

APPROVED / REVISED
MINUTES
INLAND WETLANDS BOARD
SPECIAL MEETING

October 30, 2007

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

Absent: Walter Slavin
Patrick Walsh

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

The Planning and Zoning Commission met at 7:30 p.m., prior to the Inland Wetlands Board meeting.

At 8:55 p.m. Chairman Mucchetti called the meeting to order.

PENDING ITEMS

1. **#2007-121-SPA-SR:** Summary Ruling application requesting a determination of “no regulated activities” in connection with the development of a 16 unit affordable housing community in accordance with Sec. 8-30g of the Connecticut General Statutes located at **76 Governor Street** in the RA zone. Owner: 76 Governor Street LLC. Appl.: Stephen Zemo. Auth. Agent: Matthew Ranelli, Esq. *65-day action period ends 12/20/2007. Received 10/16/2007, walk scheduled for 10/28/2007 canceled. Reschedule walk.*

The Chairman suggested November 11, 2007 as the date for the rescheduled site walk. There was some discussion about whether November 4th would be a better date.

Following discussion, **Mr. Fossi** motioned, seconded by Mrs. Willis, to schedule the site walk for November 11th. The motion passed, 7-0.

BOARD WALKS

The Commission re-scheduled the following item for site walk on November 11, 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 noted the following correspondence:

- Notice of Violation for unauthorized filling of wetlands, sent by Wetlands Inspector/Agent Aimee Pardee to homeowners of **463 North Street**.

MINUTES

Mr. Katz motioned, seconded by Mr. Fossi, to approve the minutes of October 16, 2007. **Chairman Mucchetti** noted the need for a correction of the vote on page 12, where the Board decided to levy a fine for unauthorized work on Parcel B. Mr. Katz was in favor, and Dr. Autuori against. The Board agreed with the correction. The motion to approve the minutes passed, 7-0.

Hearing no further discussion, the Chairman adjourned the meeting at 9:00 p.m.

Respectfully submitted,

Linda Caponetti
Recording Secretary

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Also Present: Betty Brosius, Director of Planning
Linda Caponetti, Recording Secretary
Francis J. Collins, Esq., Commission Counsel
Thomas Beecher, Esq., Commission Counsel

The Planning and Zoning Meeting was held prior to the Inland Wetlands Board meeting..

At 7:32 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. Draft overlay regulations discussed 10/23/2007. For discussion. Commission Counsel to attend.*

Attorneys Francis Collins and Tom Beecher were present as counsel. Discussion took place as follows:

Chairman Mucchetti noted that the Planner had incorporated all the Commission's changes, modifications and corrections to the draft overlay regulations, which had been presented at the previous meeting. The Planner had also submitted a memorandum, in which she highlighted the issues she felt were most important.

Planner Brosius discussed these issues:

- 1) The Commission needs to state clearly how the modifications they have made to the HOD regulations meet the balancing test of 8-30g, (specifically, how the changes outweigh the need for affordable housing).
- 2) The zone change application needs to be addressed.
- 3) The Commission needs to look at the changes to the Plan of Conservation and Development proposed by the applicant, and decide to either accept them, make different changes, or make no changes.

She suggested that the Commission consult with counsel to determine the order in which these issues should be dealt with.

Planner Brosius also directed the Commission's attention to the environmental claims made by the Interveners under 22a-19, and said that these claims needed to be acknowledged and addressed by the Commission.

The Planner noted that the 65-day period for action on all of these applications ends on November 22, 2007. The last Planning and Zoning meeting prior to that date will be Tuesday, November 20, 2007. She advised the Commission to factor these dates into their discussion and decision making process, to enable the Commission to reach a consensus, (which, in this case, requires a majority of the entire Commission – not just those present), in time for that date.

The Chairman noted the complications presented by the upcoming election. The current term expires on the 19th of November, and the new term begins on the 20th. If there were a draft motion on the table by November 13th, and if a Commission seat were to change as a result of challenges to the three Republican incumbents, there would need to be a final vote taken with the current sitting Commission on Nov. 19th. If no seats changed, the vote could be taken at the regular meeting, on or before Nov. 20th.

The Planner said that, in view of all the public hearings scheduled for the month of November, it is important that the Commission deal with and resolve this application in a timely manner, so that the office will have enough time to do any additional work necessary.

The Chairman introduced Mr. Collins and Mr. Beecher, who had had the opportunity to review the Commission's input with regard to the overlay regulation.

Mr. Collins thought the amended regulation was fairly thorough. He did agree with the Planner's recommendation that the Commission ensure that their modifications stand up to the balancing test. He made particular mention of the density issue, asking the Commission to elaborate on how this lower density would outweigh the need for affordable housing, and why.

Mr. Katz asked why the Commission would need to prove that each modification outweighed the need for affordable housing, when, in his opinion, the entire intent of their work on this application was to facilitate affordable housing.

Mr. Collins said that it was a modification of what was proposed.

Mr. Katz asked why there was a need to prove that the modifications proposed would outweigh the need for affordable housing, when the regulation, as modified, is intended to implement affordable housing.

Mr. Collins said that what's needed is to specifically [tie in] the density issue, and he referred to the detailed discussion on density, (under Reasons), in the minutes from the last meeting on these applications.

Mr. Beecher clarified, saying the Commission needs to justify specifically why their proposal to reduce density outweighs the need for affordable housing.

Mr. Katz cited 8-30g, saying that the statute states that, when a town denies an application, then it must justify that denial, with evidence from the record that shows that the denial, in its defense of the public health and safety, outweighs the need for affordable housing. He felt that that is not the case in this situation. The Commission is trying to justify as much affordable housing as they accommodate, "consonant with the warning [they've] had from the Department of Health," which says that the applied for density, because of its implications to the watershed area, will be deleterious to safety and health.

In this context, why would the Commission need to defend its recommended modifications, as though they were recommending a denial? Mr. Katz wondered.

Mr. Beecher said that, when the Commission makes a change to what the applicant has proposed, they have to justify it; the specific density proposed by the applicant vs. the density proposed by the Commission, and how that balances out when examined under 8-30g.

Mr. Collins said, "What if they say [they're] appealing your decision because the modification [reduced density] basically amounts to a denial of [their] application?" Then the burden of proof is on the Commission, he said. He emphatically stated that the Commission needs to justify these changes.

Mr. Beecher said the Commission needs to be able to say that, “What we’ve done here in modifying this outweighs the need for affordable housing at the density they’ve proposed.”

The Planner read from 8-30g to “amplify what legal counsel” was advising:

“Any person whose affordable housing application is denied or is approved with restrictions which have a substantial adverse impact on the viability of the affordable housing development....” .

She told the Commission that, as their counsel had explained, it is not only denials that need to be defended, but also any changes to the application that may be considered unreasonable by the applicant.

The Chairman said that what is needed is further amplification of how the Commission arrived at their proposed density, in balance with their need to protect the public health and safety.

Mr. Katz conceded the point.

Dr. Autuori could not recall if the 1.9 density the Commission had arrived at took into account any setback from the toe of the steep slopes.

The Planner said it had not, basically because there is no fully developed site plan to deal with. There are a myriad of ways a development could be situated on that site, she said, and his question is too specific for the stage this application is in at the time. It would be a site plan consideration for a later time, she noted.

Mr. McChesney asked if there were any need to repeat prior discussion, or if it is already part of the record. It is part of the record, the Planner answered. Mr. McChesney asked if she was saying that all that is necessary is to amplify certain arguments. She said that was true. He then asked if her written comments in each area are part of the record, also. She said that was true; it is not part of the regulation, but it is part of the record.

Dr. Autuori wished to introduce something new. He made a request for the Planner to inquire of the Town’s Assessor, Al Garzi, what the tax advantages or disadvantages would be for this particular proposal. However, he was not sure if this was appropriate. The Chairman asked him why he wanted this information.

Dr. Autuori said that the modification addresses age restriction in the HOD regulation, and he is curious as to what effect that will have on the expected property tax revenues of the proposal.

Mr. Beecher said that counsel had a concern that that would be information outside of a public hearing. It is not truly germane to the proposal on the table, he said. Dr. Autuori said that, if it is improper, he will not pursue it.

Mr. McChesney believed that there had been mention of Mr. Garzi's comments in the public hearing; somewhere in the record it was reported that Mr. Garzi had stated that age restricted housing produces a more positive cash flow, he said. No one could recall that, specifically. Mr. McChesney did not feel, then, that the Commission should hinge any of their discussion or decision-making on that point. Its interesting information, he said, but shouldn't be used if it doesn't appear in their discussion.

Dr. Autuori said that Mr. Garzi was quoted in the hearing related to a different topic. He asked if, then, it would be appropriate to reference Mr. Garzi's previous findings related to age restricted housing. He asked the attorneys if the commissioners could make their own calculations.

Mr. Collins said that they could draw their own conclusions from what is in the record, but, they could not get outside assistance, because the applicant wouldn't have an opportunity to rebut. He gave an example of how this information could be used: "Based on what Al Garzi stated in the record, I think that.....".

The Chairman asked if everyone had had a chance to read the redline copy of the regulation, and if they had any comments.

Mr. McChesney said that, for the benefit of anyone who wasn't present at the earlier meeting, he had requested that, wherever there is a reference to 9.1.C, there should be a footnote saying that those numbers refer to the new regulations, which were adopted as of May 1, 2007. He was concerned that, since the application had come in under the old regulations, a judge reading this may be confused by the new numbering. He felt it should be made clear at every mention of 9.1.C.

Mr. Beecher said that if the Commission should adopt [something like this], under "Reasons," they should state that, rather than going with the applicant's amendment to an old, outdated set of regulations, they are bringing the application current into the new regulations. That's why there are references consistent with the new regulations, he said.

Mr. Katz suggested that the most efficient thing to do at this point would be for the Commission to present their rationale for having reduced the density at this site.

He said there was nothing arbitrary about the way the Commission did it or why they did it. It was done to conform with the need for affordable housing, (as expressed in the application), but to make that need consonant with the warnings they got primarily from the Department of Health, (State of Connecticut), which was virtually a mandate not to go with the proposed density, because it would have a detrimental effect on public safety and health. That mandate was backed up by a warning from

the Aquarion Water Company, which suggested a strong probability of a deleterious effect on public safety and health, and that assessment was echoed by the Norwalk River Association.

The rationale for the decrease in density was to try to track the concept of protecting safety and health espoused by the DOH, which recommended, specifically, not traversing the Saugatuck watershed, nor building within it. The DOH did not say “Do not develop this site residentially.” They said, “If you do it, do it with less density, and do it with care and protection for the watershed,” Mr. Katz said. He says the Commission did what they did in the reduction of density with an eye to the concept that, while the area that looked the most developable seemed to be propagated with townhouses, there was sufficient geography in that area to move some of the denser buildings [multi-unit apartment-type] to this less sensitive area. The Commission took the projected densities suggested by the applicant for the various areas in question, and utilized them to come up with what they felt to be an appropriate density, that would protect the safety and health of the populace, (as suggested by the DOH), while not too grandly compromising the ability to go forward with a substantially larger development of affordable housing than has ever been built in the Town of Ridgefield.

Mr. Katz went on to say that this overlay set of provisions is intended for no other purpose than to facilitate just such a development, with the kind of regard and justification for safety and health that was the red flag raised by the DOH.

Dr. Autuori added that the Commission agreed with, respected and reinforced the applicant’s placement of the development off of certain slopes, certain wetland areas, and certain environmentally sensitive ground, as shown on the concept plan..

Mrs. Willis referenced the Commission’s consideration of the slopes map prepared by Scott Sharlow, a mapping expert and member of the public.

The Chairman asked the Planner if the comments provided had given her what she needed in terms of supporting documentation. The Planner said it had. The Chairman asked the attorneys if they felt it was sufficient. They did.

The Chairman then directed the Commission’s attention back to the HOD overlay that had been distributed for their review. Some minor changes were discussed and made. In paragraph J, item (2), the word “non-residential” was changed to “storage” at the request of the zoning enforcement officer. Mr. McChesney requested footnotes to explain references to other sections of the zoning regulations, since the proposal is to incorporate this overlay directly into the new regulations adopted by the Commission on 5/1/07. The Planner noted that she had corrected the proposed application fees for the Site Plan Approval (new paragraph Q), to agree with the fee structure for the “Application Requirements for Designation as Eligible for Development under the HOD Provisions” (new paragraph P).

It was decided to discuss the Plan of Conservation and Development (POCD) amendment next, at the advice of counsel. The Planner distributed the Saccardi & Schiff memo, part of the applicant's submission, where proposed POCD amendments were detailed.

Mr. Katz said that there is no need to modify, change, or alter the POCD to facilitate the benefits of the eventual site plan. There is no reference in 8-30g to POCDs, he said, and the POCD application is the only one of the three applications which is not specifically mentioned in 8-30g. He said that the Commission is moving forward to totally facilitate an affordable housing project, but, one that allows enforcement of adopted regulations under Sec. 8-12 of the general statutes, and which allows the Commission to apply certain land based concept regulations to any application, including one for affordable housing. The real problem, he feels, is going to be justifying not modifying the POCD in the balancing test, because there is nothing regulatory about the POCD, which, if offended, could damage safety and health. It deals with concepts for the master plan of the development of Ridgefield. The only thing that mandates a change to either a map or text of the POCD would be a zone change. He noted that it appears that the Commission is going to obviate the need for a zone change by adding the overlay provisions (i.e., regulations).

Mr. Katz added that he had some ideas on how to modify the POCD, if in fact the Commission felt it should be modified, but, his modifications were substantially different than what Saccardi & Schiff proposed, he said. He stressed that he is not prepared to modify the master plan that the Town spent months and tens of thousands of dollars preparing simply for the sake of an application that doesn't even require its modification. The application, he said, and the intent of the application can go forward without any modification to the POCD whatsoever. However, if the table thought a modification was necessary, and if there was a rationale for doing it, then Mr. Katz was prepared to share his suggestions for the modification.

Dr. Gelfman saw no reason to modify the POCD.

Chairman Mucchetti asked if, when using the balancing test, a reason for appealing the denial of the amendment to the POCD could be that a modification would have been more appropriate?

Dr. Gelfman said that the HOD overlay regulation is a modification.

The Chairman said that the Commission must remember that they have been asked to apply the balancing test to all three facets of this application.

Dr. Autuori said 8-30g asks if a change or modification outweighs the need for affordable housing. Modifying the POCD would have no effect on this application, he said. He still felt that there needed to be some input from the attorneys on this.

Mr. Collins stated that it is not up to counsel to say whether or not to modify the POCD. Under the statute, he said, each one of the three applications must be examined by way of the balancing test. If the Commission decides to deny the modification to the POCD, then they have to justify the reasons why they denied it, as having outweighed the need for affordable housing. If they can't do that, then they have to consider whether or not they want to modify it, and whether or not their modification will pass the balancing test.

Mr. Beecher said that it very much depends on what the Commission decides on the HOD regulation. If they decide on the overlay regulation, they then must determine whether or not the present POCD is consistent with the overlay regulation they adopt. If it is, then there would be no need to change the POCD, he said.

Mr. Collins said that the Commission may want to get Mr. Katz' suggestions for the modification of the POCD on the table, so that they can have a discussion regarding whether or not they feel it's necessary to modify it.

Mr. Katz said the only rationale for the Commission's modifying the POCD under their regulations would be if they change a zone, and, by so doing, make part of the POCD less relevant or add a relevance through the regulation that has not been addressed in the POCD. (He was concentrating on the text of the POCD, and would address the map later.) He noted that the Saccardi & Schiff memo talked about how "very grandly" the current POCD addresses their issues. He enumerated all the places in the POCD which reference affordable housing, citing pages 49, 51, 52, and 55 that adequately address affordable housing with diversity of housing types.

Mr. Katz felt that the Commission had taken the lead in preparing the POCD, "under some tutelage from the Affordable Housing Committee," to ensure that it would be viable for at least ten years. He further noted that affordable housing is an ongoing need in Ridgefield. With this application, including the modifications placed on it by the Commission in their effort to safeguard the public safety and health, the Commission has been able to make it work with the POCD, not against it, he felt.

Mr. Katz went on to say that the suggestions made to change the POCD do not assist in the implementation of a site plan for affordable housing. In the balancing test,] what would be achieved by approving this application for affordable housing, he asked. By achieving the approval of such an application, we have obviated the need for a zone change or a change to the POCD, he said.

If, however, the Commission elected to modify the POCD, there would be only one change necessary, he said; on p. 50, under the Multi Family Site Location Criteria, he would strike criteria two, which he felt is confining, and it has been negated by the approval of the Toll Bros. application.

He suggested the following addition:

“The most appropriate types of multi family development for Ridgefield [should] continue to be moderate density townhouses and garden apartments proximate to shopping and community facilities. Larger developments not so located may be considered when meeting an identified and overriding Town need.”

Mr. Katz said that this would be all that would be necessary, if the Commission chose to modify the POCD. But, he stated his preferred opposition to changing it at all.

Ms. Willis said that the POCD is a guide, not a regulation, and she does not feel it should be modified, because no one under normal circumstances would put that kind of development in that place, and she doesn't think it should be sanctioned.

Dr. Gelfman said that he feels Mr. Katz' modification is appropriate, and the Commission should include it. It clarifies that they are approving this project on this site, he said.

Mr. McChesney was confused by a paragraph 6 which he had pasted onto the criteria listed on p. 50 of the POCD. He read the paragraph.

“When necessary, in order to generate a certain number of housing units that meet an identified town need, and with appropriate safeguards to protect public health and safety and the character of the neighborhood, allow larger developments to be located in areas that may not satisfy all the locational criteria relative to shopping, community facilities, and public transportation.”

The Planner said that the wording had come from the applicant's proposal, and was the same as what had been proposed in the applicant's previous age restricted development application.

Dr. Autuori said that he liked the language introduced by Mr. Katz, and is sympathetic with Dr. Gelfman's view, but he is concerned that making any change could be viewed as an invitation for more. Also, it really will have no effect on this particular application, he said.

Mr. Katz said the reason he feels that there shouldn't be “a number 6, however it's worded,” was because he feels its important to be as minimally contradictory in the POCD as possible. “The curve ball” thrown to the POCD and the Town's concept of multi family housing is 8-30g, he said. Mr. Katz said that if the Commission approves this application, which obviously doesn't fit the current criteria for multi family housing set out in the POCD, it needs to think about how it would be appropriate.

He said that, should the Commission decide to include his wording, he would like to add a #15 on p. 56 of the POCD, which would say: These criteria might not all apply to projects submitted under State Statute 8-30g.

In response to Ms. Willis' thought that this may be seen as an invitation, Mr. Katz said that a Plan of Conservation and Development needs to be a realistic document, even if it's only a guideline. The reality of zoning in Connecticut today has to acknowledge 8-30g, he said. If it doesn't, it is "a head in the sand approach to land use," he added. It also doesn't help the public understand some of the things that commissions have to do in response to what is being imposed on them, he said.

The Chairman suggested that a bullet be added on p. 54 of the POCD, under Multi Family Site Location Criteria, which would identify the HOD as a tool that the Commission uses to address diverse housing needs. She would be more comfortable with the HOD being referenced there in the plan, and also on p. 55, under Encourage Flexible Residential Development Types, just so that the language the Commission is considering adopting as part of their regulations is also referenced in the POCD. She agreed with Mr. Katz that this is unfortunately the reality facing land use commissions today.

Dr. Autuori said that he is absolutely against incorporating 8-30g into the POCD unless a law is passed that says it must be. He doesn't want to make it part of our philosophy in this plan, he said.

The Chairman said she didn't like it either, but it is a fact of life for Commissions across the state, she said. She felt that Mr. Katz' language recognizes that some of the considerations need to be put aside for applications which come in under 8-30g. She reiterated her point that, within the POCD, the HOD should be listed as something the Commission recognizes as a tool available to them as planners. She felt that her recommendations for including it on p.54 and p.55 were very modest ways to include it in the plan.

Ms. Willis asked the Chairman for her exact wording. The Chairman said she would leave the wording to those who write regulatory language better than she.

Mr. Beecher questioned Dr. Autuori's comments against 8-30g, saying he assumed that Mr. Autuori was not saying he is against the concept of affordable housing. Dr. Autuori said, "Absolutely not."

Mr. Katz said the Chairman's suggestions are very valid, and should be included on p.54. The Planner said that it would be called an overlay HOD, not a zone.

Mr. Fossi was in favor of that. He also supported Mr. Katz' proposed wording for p.50, but did not support its inclusion on p.56 below item #15. Mr. Fossi supported Mr. Katz' substituted wording for item #2 on p. 50.

The Planner asked Mr. Katz to repeat his suggested language for #2 on p.50, which he did. He offered some suggested wording for Chairman Mucchetti's suggestions, re: including mention of the HOD on p. 54 of the POCD.

Ms. Willis supported the Chairman's suggested changes, but didn't support the substituted language for item #2 on p.50. What exists already amounts to "very intelligent planning," she said.

Mr. Katz agreed, however, he noted that it has already been violated, (twice, Mr. Fossi added). He reminded Ms. Willis that, as she had stated previously, the POCD is not a set of regulations, but rather recommendations. He stated that the Commission has developed a project here, by the use of the HOD provision concept, which will permit something that the POCD encourages, i.e., the advent of affordable housing in Ridgefield. To acknowledge it more specifically in the Multi Family Site Location Criteria, as suggested by the Chairman, seems only realistic to him. He said that the way the HOD is being acknowledged is not encouraging "all comers." It is suggesting that, where there is an overriding need for a specific kind of housing, in this case, affordable, and hopefully in some percentage, age restricted, the Commission would consider weighing the benefits of that over and above its initial reaction as to where such things should be located. The wording suggested for #2 p.50 acknowledges all the time and effort the Commission has put into that concept, and it amplifies what the POCD is telling the Commission that it should be thinking about, he said.

The Chairman noted that the Multi Family Site Location Criteria language uses the word, "should." She asked Mr. Katz if there would be some way to adopt his wording, so that all of the criteria used the same language. He said to add the word "should" in front of the word "continue."

The Chairman noted that the Commission had suggested language to amend p. 50 #2 and p. 54, the third bullet and the last set of bullets. Mr. Katz commented that the Chairman's changes for p. 54 were very creative. The Chairman asked counsel if they had any comments.

Mr. Collins said, "Well, I think you've had a very interesting discussion."

The Planner confirmed that all of the discussion was consensus for a draft only.

The Chairman introduced the application for the zone change. She invited the Planner to discuss the comments she's put forth in her Memo.

The Planner said that, if the Commission chose to go forward with the HOD overlay regulations, it would no longer be necessary to change the zone. The underlying zone, by definition of an overlay, remains intact, she said. Should a developer come in and not wish to go forward with the HOD, they could request development under the CDD without a further zone change, she added.

Mr. McChesney said this give the applicant two choices, which is an advantage.

Mr. Katz said that, under 8-30g's balancing test, 8-2 suggests that the Commission is charged with protecting convenience and property value, and to eradicate the last and

only CDD zone in Ridgefield would be distinctly at odds with protecting property values in this town. If this applicant were to remove its application or flip the property, and the subsequent owner chose not to build an affordable housing project, if the Town had rezoned to the exclusion of corporate development, taxes could rise dramatically if the Town were unable to bring in corporate development to ease the tax burden. Obviously, that would not be in the Town's best interest, he said. Additionally, not changing the zone in no way impedes the intent of the Commission or this applicant, he added.

The Chairman asked if anyone had anything else they wanted to add. She then asked the Planner and the attorneys if the discussion so far had been sufficient. They all agreed that it had.

She said that there will be the inclusion of some language, based on the second paragraph in the Planner's Memo, to support the Commission's position on the zone change application.

The Chairman also noted that the Planner reminded the Commission that the 22a-19 Interveners had introduced some environmental issues to the table as concerns. The Planner said that the Commission needs to address those concerns. The Chairman noted that the Planner does say that the concerns were presented only as conceptual and probable. The Commission has changed the proposed HOD to protect the Saugatuck public watershed and added land based criteria to be considered when reviewing the site plan application. The Commission can only consider the probable environmental damage to the property based on limited review of the regulations, and what they permit for development, without having a fully engineered site plan.

The Chairman also recalled Dr. Autuori's questioning of Mr. Rothenberger, when he asked if development were kept out of the watershed and the property were sewerred, would that address most of the concerns he brought to the table as an Intervener. Mr. Rothenberger said that it would.

The Planner said that the environmental issues that were raised by the Intervener will probably be raised again if a fully engineered site plan comes before the Commission. At this particular juncture, however, the Commission is dealing with a proposed modification of the HOD regulations, she said. In making the modifications, one of the issues the Commission concentrated on was the elimination of development in the watershed area, which was one of the greatest concerns of the Intervener. The Commission also looked at environmental features, such as steep slopes, wetlands, etc., in the development of a site plan, and has incorporated those environmental concerns into its proposed regulation. All in all, the Commission has responded as best as possible at this time to the environmental issues, the Planner felt.

Mr. Katz brought up the fact that, in all the discussion regarding why the Commission didn't change the POCD or the zone, the Commission neglected to

mention the fact that, in testimony under questioning, the applicant said that neither change was necessary or required for the affordable housing site plan application.

In terms of the Intervener, Mr. Katz said that Section 8-12 of the Connecticut general statutes (enforcement of zoning regulations) is applicable to an 8-30g application. It allows the Commission to utilize all the regulatory processes available for the protection of land.

The Chairman said she did not understand the context of that in Section 22a-19.

Mr. Katz said that violations of sedimentation and erosion, and all the things that the ZEO could enforce in any other application in terms of respecting the land were also enforceable for an 8-30g application.

Mr. Katz commented on the research done by the Planner, and her dedication, saying that the working document she has provided is so good that the Commission couldn't possibly have accomplished what they had that evening were it not for the remarkable contribution from the Planner. Planner Brosius thanked him for his comments.

The Chairman summarized the discussion. There were no FINAL decisions made by the Commission. The Commission agreed by consensus agreed that the following would be drafted by the Planner for further discussion on 11/13/07:

- (a) HOD regulations as an overlay, with reasons for modifying the applicant's proposed regulation;
- (b) Amendments to the Plan of Conservation and Development to justify the zoning regulation amendment, with reasons, substituting these POCD modifications for those proposed by the applicant; and
- (c) Denial of the zone change application, with reasons.

[Commission counsel left the meeting at the conclusion of the discussion on this item.]

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.VDC review held 10/23/2007. For action.*

The Chairman noted a recommended design approval from the VDC at the table. They also sent a picture, showing some modest changes.

The Planner said that she had asked John Kinnear to explain this. The Chico's sign and the Keller Williams sign will be coordinated as part of the application. Escape design is no longer there and that portion of the signage will be removed.

Mr. McChesney motioned, seconded by Dr. Autuori, to approve the application according to the plan approved by the Village District Consultant, with the VDC suggestions. The motion passed, 7-0.

COMMISSION WALKS

There were no new site walks to be scheduled. The Commission will add item **#2007-121-SP-SR (76 Governor Street)** to the 11/7/07 agenda to re-schedule a site walk.

REQUESTS FOR BOND RELEASES/REDUCTION

There were no requests for bond release or reduction.

CORRESPONDENCE

- Village District/Architectural Advisory Committee minutes for (1) 27R Catoonah St., (2) 720 Branchville Road, and (3) 219 Nod Road
- Memos from the Town Engineer and the Fire Marshal re the application for **76 Governor Street**
- Fire Marshal's memo re **14 Danbury Road** (proposed Webster Bank)
- Modified parking plan for the **Jesse Lee Church**, approved administratively by the Planner, to add one additional handi-capped accessible parking space
- Connecticut Federation of P&Z Officials newsletter
- Ridgefield Center Study RFQ - **Chairman Mucchetti** asked if there were any additions or corrections to the draft RFQ prepared by the Planner. Mr. McChesney and Mrs. Willis offered some additional language that was incorporated into the draft. The Planner will finalize the draft and send out the RFQ as soon as possible.

MINUTES

Mr. Fossi motioned, seconded by Mr. Katz, to approve the minutes of October 16, 2007. The motion passed, 7-0.

Hearing no further discussion, the Chairman adjourned the meeting at 8:54 p.m.

Respectfully submitted,

Linda Caponetti
Recording Secretary