrawal request letter into the record.

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| <b>4. Subdivision Application</b>           | <b>P.H. 5/13/19</b> |
| <b><u>Ricci Construction Group Inc.</u></b> | <b>P.H. 5/29/19</b> |
| <b>Fenn Road</b>                            | <b>MAD 8/2/19</b>   |
| <b>6 lots</b>                               |                     |

Darin Overton, P.E. Milone & MacBroom, LLC, represented the applicant.

Mr. Overton stated the application received IWW approval. Responses to the Engineering Department comments have been submitted. The most recent Engineering comment about right-of-way feasibility has not yet been addressed. Mr. Overton advised the location was looked at; the lot in front has more lot area; and the applicant is willing to look at an adjustment of the right-of-way to satisfy the Commission and Engineering Department.

Mr. Voelker read comments from the Regional Water Authority dated 4/16/19 and Cheshire Fire Department comments dated 5/13/19 into the record.

CHAIRMAN KURTZ CLOSED THE PUBLIC HEARING.

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| <b>5. Special Permit Application</b>                    | <b>P.H. 5/29/19</b> |
| <b><u>Rock Building &amp; Remodeling (Ken Rock)</u></b> | <b>MAD 8/2/19</b>   |
| <b>60 Bellamy Road</b>                                  |                     |
| <b>Accessory Apartment</b>                              |                     |

Ken Rock, Rock Building and Remodeling, represented the applicant for an in-law apartment at 60 Bellamy Road. This is a straight forward application, and meets all the regulations.

The Commission was informed by Mr. Voelker that the in-law apartment is sized at 768 S.F. and regulations permit a 900 S.F. apartment. The applicant may want to include more square footage for the apartment, and come back to the Commission for the added approval. The Commission can waive the public hearing for the additional square footage request. The owner's mother will be living in the apartment.

CHAIRMAN KURTZ CLOSED THE PUBLIC HEARING

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| <b>6. Waiver Request of Section 25.3.2</b>       | <b>P.H. 5/29/19</b> |
| <b>Subsection 9 – for earth removal, filling</b> | <b>MAD 8/2/19</b>   |
| <b>Or regrading within 50 feet of the street</b> |                     |
| <b>line</b>                                      |                     |
| <b><u>Robert Donnelly</u></b>                    |                     |
| <b>400 East Johnson Avenue</b>                   |                     |
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| <b>7. Earth Removal, Filling or Regrading</b> | <b>P.H. 5/29/19</b> |
| <b>Permit</b>                                 | <b>MAD 8/2/19</b>   |
| <b><u>Robert Donnelly</u></b>                 |                     |

**400 East Johnson Avenue  
To regrade**

Darin Overton, P.E. Milone & MacBroom, LLC represented the applicant. Also present was Robert Donnelly, District Manager/Project Manager, Whole Foods.

Mr. Overton explained that this project has been worked on for over a year, including security improvements. The security improvements will be held off, and the applicant has decided to move forward with the remainder of the project. A schedule of permitting and construction has been put together by the applicant.

Mr. Overton reported the following information to the Commission. There is much earth work involved. The proposal is for an 86,000 S.F. addition in the back of the existing building; the grade in the back drops off, drains north and east toward the river; there is 10+ feet of fill to get to the grade of the existing warehouse; a single floor level is needed for the warehouse to operate. Earth work and project permits(local and state) take 3 to 6 months. A permit is required from the State Traffic Administration; traffic certificate must be updated; and the building project cannot be started without this Certificate of Approval. In light of these issues, the applicant decided to break up the project into two applications...the special permit and actual site plan applications.

It was pointed out by Mr. Overton that no additional parking spaces will be added to the site. An estimated 93,000 cubic yards of fill material will be required, at a huge cost. It could be trucked from in from off-site; earth work will take 2 to 3 months to complete before starting on the construction schedule and winter interior work. An earth work permit is not required. The geo-technical engineers are doing testing on the future footprint expansion; soil samples were taken on the western slope of the site; and it was concluded this soil could be used as constructional fill. The entire fill needed for the constructional pad will be generated on-site, and will require a DEEP permit.

The map of the property was displayed; outline of the property is colored orange; the existing pavement, access drive, employee parking, tractor-trailer staging area, existing warehouse are colored gray; the blue color is the storm water basins planned for a future build out; grading along the western slope is graded 3 to 1; this slope is stable; the mound in front will be flattened out; brown color is the existing warehouse and pad area to be created.

Cheshire Fire Department (CFD) wants emergency access drive to be maintained.

The addition will be on the pad, and Mr. Overton pointed out these areas on the site map. There are plans for expansion of the trailer staging area, trailer parking area.

Earth Work and Regarding – at this time there are no plans for material coming into or off the site; there will be utilization of all the cut material; as part of the project (Natural

Diversity Data Base) there will be protection of turtles and snakes. Data and updates have been submitted for the data base.

Mr. Overton reported the plans have been submitted to the IWW, and application awaits approval.

Mr. Voelker read comments from the Regional Water Authority dated 5/23/19, Cheshire Fire Department dated 5/23/19 and Engineering Department dated 5/16/19 into the record.

In response to a question from Mr. Selmont about explosives and demolition, Mr. Overton said the applicant did not encounter any ledge on the site.

CHAIRMAN KURTZ CONTINUED THE PUBLIC HEARING TO JUNE 10, 2019

## **VI. ADJOURNMENT**

MOTION by Mr. Kardaras; seconded by Mr. Selmont.

MOVED to adjourn the public hearing at 8:40 p.m.

VOTE           The motion passed unanimously by those present.

**Attest:**

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**Marilyn W. Milton, Clerk**