

APPROVED / REVISED
MINUTES
INLAND WETLANDS BOARD MEETING

October 23, 2007

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

Absent: Walter Slavin

Also Present: Betty Brosius, Inland Wetlands Agent
Linda Caponetti, Recording Secretary

At 7:32 p.m. Chairman Mucchetti called the meeting to order.

PENDING ITEMS

1. **#2007-114-SR:** Summary Ruling application to excavate and grade upland review area and wetlands in conjunction with replacing bridge with new expanded bridge on property located at **545 Ridgebury Road** (aka Dlh Court) in the RAAA zone. Owner: Town of Ridgefield. Appl.: Edward Tyrrell. *65-day action period ends 12/13/2007. Received 10/9/2007. Walked 10/14/2007. Draft Resolution of Approval requested 10/16/2007. For action.*

Dr. Gelfman commented that the environmental report from Stearns & Wheler Environmental Engineers and Scientists was exceptionally good. The Board agreed.

Mr. McChesney motioned, seconded by Mr. Walsh, to approve the resolution as drafted by staff. The motion passed, 8-0.

2. **#2007-118-SR:** Summary Ruling application for activities within the upland review area in conjunction with new single family residence construction on 1.247± acres of land located at **115 Golf Lane**. Owner/App.: Bruce Meier. Auth. Agent: Frank G. Fowler III, PE, LS. *65-day action period ends 12/13/2007. Received 10/9/2007. Walked 10/14/2007. Draft Resolution of Approval requested 10/16/2007. For action.*

Mr. McChesney motioned, seconded by Mr. Walsh, to approve the resolution as drafted by staff. The motion passed, 7-0-1. Mrs. Willis abstained because she had not walked the site.

NEW ITEMS

3. **#2007-129-SP-SR:** Summary Ruling application for discharge into existing stream channel on property located at **36 Saw Mill Hill Road** in the RAA zone in conjunction with Special Permit for driveway reconstruction. Owner: Robert Rosseau. Appl./Auth. Agent: Frank Fowler, III, PE, LS. *65-day action period ends 12/27/2007. For receipt and schedule walk.*

Mrs. Willis motioned, seconded by Mr. Fossi, to acknowledge receipt of the application and to schedule a site walk for 10/28/07, as suggested by the Chairman. The motion passed, 8-0.

BOARD WALKS

The Commission added the following to the site walk schedule for October 28, 2007:

- **#2007-129-SP-SR:** Special Permit **36 Saw Mill Hill**, Rosseau
- Previously scheduled for October 28, 2007:
- **#2007-121-SPA-SR:** Summary Ruling **76 Governor Street**, 76 Governor Street LLC

REQUESTS FOR BOND RELEASES/REDUCTION

There were no requests for bond release or reduction.

CORRESPONDENCE

Chairman Mucchetti pointed out the following correspondence:

- Order of the Inland Wetlands Board re 80 Spring Valley Road wetlands violation.
- Order of the Inland Wetlands Board re 90 Spring Valley Road wetlands violation

MINUTES

Mrs. Willis motioned, seconded by Mr. Fossi, to approve the minutes of October 9, 2007. The motion passed, 8-0.

Hearing no further discussion, the Chairman adjourned the meeting at 7:36 p.m.

Respectfully submitted,

Linda Caponetti
Recording Secretary

APPROVED / REVISED
MINUTES
PLANNING AND ZONING COMMISSION MEETING

October 23, 2007

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

Absent: Walter Slavin

Also Present: Betty Brosius, Director of Planning
Linda Caponetti, Recording Secretary

At 7:37 p.m., Chairman Mucchetti called the meeting to order.

PENDING ITEMS

1. **#2007-042-REZ-A** [Submitted prior to 5/1/2007, adoption of new zoning regulations] (1) Petition to amend the text of the zoning regulations of the Town of Ridgefield to revise certain sections of the Housing Opportunity District (HOD) regulations, to permit residential development under Sec. 8-30g of the Connecticut General Statutes, and related amendment to the Comprehensive Town Plan and (2) petition to change the zoning map of the Town of Ridgefield from CDD to HOD and related amendment to the Comprehensive Town Plan, for 153± acres of land located at **616 Bennett's Farm Road**. Owner: Eureka V, LLC. Appl./Auth. Agent: J. Casey Healy, Esq. *Received 5/1/2007. Public hearing commenced 7/10/2007, continued to 9/4/2007 and continued to 9/18/2007. (5 days to set public hearing plus 21 days to continue public hearing to 9/4/2007 plus 14 days to continue public hearing to 9/18/2007 =40 days of 65 day extension used). Public hearing closed 9/18/2007. Discussion held 9/25/2007. 10/2/2007 next discussion date set for 10/9/2007. Draft overlay regulations requested from Planner 10/9/2007. 65- day action period ends 11/22/2007. PD update re draft overlay regulations 10/16/2007. For discussion.*

Chairman Mucchetti noted the draft regulation (at the table) prepared by Planner Brosius, and asked the Planner to discuss it.

The Planner explained the format she used to differentiate between the old language of the regulation, the proposed language of the applicant, and the new, substituted or added language in the draft. In addition, each major paragraph is accompanied by the reasons arrived at by the Commission for the modifications, she said.

The Planner stated two reasons for her preference for leaving the Terrar numbers in the regulation: 1) this regulation, as proposed by the applicant, is the Terrar regulation, only modified to add the Bennett's Farm property; and 2) this includes the setbacks, density, etc., permitted on the lot, for the record.

Mr. McChesney asked if it is the intention of the Commission to revise the current regulations to reflect the addition of the new HOD regulations.

The Planner, acknowledging that this was submitted before the new regulations were adopted, said she had consulted with counsel to determine how to handle this technicality. She was unsure as to whether or not to work with exactly what had been submitted by the applicant, i.e., the old regulations and the old numbers, or just adapt this to the new regulations. Counsel's recommendation was to put in the new numbers, acknowledging that this will be part of the new regulations, if it is adopted.

Mr. McChesney asked if these changes would require a Special Permit or a public hearing.

The Planner said that it would not; the Commission is only modifying what was already submitted, she said. Mr. McChesney was still unclear. The Planner explained that, since the old regulations don't exist anymore, the Commission is putting this in now, which means it will be part of the new regulations, if it is adopted. Mr. McChesney said that this was written around the old regulation. The Planner clarified, saying that the Commission is not creating a new regulation; it is working with the original application, modified by the applicant to add Bennett's Farm. Now, the Commission is taking that, (the 509 units of affordable housing), and further modifying it. Mr. McChesney asked if it would be considered an addendum to the old regulations.

Mr. Katz said that it substitutes for the old regulation.

The Planner said that was correct. She said the Commission had taken this out of the regulations and is now, in effect, putting it back into the regulations. She further suggested that, if and when the Commission puts this into the new regulations, they put it under the heading "Other Housing Zones and Uses," as a fourth category, entitled "Housing Opportunity Development."

Mr. McChesney said that the paragraph numbering for this is using the old regulation numbering system. The Planner explained that she would adapt it to the new numbering. Mr. McChesney asked if this would apply only to Bennett's Farm or would it also include the Terrar property. The Planner said that her opinion is that the Terrar property should be left in, because, if it is removed, the Commission would then have to justify why.

Mr. Katz asked the Planner what exactly the Commission was being asked to do.

The Planner said that it was to examine the draft modification and determine whether or not it accurately reflects the Commission’s wishes and intent. The only thing that has been left blank is the density number, she said. That is a discussion that needs to continue, she felt, because no particular number had been arrived at. Mr. Katz asked if that would be “Part 2.” of the discussion. The Planner said that it would.

Chairman Mucchetti suggested that the Commission take the document and examine the sections, one by one. She added that the Planner’s addition of “Reasons” for the modifications in each section was particularly helpful.

Section A. Intent and Purpose.

Mr. Katz felt that #5 was redundant and should be deleted. The Commission agreed.

Mr. Walsh wondered if “EXISTING OR EXPANDED INFRASTRUCTURE AND UTILITIES” needed to specify by whom and when, or should the wording be simply, “EXISTING INFRASTRUCTURE...”? If permits were secured by agencies the Commission has no control over, he said, then they would be existing.

There was some discussion as to whether or not the word EXPANDED was needed.

The Planner explained that the reason the word is in the draft is because the existing sewage treatment facility would have to be expanded in order to serve this proposed development.

Mr. Walsh said the Commission has no control over expanding the facility. If it is to be expanded, the applicants will have to get approvals from a different agency. When that happens, would it not then be considered EXISTING, he asked.

The Planner said that it would be at the time of the final application for building permits, but that it might not be at the time when they apply to Planning and Zoning. The reason for leaving the work EXPANDED in, she said, is because the applicant has a right to ask the Water Pollution Control Authority (WPCA) for approval to expand the existing facility to accommodate the development, and the WPCA has already said they would consider expansion of the Route 7 plant.

Mr. Katz said he thought Mr. Walsh’s concern could be addressed by the following wording: “efficiently utilized approved infrastructure and utilities.” That wording indicates that an agency would have to approve it, he said, and the Commission would not be that agency.

Dr. Gelfman thought the wording should be left as is. The Chairman agreed.

Mr. McChesney said he thought Mr. Katz was going beyond the intent and purpose into areas that were more than informative. He also felt the wording should be left as is. Dr. Autuori agreed. But, he said the potential for expansion did not necessarily

have to apply only to this applicant. There's more to the EXPANDED wording than just this application, he said.

It was decided to leave the wording as suggested by the Planner.

The Chairman questioned the use of the word "certain" with regard to applications. The Planner explained that the Commission may not apply this to all 8-30g applications.

Mr. Katz suggested different wording for #4: EXISTING OR EXPANDED INFRASTRUCTURE AND UTILITIES WHICH ARE NOT IN PRONOUNCED CONFLICT WITH DEPARTMENT OF HEALTH PRINCIPLES. He said that, if the consensus of the Commission is that there should be no intrusion into the watershed area, it ought to be made clear initially under the Section for Intent and Purpose. He added that it would be a letter from the Department of Health which would support the suggestions for density in the watershed arrived at by the Commission.

The Chairman suggested making this a separate item, as opposed to amending #4.

There was some discussion around Mr. Katz' suggestion and this topic in general. The Chairman felt that the wording was too cumbersome. Dr. Gelfman said he understood what Mr. Katz was aiming at, but he did not feel that this was the place to do it. Mrs. Willis disagreed, saying that putting it here helps to explain why the applicant can only go so far. Dr. Autuori agreed with Mrs. Willis. The Chairman suggested a vote. Mr. Walsh suggested some alternate wording, and felt that this needed to be added as a separate paragraph, saying that it's the INTENT here that any development not be inconsistent with Department of Health principles.

Mr. Katz said that the DPH [State Department of Public Health] didn't refer to just "any development." It was specifically referring to density in the watershed area. That was the only issue that concerned the DPH, he said. Mr. Walsh suggested inserting a paragraph which says just that.

Dr. Gelfman added an additional suggestion: Efficiently utilize EXISTING OR EXPANDED "COMMUNITY" INFRASTRUCTURE..."

The Planner suggested the word MUNICIPAL. Dr. Gelfman countered, saying that the Commission does not want the applicant to use Danbury facilities. The Planner suggested using the term RIDGEFIELD MUNICIPAL INFRASTRUCTURE, etc.

The Planner said that it may not be necessary to labor over the wording of the regulation, since some of the concerns and discussion around specific topics could be covered under the "Reasons" section. For example, the Commission could expand on the issue of the DPH letter under "reasons," by saying that it is one of the reasons why the Commission is modifying, i.e., EXISTING OR EXPANDED RIDGEFIELD MUNICIPAL INFRASTRUCTURE AND UTILITIES. Everything does not need to

be covered in the regulation itself, she said, but needs to be covered in the Commission's discussion. In developing this record for this application, which may potentially be reviewed in court, she said, the court would look at 1) how the Commission made its decision, 2) how it made its modifications, 2) what justifies the modifications that it made.

Dr. Autuori felt there was no harm in putting a few "key words" into the regulation which would highlight the need for consistency with proper principles and practices of the DPH, or sound practices of public health and safety.

The Chairman asked if that wouldn't be redundant, in that regulations are automatically in conformance with state regulations.

The Planner said that it may be somewhat redundant. The Commission's modifications are being made to insure that this document that is in general conformance with the Plan of Conservation and Development and is also in conformance with the state POCD. She felt it was important not to belabor every word, as this could result in the regulation becoming "a forty page document."

Mr. Katz said he takes issue with the assertion that regulations are in conformity with the precepts of the DPH. If that were the case, he said, 8-30g wouldn't be what it is. He stated that it has "bulldozed" through all the recommendations of the Connecticut POCD [Plan of Conservation and Development], and all the regulations of all the towns in which it has been applied. He felt strongly that the Commission should enlist the support of the DPH because they have written a letter conclusively stating that the density proposed in the watershed will have negative effects. This is a first, he said.

Dr. Gelfman felt that the Commission should keep the regulation simple, adding that there is a whole record that has been established through the public hearing, and "we don't want to duplicate that." He felt #4 should remain as is.

Mrs. Willis said that, throughout the Intent and Purpose section, there is nothing which speaks to the issue of safeguarding water supplies and other natural resources, which, she noted, took up the majority of the discussion. Mr. Katz agreed.

The Planner explained, saying the INTENT AND PURPOSE of this regulation is to create a document which accommodates an affordable housing development. The water issues absolutely need to be addressed, she said, but, later, during the site plan stage of the development. Dr. Gelfman agreed.

Mr. Katz said that it is important to refine this so that the Commission doesn't only create a regulation to accommodate affordable housing, but one which accommodates affordable housing under the aegis of the 8-30g statute, which is much more onerous than the town's regulations, he said.

There was disagreement among the commissioners as to whether or not the regulation should state, in the INTENT AND PURPOSE section, the need for conformance with DPH and POCD guidelines, or if this should be addressed later on. Specific wording was also discussed.

The Chairman asked for specific wording. She asked for a motion, urging the Commission to move on from the first section.

Dr. Gelfman made a motion to leave the wording as it is. Mr. Walsh seconded the motion. The motion passed, 5-3.

Section B. Eligible Parcels.

Mr. Walsh suggested that the property at 616 Bennett's Farm road be presented in acres, as well. It was determined that the Planner should give the acreage, in addition to the other information.

Section C. Permitted Uses.

Mr. Katz wanted the word regulation changed to provision. The Planner agreed to make the change. The Chairman stressed that counsel's opinion is that, no matter what it's being called, it is still a regulation.

Mrs. Willis thought that 25 units per structure was too much. The Planner said that number reflects the Terrar application. Terrar was forced upon the Town, Mrs. Willis said, repeating her desire to see a lower density.

Mr. Katz noted that the Commission is not dealing with a Special Permit, so is not able to control all details, down to the last unit.

Mr. McChesney said he did not recall any discussion in the record where the Commission asked the applicant if they would accept structures of less than 25 units, and he is concerned about introducing a provision in the regulation that was not part of the public record. Mr. Katz agreed.

Dr. Autuori's concern was that, if the Commission asked for lower density structures, then that would result in more land coverage. He wanted to maximize open space by squeezing the density into a smaller area. Mr. Walsh was in agreement.

Mr. Walsh thinks that many things will come up in the coming weeks that were not talked about in the public hearings. The Commission's job is to make reasonable changes to the regulation, he said, and those shouldn't be limited by what was or was not discussed in the public hearings, he felt.

Mr. Katz said that it seems that 180 of the proposed units are in the watershed area, and, of those, 56 are on slopes of 20% or greater. He felt that, in order to achieve any

kind of density that would be acceptable under 8-30g, these will have to be fairly large clusters. Hence, he would opt for leaving the draft as written, with 25 units per structure.

Section D. Definitions.

The Chairman read the definitions. On #3, the word “PROTECTED” was suggested in place of the word “PRESERVED.” Mr. Katz suggested additional rewording, which the Planner objected to. He then suggested substituting “SHOULD BE PROTECTED FROM CONSTRUCTION OR SIGNIFICANT DISTURBANCE” in place of “SHOULD BE PRESERVED.”

Dr. Autuori said that he wants to make sure that this language doesn’t imply that this land doesn’t count toward the total area. He was assured that this is not what this says.

Section E. Lot Density.

Mr. Katz asked why it was necessary to have the regulation say TO THE EXTENT PERMITTED UNDER 8-30g.

The Planner replied that counsel supported the proposal to state this at several places throughout the regulation. She said that it tells the applicant that, while the Commission would like to have certain criteria upheld, it knows that it is limited by 8-30g in how it can apply that criteria. It reminds the Commission that it must apply the balancing test when adding conditions.

Mr. Katz did not agree that this wording was necessary to remind the Commission of the impact of 8-30g. He and the Planner debated this briefly.

Dr. Autuori did not like the use of the word PERMITTED.

The Planner explained that anything the Commission would decide under 8-30g is only as permitted (or authorized) by that regulation.

The Chairman asked the Planner if she left the number of dwelling units per acre blank in #2 because she felt it could be addressed later in the discussion.

The Planner said that this was her thinking. She referred the Commission to the maps provided by the applicant, including a watershed map, and also the steep slopes map provided at the public hearing by Scott Sharlow. She felt the Commission needed to review these maps before arriving at an appropriate density. She noted that the density discussion might be a lengthy one, and suggested the Commission come back to it at the end of the discussion.

Section F. Bedrooms.

Regarding #2, Mrs. Willis said that she thought 30% of the units containing three bedrooms is too much. The Chairman asked how the number 30% was arrived at. The Planner's recollection was that it was suggested by Mr. Katz. Dr. Autuori suggested 20% as preferable.

The Planner said that she has learned from her experience as a Planner that there is a real need for three bedroom units, especially in affordable housing. However, she told the Commission, you don't want to create too many three bedroom units, because the development then loses the diversity aspect, by not being attractive to seniors or singles. While developers may want to have the maximum number of three bedroom homes, (because they sell for more money), this part of the regulation tells developers that three bedrooms is the largest number you want to consider, and only a certain percentage of the homes can have three bedrooms.

Mrs. Willis asked about mentioning numbers for studios, one bedroom units, or two bedroom units.

Again the Planner cautioned the Commission to think in general terms. She said it was important to remember that this regulation presents a limitation, not an invitation to the developer. To a certain extent, she said, the market will determine how many units are built and sold.

Mr. McChesney said the sewer authority grants units on the basis of bedrooms. That may be the limiting factor, he said.

Mr. Katz said that this is not how the sewer authority allocates its allotment to a project like this. It would be allocated by gallons to the site, and the developers can distribute it any way they like.

Mr. McChesney cited the Toll Bros. development, stating that there is indeed a relationship between the number of bedrooms and allotment.

Mr. Walsh asked if there was any information in the record that could be used to calculate the percentage.

The Planner suggested the Commission look at what the applicant has suggested in their own proposal.

The Chairman asked what the actual numbers of units would be at 20% and 30%. Mr. Katz and Mr. McChesney provided the numbers, which were 58 and 87 respectively.

The Planner looked up the applicants numbers, based on the 509 units. They were as follows: 120 one bedroom apartments, 132 two bedroom apartments, and 257 three bedroom townhouses.

Discussion continued. The Commission decided to incorporate into #1 the wording ...SHALL HAVE A MIX OF ONE, TWO AND THREE BEDROOMS, as suggested by Mrs. Willis. [Note: There was more discussion on the “Bedrooms” section later, reflected in the minutes.]

Section G. Lot Coverage.

This section was approved as presented.

Section H. Impervious Coverage.

Dr. Autuori asked what the maximum coverage is in the CDD zone. The Planner said that it is 20%.

Mr. Fossi said that, if there is to be no building in the watershed, there is no way a developer can even approach 25% impervious.

The Commission discussed changing the impervious coverage limitation for the Bennetts Farm property from 25% to 20%. **Mr. Katz** motioned, seconded by Dr. Autuori, to change the coverage to 20%. The motion passed, 6-2, with Mr. Fossi and Mr. Walsh voting against.

Mr. Katz asked if the Commission thought they could defend that number in the balancing test.

The Planner said this was consistent with the CDD, and that the applicant’s original percentage would have to be decreased if there was to be no building in the watershed area.

Section I. Setbacks.

The Chairman noted that #'s 1, 2 and 3 had been stricken, and a table showing the setback numbers was substituted.

Dr Autuori said that he is more concerned with preserving the streetscape of the public street and less concerned with the streetscape internally. He proposed the public street setback be 100’ as opposed to 50’. Mr. McChesney asked if there was any public street frontage.

The Planner explained how the setbacks for each of the properties in each of the separate categories originated. The only new additions are the side and rear setbacks, she said. Everything else was taken out of the original regulation. The numbers for

619 Danbury Road are consistent with the B-2 zone, which is what's being built right now. The Bennett's Farm front setback numbers were provided by the applicant. The side and rear setbacks of 100' were set in conformance with the CDD zone.

Dr. Autuori asked what the CDD setback from a public road is. The Planner said it is 50', but then found that it was, in fact, 100'. Dr. Autuori asked that the front setback from a public street be changed from 50' to 100', which is found in the concept plan anyway, he said.

Dr. Gelfman said that he is concerned with restricting building along Bennett's Farm Rd. The Chairman asked if that is because it is relatively level. He said that was correct. Greater setbacks would push the development back, toward steeper and more sensitive lands.

The Chairman said that the Commission has cut building in the Saugatuck watershed and on steep slopes. It has cut back on the amount of impervious coverage the developer can have, and now they are looking to increase setbacks. She does not want to be unreasonably restrictive.

Mr. McChesney said that he would leave the regulation the way it is, (50'). When you exclude the watershed and look at the areas that open to Bennett's Farm Rd., he said, there really isn't much opportunity to build much of anything in there.

Dr. Autuori wanted to follow "the beneficial provisions of the CDD zone, where possible." He made a motion to increase the front setback to 100'. There were no seconds.

Mrs. Willis suggested referencing the underlying zone that the parcels are in, as well as the surrounding zone under "reasons" justifying the proposed changes.

The Chairman thought the Reasons wouldn't go forward as part of the regulation. The Planner said that they definitely will go forward; not as part of the regulation, but as part of the record. With that clarification, the Chairman wished to make a minor wording change to the third bulleted item under Reasons in Section F (Bedrooms).

Section J. Building Height; Separation; Hallways; Utility Connections.

The Chairman noted #'s 1 and 2 were approved as presented. Number three was amended to decrease the minimum distance between buildings from 50' to 30'.

Mr. Katz said the Commission might want to consider a separation of structures of less than the 30' recommended by the Planner. She said she believes that is the minimum distance recommended by the Fire Department.

The Chairman noted the change from thirty to twenty-five for the number of dwelling units each hallway is permitted to serve, (#4).

Number 5 was approved as presented.

Section K. Off-street Parking.

The Chairman noted #'s 1 and 2 were left as presented.

On #2, the applicant added A. detailing the number of spaces allocated for efficiency units and one bedroom dwelling units, the Planner said.

Mrs. Willis then said that the category EFFICIENCY should be included in section F., (Bedrooms), where the Commission had added the words SHALL HAVE A MIX OF ONE, TWO AND THREE BEDROOMS. The Commission agreed.

The Chairman continued, saying that #'s 3, 4, and 5 remained, as presented, with the Commission's additional wording added as #6: ADDITIONAL PARKING SHALL BE PROVIDED FOR VISITORS IN CONVENIENT LOCATIONS THROUGHOUT THE SITE.

Mr. Katz said that CONVENIENT is an arbitrary term. He suggested eliminating the words "in convenient locations." The Commission agreed.

The Planner reminded the Commission that, when they create parking, they are creating impervious surfaces. The Commission may want to wait to determine the number later. Mr. McChesney agreed, saying that it was "site dependent." That is true, the Planner said.

Dr. Autuori reiterated his desire for underground parking, which he said would decrease impervious coverage on the site. This concept was discussed.

This Section was approved, as presented, with the amendment to #6 suggested by Mr. Katz.

Section L. Screening; Landscaping

There were no changes to this section.

Section M. Utilities.

The Chairman read the amended wording in this section.

Dr. Autuori commented that #1 in this section, NO SEWER LINE SHALL BE EXTENDED INTO OR SHALL CROSS THROUGH THE SAUGATUCK PUBLIC WATER SUPPLY WATERSHED, is what is going to preclude development in the watershed, and it is totally justified in the record, he said.

Mr. Katz said that the most important reason is not included in this section, and that is the warning from the Department of Health. Where to put that information was discussed. It was decided to include mention of the DOH letter in the Reasons section, along with “Evidence is in the record...” . Mr. Katz said that the letter was not the only reference; there were letters from Aquarion, backed up by the Norwalk River group and the Conservation Commission. “Evidence in the record is voluminous,” he said. Whether or not it will be considered remains to be seen.

The Chairman said that the information Mr. Katz wished to incorporate exists in Section E. under Reasons. It can be entered into this Section as well.

Section N. Age Restriction. [New Section Added. Other paragraphs changed accordingly, in sequence.]

The Chairman read the draft regulation. She asked the Planner about the percentages given, and the Planner explained in detail. She passed out chart which gives two examples of the calculations used to meet the required percentages for age restricted affordable housing, one based on 100 units total, and the other the other for 280 units total.

The Planner used the example of 100 units, saying that, to meet the federal regulations for age restricted housing, 70%, (equaling 70 units), would need to be age restricted. Of that 70%, 80% have to be 55 and older. This is in accordance with the Fair Housing Act, as it governs senior living communities.

In response to the Chairman’s questions, the Planner clarified further, saying that the Commission is not creating a 100% age restricted community. It is creating two communities, (a senior living community, which encompasses 70% of the entire development), and another community (which is not age restricted) that encompasses 30% of the development. Each community must have its own homeowner’s association. There could be a “master association” for the entire development, to manage “common” elements such as water, sewer, and grounds maintenance.

Mrs. Willis asks why the number was set at 70%? The Planner indicated that it was a number suggested by Mr. Katz.

Mr. Katz said that there was no magic to this number. It seemed to him a comfortable compromise going in. Mrs. Willis asked why he didn’t make it 100% age restricted. Mr. Katz said that he wanted to find a reasonable number which would not discourage acceptance by the applicant. Dr. Gelfman and Mr. McChesney both supported the numbers Mr. Katz had proposed.

Mr. McChesney said that the Commission has been talking about affordable housing for all kinds of people, and 30% non age restricted can provide that. He felt they should keep the 70%-30% ratio.

Dr. Autuori noted that you could wind up with 30% **plus** 20% of the 70% under 55. Theoretically, that was true, the Planner said, but noted that the 20% could also all be 55 and older. She again stated that, in order to maintain your status as an age restricted community, you must have a minimum of 80% of your homeowners in the age restricted portion as 55 and older. Dr. Autuori still pursued the point of trying to predict what breakdown would actually get you the 30% total of non age restricted housing.

Mr. Katz said there is good reason to believe that the full 70% would actually be 55 and older. People who buy into age restricted communities, he said, generally are older people who want to live in the age restricted setting.

The Chairman summed up, noting that the section would be left as presented.

Section O. Garbage Containers. {Formerly Section N}

This section was also left as presented.

Section P. Application Requirements for Designation as Eligible for Development Under the HOD Provisions. [Formerly Section O]

The Planner said that this section resembles the PRD. The applicant would come in saying that they want an HOD development on a particular property. It would be up to the Commission to determine whether or not it's appropriate, she said.

Also, the fee has been increased to \$25/unit. The only change in the proposal from how it was presented by the applicant is the addition of the language under Density, which states that the density should be determined in accordance with land based criteria found in paragraph Q.

The Chairman said they would be getting back to the section on Density.

Section P was left as presented.

Section Q. Application Procedure for HOD Site Plan Approval.
[Formerly Section P]

The Chairman read this part of the regulation, giving the applicant's wording, as amended by the Planner in accordance with the recommendations of the Commission. She read each of the six criteria added by the Commission, suggested during the public hearing, to add the "criteria for development of sensitive lands" from the existing CDD regulation.

Mrs. Willis asked that vernal pools be added to #1. That suggestion was incorporated.

Mr. Katz felt that slopes over 20% in grade, (as opposed to the current 25%), should be protected.

Mr. McChesney recalled a case where the Commission tried to introduce a lesser slope and lost. He felt that, with regard to this application, there had been no discussion of anything other than the 25% slope, and this was no time to introduce a concept that had not been discussed, he said.

Mr. Katz said that the applicant's own engineer from Tighe & Bond introduced categories of "0-15%," "15%-20%," and "Greater than 20%" on maps submitted with the application. They don't say anything about 25%, he said.

Mr. McChesney then reversed his position, saying that this is important.

Mr. Fossi said that he is "almost positive" that in Eureka's presentation, they said that they wouldn't develop anything over 20%.

Mr. Katz moved to change the % of slope in #4 from 25 to 20. Mr. McChesney seconded the motion. The motion passed 7-1.

Mr. Katz then suggested different wording for the beginning of the amended draft in order to be consistent with Section P., as follows:
FOLLOWING THE COMMISSION'S DETERMINATION OF ELIGIBILITY FOR THE PARCEL....

The Chairman continued, reading #5, in which the Planner noted a misspelling.

With #6, the word "enhancement" was questioned by the Chairman. The Planner said that both #'s 5 and 6 are taken directly out of Section 410 in the CDD regulations. She said that she was following the recommendation of the Commission when it suggested applying the criteria for the protection of sensitive lands from the CDD. It was decided to strike the word ENHANCEMENT from both #5 and #6.

Dr. Autuori said he wanted to change his vote on #4 to approve.

The Planner noted for the record that she did add the requirement for a public hearing to the site plan application.

Section R. Requirements for Housing Opportunity Units. [Formerly Section Q]

The Chairman noted that the language for this section is as presented, with no proposed changes.

This concluded the discussion of the various sections of the regulation, with the exception of Section E., Lot Density, which the Chairman asked the Commission to

consider with the help of the map presented by the Planner. The Chairman noted that the Planner had some suggestions as to how the Commission could arrive at a density.

The Planner asked the Commission to take the information from the record that was presented by the applicant, (as much as possible), and supplement that with the thoughts and opinions of the Commission. She described the large maps, detailing exactly what is proposed, and where. She noted that the first map details the total number of units proposed, including the number of townhouses and apartments, and how they are laid out on the site. The second map is the same layout, but identifies the Saugatuck watershed lands. She said it is significant to note the number of units and that all of the apartments are proposed for the land in the watershed area. On the third map, a schematic, each of the developments have been identified by a number of units and a number of acres, she said. In eliminating the watershed areas, there are 35.22 acres and 7.25 acres at the center of the site, in the non-watershed area.

The Planner noted a discrepancy between the number of units shown around the Recreation Center on the watershed map, (30), and the number actually proposed for that area, (16). However, there are actually 16 units shown around the Recreation Center, outside the watershed area on the map (14 are in the watershed area).

The large development area on the western side of the property consists of three bedroom townhouses. There are no apartment type units, efficiencies, etc. One way to come up with a density and a mix of units, she said, might be to take some of the multi-family apartment-style structures and place them in amongst the townhouses.

There is a certain area on the 35 acre portion of the development area that is within the watershed, she noted. If that is excluded, you would need to subtract that amount of acreage.

Regarding the Phase II Sewer District proposed by the Water Pollution Control Authority, it is important to see how that district compares to the non watershed area, the Planner said. They seem to coincide, she said, so the Commission can justifiably say that the development should be outside of the watershed and within the Phase II sewer area.

One other point the Planner made is that the largest density in the existing zoning regulations is the MFDD zone, which allows 6 units to the acre, (8 units with affordable). One way to come up with a density would be to take that area which the applicant has proposed as appropriate for development, and calculate how many units would fit in that 35.22 and 7.25 acres, at 8 units to the acre.

She also noted that, while the applicant has only presented a conceptual plan, it does appear that they have avoided the 20% slopes. Mr. Katz debated that, saying that, by his count, 56 units are in 20% slope. The Planner agreed there is some overlap, but noted that 200 units are not in the slope. They discussed this at some length.

The Chairman asked the Commission for a density number.

Dr. Autuori asked if this would be a good time to review the density proposal of the interveners. Discussion continued. The Chairman asked the Planner to locate the letter in the record from ROSA (Ridgefield Open Space Association), with the discussion on density.

Dr. Autuori said he is not ready to support anything that involves subtracting, which “makes land disappear.” He said that, based on what the Commission has said, they want to cluster the units on land that is not environmentally sensitive. That’s a philosophy, he said. But, he wanted to calculate a density number based on 1.4 units per gross acre, and wondered how many dwelling units that would provide. (This was based on the 14 dwelling units per gross acre at 619 Danbury Rd., and “knocking it down by a factor or ten,” he said.) The result calculated in this way turned out to be 214-215 units. Looking at the environmental constraints, (the wetlands, the water bodies, the slopes), the land coverage, the mix of dwelling units, etc., this number may be something that would fit the applicant’s general concept, he thought. Dr. Autuori said he is simply parsing out a number, because the Commission “has to start someplace.”

The Chairman said she thought that the number was low.

Mr. Fossi said he agreed more with Dr. Gelfman’s proposal of 2 units per acre. The reality, he felt, was that the builder would not be able to get that number of units in reality, given the watershed, setbacks from wetlands, upper review area, steep slopes, vernal pools, setbacks from the road, etc. However, the judge might be off put by a low number. He suggested restricting to 2 units, per acre, because he doesn’t believe the builder can actually accomplish that.

Dr. Autuori disagreed, saying that the Commission is just protecting, and not prohibiting development in these areas. “If we are prohibiting, then we are subtracting,” he said, which he would not support.

The Chairman noted that the Planner located the Sept. 4, 2007 letter from ROSA’s Eric Kristoffersen. She read from the letter, which detailed ROSA’s recommendations, most with densities amounting to about one unit per two acres in various “Alternate” proposals, some with a mix of corporate and residential development.

Mr. Katz said that ROSA’s plan definitely protects the safety and health of the public, but he doesn’t think it could be defended in court. We don’t have anything in the record that suggests that that density protects the safety and health, he said. What is in the record is a letter from the Department of Health, which says that the proposed density in a watershed area is unacceptable, by any measuring standard. The DOH letter indicates that building in a watershed area is not a good idea, but, if the applicant chooses to do so, one unit per two acres is recommended.

Mr. Katz felt that the Commission had agreed to try to find a rationale for a specific density outside the watershed areas, which would allow it to present to the applicant a due diligence overview of a regulation that they proposed, modified in a responsible way. He felt that 87 units would not be seen as a responsible revamping of their regulation, and he did not think it would “fly.” He would not support it.

The Chairman said that the Planner has worked with all the numbers, and came up with a density of 1.9 per acre.

The Planner gave the rationale for her determination. She said that, going back to the third map, you can see that the 35.22 plus 7.25 acres totals approximately 42 acres. Of these 42 acres, which the applicants are proposing as being the most suitable for development on the western portion of the site, a portion lies within the Saugatuck watershed. This portion appears to be about 6 or 7 acres, she said. If one subtracts that acreage from the 42.4 acres, it totals about 36.4 acres. The maximum density allowed in the MFDD is 8 units per acre. If you multiply 36.4 times 8, you get 291, she said, and 291 works out to 1.9 per acre.

This would be one way to defend this number as the maximum, she said. Dr. Gelfman said that it is close to his recommendation of 2 units per acre.

The Chairman said that the Planner had done some very interesting work overlaying what the applicant had provided, given what’s in the public record, and she felt that this was a reasonable way of coming up with a specific density.

Mr. Katz supported the Planner’s number, saying that, even if that density were used in the non watershed area, it would not create a “repugnant” development.

The Planner again stressed the need to provide a mix of housing to serve the needs of the community. She said that the applicant has not provided for anything but townhouses on the western portion. If the 5 and 6 bedroom townhouse footprint was used to create a multi-family building instead, you would increase the density on the same footprint area, and you could have garages underneath, she said.

Dr. Autuori noted that the DOH did not say that you can’t build in a watershed area; it said that you can’t run sewer lines through it. Any effluent from these buildings the Planner is talking about would have to flow away from the watershed, he said.

Mr. Katz made a motion, seconded by Mr. Fossi to use the Planner’s density of 1.9 per gross acre.

Mrs. Willis and Dr. Autuori thought the number was too high.

The Chairman clarified that the Commission was not voting on the regulation at that meeting, but merely voting on individual sections, to make sure that the regulation will represent the consensus of the Commission.

Discussion continued, with the Commission members expressing some divergent viewpoints.

Mr. Walsh said that what the Commission needs to look at is “reasonable changes” to the application in order to protect the health, safety and welfare of the community. “We have the evidence in the record which gives us an opportunity to make such reasonable modifications as we deem necessary to safeguard ...” the public health and safety, he said. He agrees that 1.9 per acre is too high, but he doubts that supportable, additional changes could be made to the application. He added that the 1.9 might not completely protect the public health, safety and welfare, but, it will pull everything out of the watershed, which is the most significant threat to the public that a court would be willing to consider under 8-30g.

Dr. Autuori asked Mr. Walsh how he came up with his original suggestion of 1.75.

Mr. Walsh said that he took everything out of the watershed area, and calculated the slopes, as best as he could, and came up with 1.75 units per acre. He said he did not think the Commission should use his number, because the end result is that the land will dictate, and it will continue to restrict that development. Using the number 1.9, he thought, was the more reasonable approach.

Mr. Katz said that, if this development laid out as proposed on the map, Mr. Walsh’s 1.75 units per acre would probably come into play anyway. Mr. Katz felt that, using his calculations of 180 units in the watershed and 56 on slopes of 20% or greater, this would bring the number of units down to 273 if the applicant built as proposed. They won’t get their 291, he said.

Discussion continued after Mrs. Willis suggested that the applicant may try to prove that the Commission’s calculations are wrong.

The motion was made to go with the Planner’s number of 1.9 units per acre, (by Mr. Katz and seconded by Mr. Fossi. The motion passed 6-2, with Mrs. Willis and Dr. GAutuori opposed.

The Chairman noted that the only issue still unresolved was the number of bedrooms, under Section F.

Mr. McChesney suggested the following wording: there should be a mix of efficiency, 1, 2, and 3 bedroom units. Mr. Katz agreed. He said that the developers will see when they begin what they will be able to get, and he thinks that stating the Commission’s desire for a mix of housing to be the best approach.

Dr. Gelfman suggested leaving the wording as is, allowing not more than 30% of the units to be 3-bedroom units.

The Chairman said that the prior discussion had suggested not more than 20%.

Mr. McChesney said that the applicants will make the decision. The regulation will force them into building 1 and 2 bedroom units, as well, he said, adding that the land is going to dictate how many units they will be able to build. He felt that the developers may find that, with all the restrictions placed on them, they may not be able to build many 3 bedroom units, and there may not be a huge market for them anyway. He supported the 30% figure.

Dr. Gelfman made a motion to restrict 3 bedroom units to 30% or less. The motion was seconded by Mr. Fossi.

Mr. Katz asked the maker of the motion and the seconded if they could be comfortable with 25%.

The maker and the seconder of the motion agreed to amend the motion to be 25%. The motion passed unanimously.

There was discussion as to whether or not the Commission would like to have the attorneys present at the next meeting. Mr. Katz was opposed to this. The Planner said that the date by which the Commission must vote on this is Nov. 20, 2007. She noted all the public hearings in the month of November, and said that the following week was the only date where there would be time for meaningful discussion. Her concern is that the Commission get clear on what needs to be done regarding the application for the amendment to the POCD, and the application for the zone change. Those two issues have not been adequately dealt with. Counsel could be here to make sure that those very important pieces are handled correctly, she said. The Commission decided to have the attorneys present.

There were no final votes taken on this item. The Commission voted on revisions to individual sentences and paragraphs in the draft, but a final vote will not be taken until the revised draft is prepared.

2. **#2007-110-VDC**: Village District Application under Sec. 8.3 for signage on building located at **404 Main Street** in the CBD zone. Owner: Urstadt Biddle Properties. Appl.: Keller Williams Realty, Steve Scott. *35-days to received report ends 11/6/2007. 10/2/2007 received and referred to VDC. For action. (TENTATIVE)*

This item was tabled pending report from the Village District Consultant.

NEW ITEMS

3. **#2007-127-SP:** Special Permit application under Section 9.2 as required by Section 3.4 of the Ridgefield Zoning Regulations to construct an accessory structure in the front yard on property located at **219 Nod Road** in the RAA zone. Owner: Christopher Gaydos. Appl.: Christopher and Nora Gaydos. Auth. Agent: Luigi DiMeglio. *65 days to commence public hearing ends 12/27/2007. For receipt, schedule walk and public hearing.*

Mrs. Willis motioned, seconded by Dr. Autuori, to acknowledge receipt of the application, to schedule a site walk for 10/28/07, and to schedule a public hearing for 11/13/07, as suggested by the Chairman. The motion passed, 8-0.

4. **#2007-128-REV(SP):** Revision to Special Permit under Section 9.2.A.7.e of the Ridgefield Zoning Regulations to permit upgrades to the existing site, building façade and wall signage on property located at **720 Branchville Road** (Ancona's Market and Wines/Liquors) in the B-1 zone. Owners: Joseph P Ancona and John C. Ancona. Appl./Auth. Agent: DCA Architects/Planners, LLC. *65-day action period ends 12/27/2007. For receipt and schedule walk*

Mrs. Willis motioned, seconded by Mr. Fossi, to acknowledge receipt of the application and to schedule a site walk for 10/28/07, as suggested by the Chairman. The motion passed, 8-0.

5. **#2007-129-SP-SR:** Special Permit under Section 9.2 as required by Section 7.5 for excavation to reconstruct driveway on property located at **36 Saw Mill Hill Road** in the RAA zone. Owner: Robert Rosseau. Appl./Auth. Agent: Frank Fowler, III, PE, LS. *65-days to commence public hearing ends 12/27/2007. For receipt, schedule walk and public hearing.*

Planner Brosius commented that she and Zoning Enforcement Officer Richard Baldelli have serious concerns about erosion control during the reconstruction process, (because of the slopes), and feel that the project warrants the expertise of a professional consultant. A decision will be made after the site walk.

Dr. Autuori motioned, seconded by Mrs. Willis, to acknowledge receipt of the application and to schedule a site walk for 10/28/07, as suggested by the Chairman. The motion passed, 8-0.

6. **#2007-130-SP-VDC:** Special Permit under Section 9.2 and Village District Application under Section 8.3 for reconstruction and upgrade of existing auto body shop (Georgetown Autobody) on property located at **27R Catoonah Street** in the CBD zone. Owner: Ashley Holdings, LLC. Appl.: Patrick Venus. Auth. Agent: Douglas MacMillan. *65 days to commence public hearing ends 12/27/2007. 35 days to receive VDC report ends 11/27/2007. For receipt, schedule walk, public hearing and refer to VDC.*

Dr. Autuori motioned, seconded by Mrs. Willis, to acknowledge receipt of the application, to schedule a site walk for 10/28/07, to schedule a public hearing for 12/4/07, and to refer the application to the Village District Consultant, as suggested by the Chairman. The motion passed, 8-0.

7. EXECUTIVE SESSION – PERSONNEL

There were no votes and no action was taken during the Executive Session.

COMMISSION WALKS

The Commission added the following to the October 28, 2007 schedule for site walks:

- **#2007-127-SP:** Special Permit **219 Nod Road**, Gaydos
- **#2007-128-REV(SP):** Revision to Special Permit **720 Branchville Road**, Ancona
- **#2007-129-SP-SR:** Special Permit **36 Saw Mill Hill**, Rosseau
- **#2007-130-SP-VDC:** Special Permit **27R Catoonah Street**, Ashley Holdings, LLC

The following items were previously scheduled for site walk on October 28, 2007:

- **#2007-121-SPA-SR:** Site Plan application **76 Governor Street**, 76 Governor Street LLC
- **#2007-123-SP:** Special Permit **14 Danbury Road**, Webster Bank JMF Realty, LLC

REQUESTS FOR BOND RELEASES/REDUCTION

There were no requests for bond release or reduction.

CORRESPONDENCE

Chairman Mucchetti pointed out the following correspondence:

- Memorandum from the Planner to the Board of Selectmen, re the fees requested for waiver for the “Shop Local” banner Special Permit applications.
- Memorandum from the Planner and attached letter from persons requesting a change in the zoning regulations to permit a Farmer’s Market.
- Outline of items for a Lighting Ordinance, prepared by Mr. Autuori for the Board of Selectmen. Mr. Autuori noted that the BoS is currently researching the proposal to regulate lighting town-wide, and has not made any commitment to proceed at this point.
- Draft Request for Proposal for the Ridgefield Center Study, prepared by the Planner. This item will appear on the 10/30/07 Special Meeting schedule, for discussion.

MINUTES

Mr. Katz motioned, seconded by Mrs. Willis, to approve the minutes of October 9, 2007. Chairman Mucchetti offered some minor corrections. The motion passed, 8-0, with the corrections.

Hearing no further discussion, the Chairman adjourned the meeting at 10:32 p.m.

Respectfully submitted,

Linda Caponetti
Recording Secretary