

APPROVED / REVISED
MINUTES
INLAND WETLANDS BOARD
Special Meeting

January 31, 2006

Present: Michael Autuori
Joseph Fossi
Nelson Gelfman
John Katz, Vice Chair
James McChesney
Rebecca Mucchetti, Chairman
Walter Slavin
Patrick Walsh
Lillian Willis

Also Present: Betty Brosius, Inland Wetlands Agent

At 7:30 p.m., Chairman Mucchetti called the meeting to order.

Note: Mrs. Willis arrived immediately following the vote on the minutes, just prior to the adjournment of the meeting.

PENDING ITEMS

There were no pending items.

NEW ITEMS

There were no new items.

BOARD WALKS

There were no Board walks scheduled.

REQUESTS FOR BOND RELEASE/REDUCTION

There were no requests for bond release or reduction.

CORRESPONDENCE

There was no correspondence.

MINUTES

Mr. Slavin motioned to approve the minutes of January 17, 2006, seconded by Mr. Walsh. The minutes were approved by a vote of 7-0-1. Dr. Autuori abstained.

Mrs. Willis joined the meeting.

Hearing no further discussion, the Chairman adjourned the meeting at 7:40 p.m.

Respectfully Submitted,

Betty Brosius
Inland Wetlands Agent

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PLANNING AND ZONING COMMISSION
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Also Present: Betty Brosius, Director of Planning

At 7:41 p.m., Chairman Mucchetti called the meeting to order.

PENDING ITEMS

1. **#2005-125-REZ-A:** (1) Application to rezone ± 133 acres of land from CDD-Corporate Development District Zone to ARH-Age Restricted Housing, (2) application to amend zoning text in the Ridgefield Zoning Regulations and (3) application to amend Town Plan of Conservation and Development for the zone change and text change. Property located at **616 Bennett's Farm Road**, south of Bennett's Farm Road and west of Route 7. Owners: Eureka V LLC. Appl./Auth. Agent: J. Casey Healy, Esq. *Received 9/6/05. Public hearing commenced 11/9/05. Walked 11/20/05. Public hearing continued 11/22/05, continued and closed and tabled 1/10/06 and 1/17/06. 65-day action period ends 3/16/06. For discussion/action.*

The Chairman outlined the procedure for discussion, beginning with the reading of correspondence and opinion from Commission Counsel, and reading of the Planner's staff report.

The Planner first read Attorney Thomas Beecher's letter of January 20, 2006 concerning opinion on the issue of the petition submitted by surrounding property owners pursuant to 8-3(b) of the Connecticut General Statutes. It is the attorney's opinion, based on review of evidence in the record and the report from the Town Assessor, that the petition did not contain the required signatures to make it a valid protest.

The second letter, dated January 25, 2006, also from Attorney Beecher, responded to the Commission's question about the language of the proposed regulation amendment relative to the Federal Fair Housing Act and the Commission's police power under §8-2 of the statutes. It is the attorney's opinion that the proposed regulation is worded in a manner that complies with that legislation.

The Planner read her staff memo regarding the procedure for dealing with the applications, and noted that the Commission must act on the applications in the following order: (1) proposed amendments to the Plan of Conservation and Development, (2) proposed text amendment to create the ARH zone, and (3) proposed rezone of 133± acres from CDD to

ARH. In addition, if decisions were made to approve these applications, it would be necessary to schedule the votes no sooner than one week apart, so that legal notices could be properly published and each action would become “effective” in sequence. Each single action/decision is required to be effective before the next action can be taken.

Mr. Katz asked about the procedure if it was found that the proposed amendment and zone change did not comport with the Plan of Conservation and Development (PCD). The Planner explained that each of the subsequent decisions would still have to be made, and consistency with the existing PCD as well as the decision to deny the PCD amendments should be considered in making the decision on the text amendment and the zone change.

Mr. Katz made a motion to deny the applications because he feels that the proposals do not comply with the PCD, and he distributed written comments for consideration by the Commission. Mr. Slavin seconded the motion, and the Chairman opened the floor for discussion.

Mr. Katz read his comments into the record, as follows [his additional verbal comments added in brackets, capitalized words as shown in the submitted draft, and words eliminated shown with ~~strikethrough~~]:

The ARH regulation as proposed contravenes most of the philosophy and recommendations of 4 major sections of the Plan: Conservation Strategies, Housing and Residential, utilities, Business and Economic Development, and Future Land Use Plan. The proposal is also contrary to the strongly expressed opinions of the [state] Department of Public Health, the Department of Environmental Protection, the Aquarion Water Company, the State Plan of Conservation and Development, our Town Conservation Commission and the Towns of Redding and Wilton... an unusual action from these towns... regarding proposed development in an adjoining jurisdiction.

The proposed regulation offends the Plan from its very beginning, which recommends giving the highest priority to addressing the conservation and preservation of natural or Community resources or assets that can be lost or damaged by inaction or neglect. The “Inaction” here would be to NOT deny this application. (Plan pg iii) [The cited page references can be found verbatim in the Plan.]

Concerning multifamily housing, the Plan recommends 25 units or fewer and, that they be close to Town. (Plan pg. 50). This proposal calls for 345, PERMITS 400 ON THE PROPOSED SITE, AND 210 ON THE MINIMUM ACREAGE ALL ALLOWED IN THE ZONE! And, it is miles from Town. Virtually any qualifying parcel is equally as far or, further. Moreover, the proposal requires neither municipal sewer nor water, as the Plan recommends.

The Plan’s Future Land Use recommendations for both low and high density development are totally antithetical to the proposal before us (Plan pg. 93).

The Plan expressly recommends against the sewer proposal presented (Plan pg. 86). Bringing Danbury sewer to the site, if permitted, could open 170 or so acres to intense development in both the LI40 and the retail-permitting LCI40 zones along Rt. 7. The most intense development could come in the nearly 7 acres of LCI40 land, contiguous to the subject parcel on the east. To the north, a large parcel of LI40 land

is slated for a Magnet School of some 650 kids, and [if sewer is brought to the Eureka property, I am assured by Danbury city engineer Bill Buckley, it] WILL BE SEWERED.

The Plan clearly states that maintaining the Town's character and avoiding more intense development means sewer avoidance (Plan pg. 86, 90).

The Plan recommends we keep the current residential structure of more dense in and near Town, less so moving out. (Plan pg. 43, 47). The proposal is the precise opposite of the recommendation.

The Plan suggests that expected additional housing needs in Town would be for families of moderate incomes, the disabled and the elderly (Plan pg. 52). The proposal satisfies not one of these.

The Plan recommends that any regulatory changes in residential zones REQUIRE deducting wetlands, steep slopes and the like from buildable calculations (Plan pg. 55). We've never seen a proposal in such flagrant abuse of this concept as the one before us.

The Plan recommends only providing for diverse housing needs consistent with Community conditions and constraints – specifically, water and sewer facilities and natural resources (Plan pg. 55). Not in this proposal.

The Plan recommends, finally, with regard to CDD zoning, that modifications to such zoning should be to diversify the economic base and allow the development of high quality business parks (Plan pg. 58). [And I note] ~~NOTICE~~: The recommendation carefully omits including housing in the district as part of diversification within it. In fact, the Plan provides 3 opportunities to include a recommendation for housing to be added to the CDD zone (Plan pgs. 58, 62, 64) and takes a pass in each [of these 3] instances!

The Plan recommends, finally, that ALL land use proposals should be measured and evaluated in terms of the Plan and its various elements.

WE DID NOT INHERIT THIS PLAN. WE BUILT IT, RECOMMENDATION BY RECOMMENDATION.

THE PROPOSAL BEFORE US VIOLATES ~~VIRTUALLY~~ EVERY TERM OF OUR PLAN OF CONSERVATION AND DEVELOPMENT AND [BECAUSE OF THAT] SHOULD BE REJECTED.

The Chairman asked if Mr. Slavin would like to speak to his second of the motion.

Mr. Slavin remarked that, although he would not speak as eloquently as Mr. Katz, he was prepared to make the motion to deny based on the last sentence in Mr. Katz's remarks. It is unreasonable for us to be expected to essentially throw out the Master Plan that we worked so long and hard to build to satisfy a builder's request. John [Katz] offered a lot of detail in underlining the changes that have been requested. Basically, the problem is that we would be altering our Plan of Conservation and Development on which we put so much effort.

Dr. Autuori pointed out that although we cannot change the text amendment that has been proposed except as agreed by the applicant, the statutes allow us to amend the Plan of Conservation and Development. In 1997 there was a decision not to do something, made by the Town, that will haunt us in infamy. There was a decision not to buy the IBM property. There was also a decision by the Board of Finance not to support taking the rest of the property as open space. However, we have been able to save the entire northern parcel contiguous to Pine Mountain, Hemlock Hills and Wooster Mountain State Park, and it is a significant biological preserve. The southern parcel was selected for economic development, and it exists as a corporate zone. Now we have another proposal for age-restricted homes. Dr. Autuori noted that on Page 15 of the Plan of Conservation and Development says that the number of residents 55 and over will increase and that in 2020, and about 4,000 of Ridgefield's population will be 55 and over.

Under the present proposal, Dr. Autuori sees two problems: (1) a sewer line to Danbury would be worse than the Route 7 expressway in promoting suburban sprawl, and (2) any sort of impact to disrupt the quality of life along Ridgefield's local roads would be unacceptable. We need to look at the Route 7 sewage treatment plant as an option – he would not support any proposal that brought a sewer line to Danbury or that had a large traffic impact. A lot could be done to protect views and ridgelines. But whether we have large homes on large lots, condos, or industrial, all will have an impact.

Dr. Autuori suggests that the Commission make additional changes to the Plan of Conservation and Development on page 86, under the third paragraph, regarding the extension of sewers, and the fourth paragraph that addresses the use of the 7/35 sewer system in regard to the Norwalk River. Suppose we say that development should be limited according to the capacity of the land to support on-site sewers. An on-site system would take up a big area of land, but establishment of what a site capacity could be would then be used to limit density of the housing. The number could be established, and then we could say tell the applicant to seek approval for use of the Route 7/35 plant, with the fixed number of units, assuming that plant could be expanded – there are a lot of assumptions here.

People have said that economic development is needed, and we want to do something good with this land, but we do not want to do something horrible. Linking development to on-site sewer capacity would shrink the development to a smaller footprint. Dr. Autuori asks if there is any way to (a) prevent a sewer, and (b) to require at least a non-emergency access to Route 7?

Dr. Autuori says that he was heavily involved in writing the Plan of Conservation and Development, including the language of the Preface, but there is some room for flexibility. To say this proposal violates the present PCD – yes, it does – but if there is a viable need for economic development and it is in the best interest of the town, there might be a way to tweak it by adjusting the PCD. That's where my thoughts are now. I'm not prepared to vote on anything tonight.

The Planner cautioned that 8-23(h) allows the Commission (quote) “to approve, deny or modify the proposal” for amendments to the Plan of Conservation and Development, and that such additional, more detailed modifications should be Commission-initiated change to this Plan and not part of this discussion. The suggestions for additional amendments to the PCD are appropriate for consideration, but not as part of this application.

Dr. Autuori asks if there is any way in what is presented to us now that we could (a) prevent a sewer line from going to Danbury, and (b) require that the vast propensity of non-emergency traffic be accessed by Route 7.

Chairman Mucchetti pointed out that language in the proposed text amendment has review standards that address the need to be concerned with congestion in the streets, and the applicant must prove that sewer effluent can be adequately handled by the proposed sanitary sewage system (pg 4, #6), but it is not specific about where sewer is usage is provided. So that means that with any development application that comes before the Commission, they could discuss, in its opinion, a viable way to handle the sewer effluent.

Dr. Autuori says that Mr. Katz is right about the magnet school – it would be sewerred if the line comes down from Danbury. However, it it's a dedicated line through Jagger line and goes south to our plant, then nothing else would be sewerred except that particular parcel. There's nothing that would make me vote for something that would send a sewer line to Danbury. I'm trying to keep this alive with a proposal for economic development that the Town people seemed to favor, the Town people did vote to take the north parcel for open space, take the south for economic development. And we can't ignore that.

Dr. Gelfman said that was not the way he remembered it. The Town's people voted to take the whole property; and it was the Board of Finance who refused to allow that vote to go forward. It wasn't a mistake, it was an action by the Board of Finance. And then the Town went along with buying the bottom half for economic development. But the original petition was for the whole thing. So I don't know if you can say the Town people favored one thing or another, because they weren't given that option.

Mr. Katz pointed out that this issue is not part of the discussion before the Commission. The Chairman insisted that Dr. Autuori be allowed to make his point.

Dr. Gelfman agrees with some of the points made by Mr. Katz and Dr. Autuori. He cannot support the sewer line to Danbury under any circumstances. He references page 2 in the engineer's report for the application for zone change, that the proposal is to connect to the Danbury sewage treatment plant. This is a backward way to approach a very sensitive piece of land. He has also walked the northern parcel when the golf course was proposed, and the southern part is a wonderful, environmentally diverse piece of land, really even more beautiful than the north part, even though it is only 158 or so acres. There are more vernal pools, extraordinarily steep slopes, and wonderful views to town. After walking that site, he does not agree with Dr. Autuori that a road should be made [on Jagger Lane] to Route 7 because it would be very destructive. Access should be as shown on the plan.

Dr. Gelfman thinks a plan for age-restricted could work, but 345 units, even without analyzing the septic and geological constraints of the property, would be a worse situation than we encountered when we tried to put 72 units on the land across the street. If this were to be developed for ARH, the first step should be for the town and the developer to go the to the State, and see what could be done at the Route 7/35 sewage treatment plant, and design something that is more to reality. It is not as restrictive as we were led to believe, because the State permitted 150,000 per day down the road in Georgetown, only 2-3 miles south. We should design septic controlled by Ridgefield, not Danbury. We should not provide for uncontrolled development to Danbury. That flies in the face of good planning. We need to look at the regional impact that a Danbury sewer line would cause. The total number of units should be designed according to septic capacity, slopes, views and other factors.

Dr. Gelfman stated that he could not vote for the proposal in its present form.

Mr. Katz clarified that, as emphatic as Danbury engineer Buckley was about the fact that the magnet school would be sewerred, they (Buckley and Mayor Boughton) do not want other available sites on Route 7 sewerred either. But they can't offer any guarantee that only Bennetts Farm and the magnet school would be sewerred. Mr. Katz doesn't want to represent that he thinks all 170 available acres to the north, office and retail, would ipso facto be sewerred. It is not Danbury's intent to do that.

Mr. Walsh questioned what control Ridgefield would have if Danbury wanted to build a magnet school, or anything above the Danbury/Ridgefield line. Mr. Katz agreed that there would be no control on the Danbury side. This property directly abuts the Danbury line. Regarding the possible amendments to the Plan of Conservation and Development, he quotes from the Preface on page ii: "...the Plan should not be viewed as a static statement mandating an inflexible future. Instead, the Plan must be open to refinement and improvement, where and when necessary, to reflect new conditions and challenges." I would suggest that certain developments that are confronting this Town in '06 weren't even on the horizon when the PCD was first put forth.

Mr. Walsh says his first concern was raised with the Planner's memo of November 2005 and the great detail to make us aware of what would have to be changed in our PCD, to make this happen. But he wonders if, as they consider the proposed changes, the Commission is being a slave to its own Plan of Conservation and Development. We have an opportunity, if we desire, to amend it. Why can't the proposed changes to the document, with the requirement for the special permit, provide enough of a safeguard to ensure proper development, including slopes, sewers, and such?

Mr. Katz acknowledges that the Master Plan of Conservation and Development is not cast in stone. The State mandates that it be reviewed and updated every ten years. But this is not a modification or amendment, it is a complete re-write of philosophy, in every section of the Plan. Looking at what the Preface says, we would be pulling the very thread out of the document. He agrees with what the Preface to the Plan says, but what the applicant proposes are not amendments. If these were truly amendments, I would not object.

One aspect of the proposal is correct. The concept of providing economic development. The economist Mr. Klepper-Smith alluded to that. But he overlooked a gargantuan point. There is supposedly a need for 3,000+ units for 55 and older in the 8-town region, the 345 proposed here are for Ridgefield. Mr. Klepper-Smith says they would be filled by Ridgefield residents. But the houses they left behind in Ridgefield would be filled by new families with kids. If he's right that the 345 will be filled by Ridgefielders, then somebody, and probably with kids, will field the homes they leave behind.

The Plan of Conservation and Development is there to be toyed with, but not eradicated, not to be rebuilt at this table, with a process that purports to be amending, but is a total re-write of philosophy.

Mr. Katz says that while we were assured by counsel that the 55+ age limit restriction is "good to go," there is a situation at Heritage Hills in Somers, New York where the 55+ restriction was legally challenged and now the 2,700 units are open to all, including children. Nothing is cast in concrete. The Plan of Conservation and Development may need to be

amended to provide for development of these lands, but it is not what is proposed. What is proposed does not amend, it eradicates.

Mr. Walsh will have to take a closer look at what Mr. Katz's memo proposed. He does not know that from what I know that the proposal eradicates the Plan. No doubt that it changes the Plan, but anything on that site might require a change to the Plan. He questions if we are concentrating on the Plan of Conservation and Development specifics for this application, or just to this property. He is not convinced that it is a complete eradication based on the language that they proposed, and the safeguards of the special permit process.

Mr. Katz reminds everyone that we must concentrate on the proposed changes to the Plan of Conservation and Development. If we don't approve the changes, then the rest of the proposal doesn't go forward. We need to talk specifically about this application. In terms of this specific proposal, it virtually eradicates page iii of the Preface of the Plan all the way through. We spent significant money to hire consultants to change the Plan, and we did it. There was public input, and numerous public meetings. And if we adopt what we are being asked to change tonight, we shouldn't have spent the money.

Dr. Gelfman refers again to the magnet school. The project would receive federal money, which makes it popular. Before the school was proposed, Eureka had asked for access for the site in Danbury for homes, and it was a terrible access point with steep slopes and two significant streams. It is the least likely place for a school. The school would be proposed on the piece on the southern side of the road, adjacent to the Ridgefield property. There are a lot of hurdles to jump before it could happen.

Dr. Autuori refers to the economic development issues raised by Mr. Katz. If 55 and older persons leave Ridgefield homes, they will leave whether or not there is an age-restricted zone or not. The homes they leave will be filled with kids whether or not there is the ARH available. It's not just because there is something proposed for the Bennetts Farm site.

Mr. Katz referred to the statement by Klepper-Smith. What Dr. Autuori says is accurate, but years ago there was a lot of discussion about the population of the Town, even in 1980 before the previous Plan of Conservation and Development. People did not want the Town to be above 30,000. That was under constraints of current zoning, and they did not contemplate rezoning like this. This is not an amendment, it is a re-write of the Plan.

Mrs. Willis says this is about all those marvelously fit 55 year-old people, who need more recreation and more facilities, and one of the things that I felt is that there was true lack of planning for that sort of thing. I felt that in terms of economic development, it would put a large strain on the present recreation center and a few other facilities, and that the traffic and the effect on the quality of life for the rest of the residents was just appalling. This proposal is much too dense.

Mr. Fossi says he has read through the Plan of Conservation and Development, including the Preface and its statements. He reads [page ii], "...the Plan has undergone both minor and major revisions as new and changing planning challenges and problems have arisen," also, "The purpose of the Plan is to provide a basic framework for the use of land and matters attendant to such use..." and, "...the Plan must not be thought of as a rigid blueprint but, rather, as a general guide..." and "The Plan must be open to ... reflect new conditions and challenges." Some of these points have already been brought up.

Mr. Fossi feels that this proposal could be far less intense than corporate development. If 800,000 square feet of corporate development were built, it could support thousands of people working on that site. The traffic and impact would be far less with the ARH development. The Commission should be making the decisions about the use of the property, and not the courts. It's not a perfect plan, but I could be behind this.

His biggest concern is the proposal to take the sewer line to Danbury.

Mrs. Willis noted that when the discussion was held about corporate development plans for the land, there was never any mention of sewers; it would have been on septic systems, which would have automatically limited development. It throws out traffic comparisons under any scenario. Many of us thought the plan was palatable then because corporate would be completely on septic which would limit the density. She truly believes that we do not want sewers there. It would promote tremendous sprawl all along Route 7, and it would be disastrous.

But **Dr. Autuori** says that if the sewers were in Ridgefield, then they could be required to have a private, dedicated line for sewer use, such as the line to the middle school.

Mr. Walsh asked why couldn't the limitation on sewers, a "tight pipe," be part of the negotiated interlocal agreement with Danbury?

Dr. Autuori says he finds it hard to believe that Danbury would agree to dedicating the line to just Ridgefield without allowing access to others. The magnet school would be a tremendous traffic generator, even if that was the only hook-up in Danbury, and we would see even the new, improved Route 7 jammed even more than it is now.

Mr. McChesney notes that there was documentation presented earlier by the Planner, relative to Danbury's consistently not wanting to extend sewer lines to the southern portion of the city, into proposed conservation areas. He thinks that in the negotiations with Danbury there could be restrictions on opening up the line to others. The applicant was asked if they had considered other sources for sewage disposal and said no, but they were receptive to looking at (1) on-site disposal (but they hadn't done any testing), (2) the Ridgefield sewage treatment plant and expanding that facility, and (3) perhaps even going to Georgetown to that system. He doesn't think sewers and Danbury is the real issue here – if the sewer were to be on-site or to go to Ridgefield, that might severely decrease the number of units on the development. Even the corporate proposal admitted to the limitations of on-site septic in determining the potential number of square feet of office.

Mr. Katz noted that the use of sewers in Danbury requires two things to happen: (1) a study to be underwritten to examine the current capacity and infrastructure to get to its sewer plant – we know it has the capacity, and Ridgefield needs to amend the existing interlocal agreement that serves Boehringer Ingelheim or create a new agreement (by a committee appointed by the selectmen in this town) – and (2) the only thing that is concretized is the magnet school and the fact that it will be connected. The sewer line from Danbury is the only way they will get the magnet school. There are so many negatives with that school – imagine Route 7, and the traffic on other local roads. The magnet school is not part of this application, but it sure is the "elephant in the room" as far as sewerage that site.

Chairman Mucchetti says she narrowed her scope in viewing this application. She didn't look at the specifics of the concept development plan, but concentrated on the three

applications – the regulation amendment, the rezone of the property, and the amendments to the Plan of Conservation and Development. The applicant has stated in the Saccardi & Schiff letter, copied again and distributed tonight in the packet, that they used our own regulations as guidelines in drafting the ARH text amendment, incorporated in full or used as guidelines, so it can't be totally outside of the scope and the parameters of the Plan of Conservation and Development. She sees the Plan of Conservation and Development as a fluid document, and this is a new concept.

The Chairman reads from the Preface of the Plan: "...the Plan should not be thought of as a rigid blueprint but, rather, as a general guide to appropriate Town growth. The proposals contained in this Plan are broadly based strategies for future conservation and development in Ridgefield." It is a guide and not a dictum. This is what I look at in making land use decisions. What's before us is a proposal to rezone 133 acres, and there will be an 80% set-aside of open space, with only 27 acres developed. There is no other residential zone that offers this much open space. This furthers our goal to achieve 30% of the Town as open space. That's something I can support. And of the 20 acres proposed for corporate development, only 4 of the 20 will be developed under the 80% Open Space Ratio. That's a total of 31 out of 153 acres that would be developed, and the rest would be set aside.

Chairman Mucchetti said she wants to find a way to support an appropriate development of the land, and this may be the best opportunity we're going to get. Other applications that have been put forth for development of this land have been much more aggressive, and in terms of scope, she could not support the plan for 500 units that was in front of the Commission last summer. This regulation would give us special permit review. We can do a lot with special permit review, more than with anything else. We can guide how sewer or septic is done, we can guide how the traffic flows in and out of the development, we can guide how tall the buildings are, and how many there are, It says right in the proposed ARH regulation (pg.2) that, "In approving the application, the Commission may impose. In approving the application, the Commission may impose conditions or modifications necessary..." Modifications is number of units, and if the topography and the environmental and the septic or the sewer don't support 345 units, and in my book they don't – my number is a lot closer to 250 than 350 – that's something we can address under special permit review.

She says if we keep saying no, and if we constantly deny every application that comes before us for this parcel of land, then the courts are going to make this decision, and they won't care what we think. And we're not going to get special permit review. And the court supports the developer's point of view. She says this is the most attractive proposal so far for this property, and it's one I would like to support.

Chairman Mucchetti points out that when she looks at how the proposed rezone is laid out, with the corporate use near Route 7 and the residential use on the western portion, it is more in harmony with other residential uses in the surrounding neighborhood. If you look at the maps on pages 53 and 92 in the Plan of Conservation and Development, the land abuts medium density residence areas around the lakes. It is not a rural, pristine, northern Ridgefield where cows are roaming. If left as CDD, the resistance to development will be just as strong, with the added concern that we are trying to force corporate development into a residential neighborhood. And I think we'd hear all of this again. Route 7 and Bennetts Farm Road will be a signalized intersection, with four lanes of traffic. We hoped to get that at the Toll Brothers application and couldn't. It's going to be there.

Chairman Mucchetti said she does have concerns and agrees with the objection to a sewer line to Danbury, however, and feels that the sewer service should come through Ridgefield, and the applicant indicated that they would be willing to consider that.

To make another point, Ms. Mucchetti reads from the January 10th minutes of the Commission, concerning a Commissioner's comment regarding another piece of property proposed for rezone, on Bryon Avenue: "...the property has been under tortured review throughout the past several years for several applications, with none receiving approval by the Commission. There is a need to achieve the best protection for the neighborhood. Zoning is the public control of private land...the special permit component offers the tightest control of single-family development in Ridgefield, if not in the State."

She says that according to the PCD, the town consists of 22,439 acres. The property to be rezoned is 133 acres, which is less than 6/10 of 1% of the total area in town. Of that 133 acres, with an 80% Open Space Ratio, only 27 acres or less than 1/10 of 1% of the land will be developed. That's not catastrophic to the Town of Ridgefield. It's offering a type of residential housing that we don't currently have. She gets approached on a fairly regular basis about why we are not considering this – and why do we keep getting all these affordable housing applications. We don't need affordable housing, we need some nice senior housing. If the Commission can't support an application like this, it will end up in court. She says the Commission was elected by the Town of Ridgefield to make land use decisions, and she hasn't been able to support any of the other applications that have come forward on this property, but she could on this one. This proposal gives us the greatest opportunity to participate with the developer in the design. We have an opportunity here. It is the least amount of development with the greatest open space, to get the best deal we can.

Mr. McChesney comments on the applicant's proposal to amend the Plan of Conservation and Development. He quotes the two additional recommended text changes to the PCD in the applicant's letter by their consultant planner Saccardi & Schiff:

(Proposed addition to pg. 50 of the Plan) When necessary in order to generate a substantial number of housing units that meet an identified Town need, and with appropriate safeguards to protect public health, safety, and the character of the neighborhood, allow larger developments to be located in areas that may not satisfy all of the locational criteria relative to shopping, community facilities and public transportation.

(Proposed addition to pages 55-56 of the Plan) With appropriate safeguards to protect public health, safety, and the character of the neighborhood, allow larger developments that include housing units that meet an identified Town need.

Mr. McChesney knows of a number of people who have left Ridgefield to go to Newtown. They didn't want to leave Ridgefield, but Newtown offered a nice project. They will leave housing in Ridgefield no matter what, and this proposal is not going to change that pattern. The proposed modifications to the Plan are not onerous, and it is a reasonable change that the Preface to the PCD permits, to see if he agrees or disagrees with it. But at the same time he would also like to study Mr. Katz's comments and references to the Plan. The current proposal is a reaction to changing conditions in the Town, and it is not a drastic change.

Dr. Autuori refers back to the Chairman's statement and the percent of the Town affected by this development and the percent of open space that will be left. We don't want to adopt

something because it will not be catastrophic to the town, but because in balance it will be better than if we don't adopt the proposed amendments and the plan.

Mr. Katz points out that the 80% open space number is fictitious. The "balance" is open space, and the interpretation of what "open space" is – it isn't really open space. It is unused land including spaces between buildings, and it may not be open to the public. He challenges the concept of what open space means in this amendment. It is not a "set-aside" of land.

Chairman Mucchetti points out that the proposal is the same as the current CDD regulation.

Dr. Gelfman asks what the Floor Area Ratio (FAR) is in the CDD. The Planner says it is 12%. But there is no FAR proposed in the ARH amendment.

Chairman Mucchetti references the proposed regulation and the density requirement for no more than 3 units per acre, 70 acres minimum lot size, frontage of 250 feet on a public road and no more than 2000 feet from a State highway, no more than 8 units per building, and parking requirements. The Planner points out that the applicant increased the open space ratio from 50% in the original submission, to 80% in the current proposal, which is the equivalent of the requirement in the CDD zone.

Dr. Autuori reads from page 32 in the Plan of Conservation and Development regarding standards for open space: "The objective of this Plan is to achieve a minimum of 30 percent of the total acreage of the town as open space so that 25 percent of the land in Ridgefield is passive open space..." This doesn't preclude what is proposed in the Open Space Ratio, and we typically look for a mixture of passive and active open space.

Mr. McChesney states that the Town vote was for the Board of Selectmen to obtain the southern parcel for economic development. We all think of economic development as "corporate." The increase in revenue to the Town for corporate would be less than what this residential proposal would generate. The change this development achieves is an increase in ratables, and there is a lot to be said for consideration of this development. At the public hearings, those who spoke against the proposal were concerned for environmental reasons. If the land remains as CDD there would still be an environmental argument, and they would oppose the CDD development.

Dr. Autuori says that environmental concerns are basic and critical with any development. He worries about what will happen if we don't do something environmentally sound. Other scenarios could be much worse and could destroy the environment. We don't know what will happen in 5-10 years, and there may be even more pressure for development if the population increases. The idea of making strong statements on the environment is critical.

Chairman Mucchetti notes again that the special permit process offers more protection.

Mr. Katz says it strains the credulity of this Commission that we would look at any other application so submarined by agencies such as the CT Department of Health and the DEP. Every other professional reviewing this application weighs in against this proposal, and it is not an accident. The only agency not against this proposal (as compared to the previous application) is the Police Department. Other than that the professionals didn't like it. As amorphous as the sewer pipeline to Danbury is, the impenetrability of the 55 and older regulation is even more uncertain. What if the developer can't do what they propose, and loses the ability to limit the development to 55 and older as Heritage Hills did? He doesn't

disagree with the argument that the Plan of Conservation and Development is ripe for modification. It is desirable to keep the southern parcel as open space as the Plan recommends, but it would be a burden. But the environment locally and nationally is probably the single most important issue for society.

Mr. Katz states that the special permit provision is not a lock on a regulation that is a bad one to start with. We become an administrative agency in the special permit process. We must be certain about why we are going to approve a proposal. In the matter of a zone change, we are legislators.

Dr. Autuori says he has heard Mr. Katz many times use the standards and considerations for approval in the special permit regulations on many applications, and wonders why they wouldn't apply here? States agencies, if the applicant could offer more protection against dangerous scenarios, would buy it. But the Heritage Hills decision is troubling. He wonders if it would apply in this case.

Chairman Mucchetti asks why these same concerns about Heritage Hills were not raised during the Toll Brothers application. We may want to ask for an opinion from counsel.

Mr. Katz says he spoke to an engineer in Somers, New York and it is his understanding that the 55 and over restriction was overturned as an affront to the Fair Housing Act. The Planner notes that if it is a New York state court case and not at the federal level, then it would not apply to Connecticut. Land use counsel will be consulted for advice.

Mr. Walsh states that this may be a test case for the 55 and over restriction. He is a little uncomfortable with Ridgefield being a test case for this type of development. After listening to the economist Mr. Lepper-Smith during the hearing, he questions whether there are enough seniors willing to downsize from one \$800,000 home to another \$800,000 home. The price of the land will drive the price of the unit. It is presumptuous to assume that people will go from a development like Westmoreland to this ARH. It is not what they are looking for.

Mr. Walsh points out that the elderly and the disabled are not looking for a three-story townhouse. His greatest concern is that Ridgefield can serve that size development targeted to the specific 55 and older market. Mr. Klepper-Smith did not offer enough evidence to prove that people will have the income to support the purchase of these units. The 55 and older regulation is extremely restrictive, and it is a dead-end. If it doesn't work out, it would be hard to rezone to un-restrict it. What if there is no market to support it? It could be a dead-end.

Dr. Gelfman is concerned about the proposed density of 345 units. We are looking at the same buildable acreage per unit as the Toll Brothers site. That was a difficult and compromised experience – the land disturbance is going to be enormous and will transform that hilltop. The prior approval in 1990 on the Bakes land had much smaller units there. Here on this site we're going in with our eyes open. But three units to the acre is too many; there should be one unit per acre. We should be careful about what we're opening the door to – the proposal for three units/acre does not take into account the restraints of the terrain and the environment.

Chairman Mucchetti again questions why the special permit would not give the Commission that control? Dr. Gelfman says he is concerned because it is only an

administrative review. The Chairman questions how you would get more control with a different regulation.

Mr. Katz notes that the CTDEP recommends one unit per acre, but with the calculation of the number of units on this property (with its constraints) it would be difficult to get the DEP to approve that amount of effluent.

Dr. Autuori suggests tying the density to the ability of the land to dispense with effluent on-site, and wants to know why that can't be written into the regulation.

Dr. Gelfman notes that Toll Brothers was limited to 73 units by the capacity of the sewage treatment facility. We could not control the density in this development during the special permit process if we could not dictate how this is to be sewerred.

Chairman Mucchetti notes that the applicant specifically identified Danbury for sewage disposal, but Mr. Katz points out that sewage disposal is the bailiwick of the DEP and the DOH. We can't use concerns for health, safety and welfare outside of our ability of authority and control.

Mr. McChesney says Mr. Walsh's point about senior citizens is valid. There is a pressure for downsizing, because seniors have an interest in reducing costs. He agrees that it is not clear if this plan will satisfy that need or if it will be the type of development his senior-citizen peers are looking for. The proposed developments at Union Carbide sound like they will be better. It is difficult to determine how many of Ridgefield's residents will be served. We agree that one-bedroom units are not desirable, but only three-bedroom units are offered. In spite of the glorious presentation, what we really need to look at is the economics, the big unknown.

Mr. Katz notes that some people are moving to Newtown just because Ridgefield is too crowded.

Mr. McChesney states that this is a tough decision. He cannot make a decision without further thought.

Dr. Autuori agrees. If he is going to support this proposal, he needs to be certain that the prospect for economic development is certain.

Mr. McChesney doesn't think the Heritage Hills case in New York is relevant.

Mr. Katz doesn't know if it is, but it is a fact that it is no longer 55 and older. We have a set of documents in front of us that have been publicly heard and the Heritage Hills case should not change our minds. He does not think there is anyone who would not agree that the Plan of Conservation and Development can be changed, but we shouldn't modify it in this gross fashion. We should not let someone else redraft it in its philosophical entirety. It doesn't protect the environment, it is too dense, and it doesn't serve a need in the Town of Ridgefield. It is singular at best, and fractional at least. It has two if not three flaws big enough for it to be denied.

But, he says, does it mean nothing should be approved for this site? No – it is possible to make amendments that work. But there are too many holes in this application. Mr. Klepper-Smith dodged the question about the effect of empty Ridgefield homes that will be vacated

when people move to this site. And if as many as 399 new homes on this site are occupied by people from elsewhere, it will be damaging to the Town of Ridgefield.

Mr. Slavin refers to earlier hearings on other applications, and remembers that the Heritage Hills case was raised then. He knows that the 55 and older restriction is gone because he has friends who lived there for many years. He does not know if it has any bearing to a development in Connecticut, but he knows the issue has been raised before.

Dr. Autuori is concerned about the Federal Fair Housing Act. Could this case end up in federal court? Mr. Walsh says yes. Chairman Mucchetti refers to the opinion from Commission Counsel on the §8-2 question and the age restriction. She mentions the Deer Hill Arms case in attorney Beecher's letter. But Mr. Katz says that was a site-specific case and that it had to do with space requirements, and not just age restriction.

Mr. McChesney brings up the fact that there is other pending litigation with Eureka on the matter of restricting children to the development, but the Chairman cautions that the matter is not part of this discussion.

Mrs. Willis asks what would happen if the Commission voted to change the zone but the ARH text amendment were not adopted? The Planner referred to the staff memo and the order for the approvals; if the text amendment is not adopted (to create the zone), then the zone cannot be changed.

Mr. McChesney referred to the points made by Mr. Katz in his written statement, and the references to other pages in the Plan of Conservation and Development where he feels the proposed application is in conflict. He would like time to study Mr. Katz's comments before making a decision. He suggests postponing the vote on the motion to deny made at the beginning of the meeting.

Dr. Autuori made a motion to table action on the motion to deny the application, seconded by Mr. McChesney, but he wants to make certain that everyone has had ample time to express his or her thoughts.

Chairman Mucchetti suggested continued discussion on February 14th, with the motion to deny on the table. In answer to Mr. McChesney's concerns, the meeting on the 14th would be a continued discussion prior to any vote on the applications.

Mr. Katz offered one last comment, saying that he apologized for any rudeness taken from his remarks to individuals. But the Town is so visceral to him, and these decisions are so "what he breathes," that sometimes it comes out that he is angry at individuals, and others bear the brunt of that.

The Chairman called for a vote. The motion passed 7-2, with Mr. Slavin and Dr. Gelfman opposed.

2. **#2005-140-REZ-S-SR:** application for 7-lot subdivision on property located on the south side of **Bryon Avenue**, west of High Ridge Avenue. Owner/Appl.: Country Club Development, LLC. Auth. Agent: Donnelly, McNamara & Gustafson, P.C. *Public hearing commenced 11/1/05, continued 12/6/05, 1/4/06 and closed 1/4/06. Walked 10/16/05. Tabled 1/5/06, tabled 1/10/06, tabled 1/17/06. Draft Resolution of Denial requested 1/24/06. 65-day action period ends 3/10/06. For action.*

Chairman Mucchetti noted the draft resolution of denial, prepared by the Planner and distributed to the Commission. She also noted that Mr. Fossi had previously recused himself from discussion and vote on this item.

Mr. Katz motioned, seconded by Mr. Mr. Slavin, to adopt the resolution of denial. Mr. Katz offered a minor correction in the last line of condition #1, to change “may preclude” to “precludes...”

The motion to adopt the denial passed by a vote of 8-0-1, with Mr. Fossi recused.

- #2006-001-REV:** request for Revision to Special Permit pursuant to Sec. 312.02E. of the zoning regulations to redesign parking area for the **Ridgefield Boys & Girls Club** located at **41 Governor Street** in the RA zone. Owner: Ridgefield Boys and Girls Club. Auth. Agent: Donnelly, McNamara and Gustafson, P.C. *65-day action period ends 3/10/06. Received 1/4/06. For discussion/action.*

The Chairman asked the Planner to explain the request for revision to the special permit for the Boys and Girls Club at 41 Governor Street.

The Planner referred to the memo distributed to the Commission and explained that the original submission contained an error in drafting the location of the parking lot shown on town-owned land adjacent to the paved spaces at the municipal lot. The applicant was offering a corrected map, showing that there is actually more green space between the end of the proposed new parking lot on the town-owned portion of the Boys and Girls Club site plan, and the existing municipal lot. The significant trees in that area, of concern to the Commission during the approval process, were in the green area and would be surrounded by more green space.

The Planner also noted that the parking contained the same number of spaces approved by conditions in the original resolution, and the same configuration shown to the Board of Selectmen at the time they approved use of the town-owned property.

Mr. Slavin motioned, seconded by Mr. McChesney, to accept the revised, corrected map presented by the applicant. The motion passed, 9-0.

NEW ITEMS

There were no new items.

COMMISSION WALKS

There were no walks scheduled.

REQUESTS FOR BOND RELEASE/REDUCTION

There were no requests for bond release or reduction.

CORRESPONDENCE

The Chairman noted several pieces of correspondence in Commissioner’s packets at the table. There was no discussion on the correspondence.

MINUTES

Mrs. Willis motioned to approve the minutes of January 17, 2006, seconded by Mr. Slavin. The motion passed, 8-0-1, with Dr. Autuori abstained.

Hearing no further discussion, the Chairman adjourned the meeting at 10:35 p.m.

Respectfully submitted,

Betty Brosius
Director of Planning