

MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION PUBLIC HEARING HELD ON WEDNESDAY, OCTOBER 14, 2015 AT 7:30 P.M. IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410.

Present

Earl J. Kurtz, Chairman; Members: S. Woody Dawson, Vincent Lentini, Gil Linder, Louis Todisco, David Veleber.

Alternate - Diane Visconti

Absent: Edward Gaudio, John Kardaras, Sean Strollo; Leslie Marinaro and Jon Fischer (alternates)

Staff: William Voelker, Town Planner

I. CALL TO ORDER

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

II. ROLL CALL

The clerk called the roll.

IV. PLEDGE OF ALLEGIANCE

The group Pledged Allegiance to the Flag.

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

V. BUSINESS

- | | |
|-----------------------------------|---------------------|
| 1. Sidewalk Waiver Request | PH 9/16/15 |
| <u>Apex Developers LLC</u> | PH 9/28/15 |
| Coleman Road | PH 10/14/15 |
| | MAD 12/18/15 |
| 2. Subdivision Application | PH 9/16/15 |
| <u>Apex Developers LLC</u> | PH 9/28/15 |
| Coleman Road | PH 10/14/15 |
| 7 lots (6 new; 1 existing) | MAD 12/18/15 |

Chairman Kurtz recused himself from the Apex Developers LLC application.

Commissioner Linder served as Acting Chairman for these applications.

Attorney Anthony Fazzone and Ryan McEvoy, P.E. Milone & MacBroom represented the applicant, Apex Developers LLC.

Attorney Fazzone stated the last public hearing session ended with the applicant introducing the map of the adjacent property and right of way access onto Wallingford Road. Two sections of the regulations are essential to the Commission's decision on the subject application -- Sections 5.6 and 6.6.

Mr. Fazzone read an excerpt from Section 5.6 into the record. The Commission must make a finding...it must be that the land characteristics and physical site make the creation of a cul de sac street practical and desirable...and only if the Commission determines there is no logical or feasible alternative for the property to be served by a through street at the present time or foreseeable future. He said this is the reverse of Section 6.6 which states that, when appropriate, the Commission can require an applicant to leave an easement or strip of land for the adjacent property. The applicant believes the proposed cul de sac is practical and desirable. The parcel of land is long and narrow considering the R-80/two acre designation, and it must meet the R-80 requirements. The shape of the property limits its development. R-80 is a two acre zone requiring 200 foot wide building lots.

The property has been in the Coleman Family for four generations, and the land area of the subdivision is the same as when originally acquired by the Colemans.

The southwest end of the subdivision, lot #5, contains 3.8 acres, of which 2/3rds are sensitive wetland areas and upland review areas, with 1/3rd of the lot available for construction of a home and septic systems. The approvals of the test pits have been obtained by Chesprocott and the State has filed a Sanitation Certificate with the Commission.

It was stated by Mr. Fazzone that the wetlands on the site are sensitive in that they are part of the Broad Brook Reservoir water shed, a major water supply for the City of Meriden and some Cheshire residents. In laying out the subdivision, the location and length of the cul de sac takes the wetlands on lot #5 into consideration and respects them. It allows the cul de sac location and delineation of the lots, permits construction of a house on lot #5, a septic system and reserve system, removed from the wetlands and upland review area.

Under Section 5.6 the Commission must determine there is no logical or feasible alternative for the property to be served by a through street now or in the future. In looking at the property it does not have an alternate access to make it a through street. The Commission's determination for this will overlap with Section 6.6 considerations, especially with respect to the presence of the Broad Brook Reservoir/water shed/wetlands and water courses on the adjacent property...all of which including the ones on the subdivision property...are tributaries to the reservoir and part of the Broad Brook water shed area.

Exhibit (plan) from the last public hearing was displayed by Mr. Fazzone, showing the proposed cul de sac and two alternative ways to create an easement to the adjoining property. On the map, in blue, it shows the major water course, significant wetland area that continues down throughout the adjacent property; it also shows a spur left off Tamarack and steep slopes on the adjacent property. Mr. Fazzone stated the only way for the subdivision property to be served by a through street now or in the future would be to construct a Town road from the end of the proposed cul de sac to the adjacent

property...about 600 feet of additional road and impervious surface...and extend the Town road another 1400 feet to the spur in Tamarack...crossing over the major water course and significant portion of the wetland (shown on the exhibit).

The potential extension of the cul de sac or easement to the adjacent parcel attempt to keep them as far away from the wetlands and lot #5. There are two results. The first result is loss of lot #4 without sufficient land area of 80,000 sq.ft. to meet the regulations. The strip of land would be treated as a Town road; lot #5 would have to meet all the requirements of the easement or designate it for public highway as if lot #5 were on the frontage of a Town road. The second potential right of way to the adjacent property would be located on lot #5 to preserve lot #4, and this would cause potential building area for a home, septic system and reserve area on lot #5 to be much closer and adjacent to the wetland area and upland review areas.

Mr. Fazzone cited the applicant's position and submission to the Commission is that what is described in terms of creating a road all the way down to Tamarack is not a logical or feasible alternative to the cul de sac on this property, nor is there any logical or feasible alternative.

Section 6.6 - Mr. Fazzone read an excerpt into the record. This section says the Commission shall require, where it deems appropriate, that a provision be made for the reservation of easement for streets to connect with future streets on adjoining properties. It is submitted that the same reasons as 5.5, the Commission find that requiring that easement or spur to the adjacent property is not appropriate under these circumstances.

Mr. Fazzone stated the two alternatives for giving the easement create loss of lot #4, or relocation of the house and septic system and reserve area on lot #5 close to the wetlands. With respect to Section 5.6 any extension of the road to Tamarack will cross significant water course and sensitive wetlands and deal with the steep slopes on this property. All of those areas are within the Broad Brook Reservoir water shed and tributaries to it.

Regardless of which alternate easement area to the adjacent property was established or chosen, Mr. Fazzone said it ends up requiring a significant portion of the driveway to lot #5 be located in either of those easement areas. To get from this property to the cul de sac turn around, the driveway would have to be located in the reserve easement. This is a situation which the Town discouraged in the past because if the road is built the homeowner's driveway is disrupted.

Attorney Fazzone noted the record contains the complete presentation with respect to the sidewalk waiver. He prepared draft proposed motions for the Commission on both the subdivision application and waiver application, and they were submitted for the record. There are proposed findings which the Commission is asked to make in approving the applications it is sees fit to do so.

Mr. Fazzone submitted the motions for the file.

Mr. Dawson informed the Commission and applicants that he missed the last meeting, but has familiarized himself with the records.

A question was posed by Mr. Veleber about the cul de sac ending where the slope is at lots 4 and 5, and if this would be a viable public road with the slope.

Ryan McEvoy explained that the location of the cul de sac termination of roadway as proposed is logically placed. Further to the rear of the property the grade ranges up to 15%. The roadway continues further into the site would end at 10% grade, so significant earth work would be required to construct a road down to the end of the property. A detailed analysis is required to do this, but it would be an effort to get down there. The road would be steeper in places than the allowable grade.

If the property is built as proposed, Mr. Veleber asked about the road being put in later and disruption of lots.

Mr. McEvoy said if there is a condition of a residential driveway, 700 feet within a reserve right of way strip, so it would be problematic for the owner in the future. It would be a logistical challenge and have significant disruption to properties, and the applicant is looking to avoid this.

Mr. Voelker stated there would be a big problem for emergency access, and there would be disruption, and require substantial fill.

Ms. Visconti asked about removal of trees and lot #2.

According to Mr. McEvoy there would have to be fairly sizable slope rights granted in order to construct a road. With regard to "trees" on the site, Mr. McEvoy said most of the site is used as grazing for agricultural purposes, and the majority of the site is maintained as one. The only tree removal will be in the rear of the property, and significant clearing will not be required to build a road. Lot #2 is on the left hand side going into the property with small tree removal, nothing significant.

PUBLIC COMMENTS AND QUESTIONS

Attorney Joan Malloy, 150 South Main Street, Wallingford CT, stated she is the attorney for Whitney and Gina Watts, owners of the abutting property to the Apex Developers LLC property. She distributed exhibits (maps) to the Commission showing the subject property (blue), her clients 45 acre undeveloped parcel (pink) with water courses and wetlands. Ms. Malloy submitted the IWW minutes approving the Apex permit and stated that her client not getting IWW approval is unfair. She said the applicant has raised several points to convince the Commission not to approve the easement for a future roadway. Ms. Malloy cited the Plan of Conservation and Development concerns about the reservoir, the Meriden Water Company letter on the impact to the water supply, and

noted pink circles on the maps representing crossing over the wetland areas on the Watts parcel.

According to Ms. Malloy her clients do not want Apex to lose a lot, have a plan for possible location of a future roadway with lots 4 and 5 being compliant, and have offered to deed sufficient land to the applicant which has not been accepted. On the Windermere subdivision map she pointed out a cul de sac and right of way, stating there is a precedent for lots over a Town right of way. On a map Ms. Malloy pointed out her client's 1300 foot access way to their new home, and noted they were told it is unsafe to allow another home to have access to Tamarack because there are too many homes on one access neighborhood. Ms. Malloy asked the Commission to follow the regulations and require a future connection, and said there is a way to make a through road which will help and cure the existing situation. In an emergency a vehicle would have to travel 1300 feet to get to the Watt's house.

Ms. Malloy said topography is an issue; she stated Philson Court starts out high and drops down; the connecting road to the subject property would be the same; it is doable and possible and topography should not stop the road extension. Regarding the impact to driveways, during construction there could be an emergency access. Ms. Malloy requested review of her letter from the September 16, 2015 public hearing. In the future, she said we cannot go back and change things, but good planning makes a provision for the road extension.

John Whitcomb, P.E. North Haven, CT, addressed the Commission on behalf of the Watts, and commented on the lot layout issues, moving lot lines in the Apex development to gain lot requirements without loss of lots, keeping general conditions the same, and moving lot #5 within the regulated area. For the access road and change in grades he said they are up to 15% in the area, special construction technology is not required, nor is extending the boundaries of the right of way. Regarding the wetlands crossing this can be done with bridge spans to get to the higher portions, and it is possible to develop the Watt property within the requirements. Mr. Whitcomb talked about the grades on the site, protection of the water shed, maintaining the runoff as doable, working with the boards and commission, the steep slopes on the parcel, and said the parcel is developable and it can be accomplished.

Ms. Visconti commented on the Commission being asked to make a judgment about roads and wetlands impacts, which is under the purview of IWW, without her expertise on these issues.

In reply, Mr. Whitcomb said the Watts have a right to go to IWW for approval, but there could be a requirement for the Army Corp of Engineers permit.

Ms. Malloy stated discussion on wetlands on the Watts property and road cut to the wetlands has been used as a reason for not extending the road, and it is not a relevant discussion. The matter must go to IWW; there is documentation of other wetland crossings in the area; so there is a reasonable chance it can be done. The issue before

the Commission is preservation of a potential future road with approval of the subject application. Without this preservation there can never be a road connection. If not, there will be a subdivision with more lots than permitted, one access road for 26 homes, and it was done for Tamarack and should be done for the next subdivision. Ms. Malloy said this is good planning.

A question was raised by Mr. Todisco as to why the Watts have not gone to IWW to get some of these issues decided.

In response, Ms. Malloy said they are not proposing to develop her client's property now, and there is no immediate intent with years before it is done. There is now an application before PZC which does not provide for a future roadway, and the only way for this connection is preservation of the future roadway for future development on the Watts property. There is no proposal now. At the present time, the Watts are using the property for a personal residence, and are looking at future options for the property. Ms. Malloy said other wetland areas feed into the reservoir and got IWW approval, and it is possible for the Watts to achieve that standard, but they are not required to prove it can be done.

Mr. Todisco commented on the Watts not having decided to develop the property...it may or may not happen.

For such development, Ms. Malloy said the connecting road is an appropriate future public improvement and addresses problems in the existing subdivision.

It was stated by Mr. Linder that the Watts argument is all theory and hypothetical...and had they gone to IWW with a site plan for a subdivision, their case would be stronger, and the Commission would know if the property is developable or not.

Ms. Malloy could not propose a connecting road that is non-existent, and there is no ability to do that because of no right of way.

It was restated by Mr. Linder that the Watts are asking for a right of way, and the Commission's problem is mulling over hypothetical/theoretical facts. If there was an IWW ruling it would no longer be hypothetical.

When Tamarack was developed Ms. Malloy said there was no proposal to develop the property, but the Town said it was logical that this road may need to be extended. It is planning; thinking of the future; and the right of way would be preserved. Other subdivisions in Town had to put in a future roadway extension even though there is no proposal to develop the adjacent lot. She cannot get approval for something when there is no right to connect.

For this hypothetical situation, Mr. Todisco stated the Commission has an application with a concrete proposal before it, and the Watts proposal has an impact on the subject property application, and this is a valid consideration.

Ms. Malloy reiterated that the regulations say it must be done if feasible, She has provided evidence that the Watts property is developable; they should not be required to develop a plan, get approvals when they are not ready to do this...when the regulations say "preservation of the right of way." It is not true that the property cannot be developed.

Vincent Masciana, 643 Tamarack Road, submitted aerial map views of the subject area, and pointed out property on the map leading to the Broad Brook reservoir, the important water shed area, and reservoir and his property. What is coming off lots 4 and 5 would come across the back of his property. Mr. Masciana knows the amount of water coming down from above Coleman Farm across his property, and during the Spring season his property is wet, side lawn cannot be mowed, and there is a tremendous amount of water coming down from the wetlands. The road cannot be built where the wetlands lie. There have been discussions at these public hearings about the hypothetical road that might be built and the required easement. With granting of the easement, Mr. Masciana informed the Commission that his property would be de-valued, his rear lot privacy would be ruined; and the easement would make his property less attractive and cause economic hardship. Contrary to representations made at the last hearing, Mr. Masciana noted that the Watts property is accessible; there is a right of way; there is a driveway off Wallingford Road already in use by the Watts. The time for granting easements for this piece of property is long past, and Mr. Masciana said there is a water shed to protect; there are well established Tamarack Road neighborhoods; and no property owner should be subject to economic loss with granting of the road easement. Mr. Masciana requested Commission consideration of these facts, and not permit an attempt for an easement for this matter to progress further.

Richard Kelly, 595 Tamarack Road, talked about the level of traffic that has significantly increased due to phase #2 of the Platt Knoll development, noting direct access to Coleman Road is a race track during the morning and afternoon commute hours. He has concerns about his property value with some hypothetical development accessed off Tamarack Road, and it will affect all property values. He commented on concerns about 1300 feet for emergency vehicle access to the Watts property. From one end of Tamarack Road to the cul de sac far exceeds 1300 feet. Mr. Kelly reiterated his concerns about his property values, and understands purchasing property, prior developments, and the strong possibility of the owner developing the Watts property.

Michael Simione, 639 Tamarack Road, referred to Attorney Fazzone's compelling argument of why not to extend the road off the Apex Development...because of the number of movements of septic systems, the grade at the end of the road. This is a compelling argument for the Commission's consideration when thinking about approving an extension or not. With talk about the future of the Town, open space, wild life, wetlands, etc. these must all be considered. Mr. Simione noted the engineers who said the property can be developed, it has been done before, but until you get down into the property, do soil testing, look at wetlands, you don't know what you are getting into.

Sarah Buehl, 634 Tamarack Road, stated there is no need for an easement on the Apex property because the purpose is to get a road through on the 44 acre Watts property. She submitted copies of the Town records on the Watts parcel for the record, and stated prior owners found out the land could not be developed. If the property is un-buildable she questioned the purpose of the easement from Apex to the Watts property.

With respect to why her clients have not come in with an application, Ms. Malloy said the only road connection to the Watts property is off Tamarack Road, and this right of way is limited to the properties that have been granted the right of way. It cannot be turned into a road because it is not owned fee simple by the Watts. Currently, it does not comply with the regulations. If the Watts came in with a road and proposal to develop their property the Planning Office would have stated it could not be done; there are too many lots on the road; the road is longer than permitted under the regulations; and an application cannot be submitted for a subdivision. The only way this property can be developed is with a connected road because it cures the problem of the road length and eliminates the limitation on the number of lots. According to Ms. Malloy the Watt property is buildable; there is a house going in now; and the question is could further development take place.

For the record, Town Planner Voelker stated the fact that he and the Planning Department staff do not tell people they cannot approach the Commission and make an application. He wants to make sure that any representation being made tonight by Ms. Malloy about the planning are based on fact...the fact is that people are not told they cannot submit applications...they may be told what the position will be if submitted. He requested Ms. Malloy and her client be clear on the facts and what the Planning office would say. The fact is that someone would be told they are free to apply to the Commission any time with an application, and Mr. Voelker stated he takes great exception to any other representations.

Ms. Malloy expressed her apology for her inaccurate statement, noting she was not present at the time, and it was relayed to her by her client.

Dennis Waz, Director of Public Utilities, City of Meriden stated the extension of the cul de sac and proposed Coleman Development is not supported or endorsed by the City of Meriden. He cited the reasons for this opposition. The request circumvents the procedure by which IWW performed its due diligence and review of the environmental assessment, and its impact to the water sheds, wetlands, feeder system, and this stands true for the City's review. His review of Apex had concerns about lots 4, 5 and 6 because they lie within the Broad Brook water shed, placement of the septic systems and storm water runoff which could have an impact on the water shed. The application poses an unfair burden on the Commission because it requests they broker some type of agreement between two developers who cannot come to an amicable agreement. Mr. Waz explained that Meriden is an abutter to the 44 acre parcel in question; owns open space there and another adjacent parcel because the feeder stream system ends up in Broad Brook. Representatives for both parties involved have stated what can and cannot be done to cross feeder streams, but there is no discussion about the residual

effect about nutrient loading on the reservoir which is of great concern. This is why he made comments about septic systems, storm water runoff, and said there are other considerations taken into effect when talking about feeder systems. The Commission was informed by Mr. Waz that Meriden is funding \$17 million to upgrade the Broad Brook Water Treatment Plant, and there are 3,000 acres in Cheshire. There are very bad side effects to development, including compromising the drinking water. Mr. Waz stated opposition to the extension which does not have prior IWW approval.

Attorney Fazzone displayed the exhibit showing the two potential rights of way, and referenced statements of Ms. Malloy about offering additional land, which is not relevant to the Commission's decision. The exhibits show two potential rights of way, lot lines of properties, and putting in a road, extending it logically down, having a street abutting one property, or a narrow long strip will be left which is worthless other than as square footage.

Mr. Fazzone stated the cul de sac is desirable under the regulations. He noted the Watts engineer stated one layout of the right of way "technically" could be moved further into lot #5, and "technically" get approvals and meet regulations. Mr. Fazzone said that, in laying out this subdivision, the engineers and applicant and owners felt it was more desirable to keep the house, septic system and reserve area, on lot #5 as far away as practical from that wetlands. There are many wetland areas with approvals that are outside the Broad Brook water shed, as shown on one of the exhibits. In many instances, such as the farm cited by Ms. Watts, was split into two pieces and the extension was into the remaining piece.

It was clarified by Mr. Fazzone that Ms. Malloy talked about the requirement of the extension, stating the key word was being "feasible". Under the regulations he believes the key word is "appropriate", and the Commission has the right to make the determination it is not appropriate in this circumstance to require the applicant and owner to give up additional piece of land. In her statements, he said Ms. Malloy stated her clients did not create this situation and this is true. They purchased the property in its existing condition. Mr. Fazzone has searched the title to this property and wonders if Ms. Balletto, the first owner, intended it not be developed in the future.

An exhibit introduced by the Watts was displayed. Mr. Fazzone pointed out Wallingford Road, the 50 foot easement to the Watts property, and said Ms. Balletto came before the PZC and received a subdivision approval to cut out a lot (pointed out house) which shares the right of way with the Watts. During the 1985 public hearing for that subdivision the then Town Planner Pfurr asked what would happen to the remaining land. The engineer/surveyor (Mr. Mattson) representing the applicant said they have left appropriate right of ways in consideration for future possible development. They chose to leave, instead of a 50 foot strip of land, a 50 foot easement that would, under the regulations, serve no more than three buildings under the zoning regulations.

Attorney Fazzone introduced the minutes of the August 12, 1985 Planning and Zoning Commission minutes into the record.

Barbara Coleman Heckler, 628 Tamarack Road, clarified Tamarack Road being over extended on the number of homes for a cul de sac as untrue. The Commission added Stuart and Tudor streets to the development to have two additional roads leading to that cul de sac. Ms. Heckler stated that the Watt family submitted an IWW application on December 4, 2012, and she read an excerpt from the minutes into the record regarding the connection through the Wallingford Road access way. This is an issue the Watts were aware of from the beginning, and she said it is a moot point to further discuss a further access point from Tamarack Road.

Gina Watts, 825 Wallingford Road, responded to comments about the 2012 IWW meeting and access off Wallingford Road. She said they were told they could not put a driveway through the easement on Tamarack because of too many homes already there. This is why her driveway comes off Wallingford Road, which is shared with another home. Regarding Ms. Buehl's statement about the property being sold many times she said there was an assumption to get an easement off Tamarack and it was not granted. With regard to the wetlands and approval from IWW it was not an option because there was nothing to seek approval for without another road connection. There are too many houses on Tamarack, and the Watts family is requesting an easement for easier access, which precedes plans for something to be done in the future.

Town Planner Voelker read a letter from Dr. Seetharama, 657 Tamarack Road, dated 9/28/15, into the record in which he states his opposition to the easement request for the Watts property.

There was a brief discussion about closing or continuing the public hearing, and the Commission decided to close the public hearing. It is set for the special meeting of October 26th.

- | | |
|--|---------------------|
| 3. Zone Text Change Petition | PH 7/13/15 |
| <u>Fredric M. Kudish</u> | PH 9/28/15 |
| Section 30, Schedule A | PH 10/14/15 |
| Subsection 23C-to permit outdoor events | MAD 12/18/15 |
| On a working farm. | |

Rebecca Auger, Milone & MacBroom, represented the applicant for the text change to permit hosting events on working farms.

Ms. Auger stated that suggested language from the Commission was received and incorporated into the proposed text change to the regulations. A paragraph was added for the Commission to vary the event standards including required setbacks, maximum number of attendees, hours when music may be played, number of events per week, and limit of the type of event or activity permitted, if they are necessary to ensure public safety or welfare.

#9 - added language ... "and must comply with state and local health codes".

Ms. Visconti asked about sound regulations and a problem with adding a paragraph on whether music can be close to a place and limitation of hours.

In response, Ms. Auger said the language added was per the Commission's suggestions, and it gives broader discretion to look at each application on its own, and the applicant believes the standards written were reasonable enough.

Regarding #12, Mr. Kurtz said it deals with music, and the last paragraph gives the Commission ways to limit the events, hours, etc. dealing with the appropriate property if the zone text change is approved. It allows the Commission to change, on an individual basis, each situation that arises with each farm.

Stating she supports the application, Ms. Visconti still questions noisy events.

There are many standards included to protect neighbors from noise issues, residential uses, and Ms. Auger said there is reference to State noise ordinances which the Zoning Enforcement Officer can enforce within the regulations.

Mr. Kurtz said there can be restrictions by the Commission for a certain parcel, and if there is a problem the applicant would be in violation of their permit.

Mr. Voelker commented on there being a nuisance complaint with informal enforcement, the ZEO enforcement if there is an issue, a cease and desist order, and then taking the matter to court. He noted the Town cannot enforce the State noise regulations, but can request DEEP to measure the noise.

The issue of the length of a permit was raised by Mr. Lentini, who questioned if it would be for a year.

This is up to the Commission on the time limits as a way to have compliance with the regulations, and Mr. Voelker said the permit can be for a year or more than a year would be appropriate.

Ms. Auger noted that the applicant submitted five years (5) -- a one year time limit valid for 5 years. This is necessary, particularly, when planning a wedding 2 years out.

The application is for a working farm of 25 acres minimum, and Mr. Linder said no specific location is cited, and asked about a 15 acre farm.

In that instance, Mr. Voelker said the person would have to make a formal application to lower the acreage standards and go through a full process.

For the large events, Mr. Veleber asked about a fire department representative present, and whether the police department should also be present.

According to Ms. Auger working farms are usually on collector streets, and CPD has reviewed the proposed text, and #4 has CPD and CFD approvals. The annual list of events and expected number of attendees is to be submitted to CPD, and for certain events CPD will direct traffic.

Regarding the length of the permit, Chairman Kurtz asked about getting a 5 year permit, and coming back in year #3 for another 5 year permit.

Mr. Todisco commented on valid concerns, permitting events already scheduled, and dealing with the years issue at that time.

PUBLIC COMMENTS AND QUESTIONS

Tim Slocum, 1285 Lilac Court, addressed the Commission on behalf of the Cheshire Land Trust, which owns and operates the largest farm in Town, The Ives Farm. The goal of the Trust organization is to maintain Ives as a working farm; there is a barn on the property used for raising public attention to the Land Trust; open houses and farm events are held on the property and in the barn. There have been requests from clubs and individuals for barn rentals, which the Trust assumed as a matter right. The Trust has not major issues with the proposed regulations, but it may be restrictive to the Land Trust and its ability to use Ives Farm for events. Mr. Slocum suggested the Commission look at non-profit uses on farm property.

As a non-profit organization, Mr. Voelker said the Cheshire Land Trust could open up its farm, as their proposed events would not be on a fee basis. If the Trust wanted to give a tour of the barn it could be done, but to host a wedding in its barn, it could not be done.

Mr. Slocum wants to insure the Trust could hold events, and he is not sure the organization could present a year long list of events to the Planning Department. He does not expect the Trust would go forward with events out a few years. The Land Trust is a volunteer organization and trying to make ends meet without too many onerous regulations. Mr. Slocum has concerns about the Fall retain events at Ives Farm.

There was assurance from Town Planner Voelker that the Land Trust events at Ives Farm are traditional, have been going on for decades, and are not part of the zone text change.

Stating he can see the concerns of the Land Trust, Mr. Todisco noted he has visited Ives Farm for many years. He said normal working farm activities are not included in the regulation.

Mr. Slocum said the Land Trust has thought about doing something more substantial, but it has not been identified. He asked about coming before the Commission to propose an application to bring farm animals under a tent.

This would be an extension of the normal farm operation and Mr. Voelker said it is not the intent to regulate normal farming operations and activities.

If the Land Trust wanted to be host of an event on a fee basis, Mr. Voelker said they would have to come to the Commission for approval. Normal farm events are an extension of the agricultural use of the property. The Land Trust can have as many fund raisers as needed to maintain farming property for agricultural purposes.

Mr. Veleber noted the Land Trust does "farm to table" and asked if this is okay under the regulations, with their hosting the event on the farm property. With an outside vendor running an event at the farm, this would come under the regulations.

With regard to the time limits, Mr. Slocum suggested reserving the right to sunset the zone text change for 5 years, giving an opportunity for review and future decisions.

Joe Arisco, Scott Road, commented on farming going to greenhouses, and now taking farms and making them into banquet facilities, along with parking hazards. He said events must be regulated; there must be handicapped parking; and farming is #1 in Cheshire, the Bedding Capital of Connecticut.

In the proposed regulation it says it must be a 25 acre farm, and Mr. Kurtz said someone could purchase 25 acres of property and hold events.

Mary Ann Michaud informed the Commission she operates Ives Farm Stand, which is for people to come and get products. A farm is not needed for a wedding which can get out of control, and there are many places for weddings, and she does not support tagging a farm for events.

Guy Darter, 309 Cedar Lane, asked how many farms have 25 acres and are operating farms now.

Mr. Kurtz stated there are 23 farms with 25+ acres and they are operating farms now.

With 23 farms of 25+ acres, Mr. Darter said all could hold outside events with music, which is a major concern as sound travels. He does not want noise every weekend, and sees no sense in DEEP checking the noise levels. Mr. Darter cites many issues such as noise, parking, traffic, bad behavior of attendees, and a working farm becoming an event place with smaller farming areas that no longer deserves the farm tax credits. He believes going out 5 years with a permit is too long; it should be one year; and see how the farm events work out. If there are complaints, no permit is issued in the 2nd year.

Ms. Auger cited the letter of support from the Connecticut Farming Bureau on the proposed regulation. She said working farms are looking for alternative revenue streams, and must maintain farming assessment under PA 490. The "working farm" designation is by authority of the State.

With a commercial venture on working farms, Mr. Darter asked how much of the land is for the ventures. There are tax credits which protect working farms, and a farm could end up being an event center, circumventing taxes as a commercial operation rather than working farm. Mr. Darter said there should be tax criteria in place from the Assessor.

If a farm property loses the PA 490 tax assessment status, Ms. Auger said they are in violation of the special permit which becomes null and void. A commercial venture is different from the Ives Farm operation. There could be changes in the 23 working farms with 25+ acres, and many are suited for the activities cited. For a wedding on a working farm there must be adequate parking, food service, sanitary facilities etc.

For farm property with a permit and is sold or transferred to another property owner, the new owner must come in for a permit, similar to the in-law apartment regulations.

The Commission discussed the time limit for the special permit, i.e. a 5 year permit to see how things work out, see the activity, and have a foundation from which to work. There was discussion about applying for another 5 year permit in the midst of the existing 5 year permit, i.e. year #3, apply for another 5 year permit. Mr. Kurtz said it should be 5 years and left at that. Mr. Voelker said there could be a version to continue events through the calendar year if the 5 year term is in the middle of the year.

Mr. Arisco suggested a one year permit and closing the public hearing.

Mr. Voelker stated the regulations do not apply to any other parcels; it is enabling language for any working farm for a special permit, and each application is evaluated on site by site basis.

THE PUBLIC HEARING WAS CLOSED.

4. Special Permit Application
Sharad Jain
1127 Highland Avenue
Patio

PH 10/14/15
MAD 12/18/15

Mr. Jain is the new owner of Paul's Restaurant, and proposes a small, 4 table, patio for customers to use between the landscaping area and gas station. He is not proposing waitress service on this patio.

The Commission was informed by Mr. Voelker that the applicant wants to convert the landscaped area to a patio. There will be no cooking or waitress service to the patio, and it is for customer convenience.

Mr. Todisco has no problems with wait staff going outside to the patio. For table service there is no violation of anything granted.

The patio area can be seen from RT 10, and Mr. Voelker said an outside patio shows restaurant activity and functioning business, which is a good thing for the business.

THE PUBLIC HEARING WAS CLOSED.

VI. ADJOURNMENT

MOTION by Mr. Todisco; seconded by Mr. Veleber.

MOVED to adjourn the public hearing at 10:10 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk