

(Working notes)

**TOWN OF ROCKY HILL
PLANNING AND ZONING COMMISSION
MEETING OF AUGUST 17, 2011**

Chairman Tony DiLorenzo called the Wednesday, August 17, 2011 meeting to order at 6:31 p.m. in the Town Council Room of the Rocky Hill Town Hall, 761 Old Main Street, Rocky Hill, Connecticut.

Present: Tony DiLorenzo, Chairman
 Barry Goldberg, Vice Chairman
 Ron Angelo, Sr., Secretary
 Gregory Faulkner, Commissioner

Alternates: Joe Kochanek
 Victor Zarrilli
 Peter Arico

Also: Kimberley A. Ricci, Dir. Planning and Building/Asst. ZEO

Chairman DiLorenzo read the procedures on conducting a public hearing.

****Commissioner Zarrilli is sitting in for Commissioner Vasel who is absent.**

1. PUBLIC HEARINGS

- A. Special Permit/Site Plan application, Patrick Gorman with the LRC Group, proposing a mixed use development, 144 multi family units and approximately 5, 750 square feet of medical office use for property located on the north side of Brook Street, in a OP-Office Park Zoning District; ID # 16-274;**

Attorney James Joseph of Levy & Droney in Farmington addressed the Commission representing the applicant asking that this matter be tabled until September. The Wetlands Commission approved the application but they imposed a condition changing the limits of construction. This results in some changes to the site plan. There are also some legal issues involved with this application and a resident raised some issues regarding timing requirements for submittal of certain materials. DRAB has not approved this application yet, either. Atty. Joseph said he believes they have complied with all the Regulations but they feel it would be advisable due to all these concerns, to table the application. They realize this would require them to re-notify abutters.

Vice Chairman Goldberg asked if the Wetland condition substantially changes the footprint of the site plan. **Mr. Pat Gorman, Principal of the LRC Group** said the number of buildings and parking spaces is the same but things have been moved around. Vice Chairman Goldberg wondered if the applicant should withdraw and resubmit the application due to time constraints. Atty. Joseph said he doesn't feel there is a need to withdraw the application and they are willing to grant an extension if necessary.

A MOTION was made by Vice Chairman Goldberg to recess the public hearing for a Special Permit/Site Plan application, Patrick Gorman with the LRC Group, proposing a mixed use development, 144 multi family units and approximately 5, 750 square feet of medical office use for property located on the north side of Brook Street, in a OP-Office Park Zoning District until the September 21, 2011 meeting. Seconded by Commissioner Zarrilli. All were in favor, MOTION CARRIED UNANIMOUSLY.

Attorney Joseph asked if the public hearing was opened and continued or tabled before it was opened, which would affect whether or not the notices needed to be sent out again. Vice Chairman Goldberg said it was opened and then tabled. Mrs. Ricci said notices would not have to be sent again.

Commissioner Angelo said he didn't think the Public Hearing should have been opened at all.

B. Special Permit Application for Asian Bistro of Rocky Hill LLC, seeking a restaurant liquor permit for the approximately 6,000 square foot sit down restaurant located in the northerly most unit of Cromwell Avenue Shops at 396 Cromwell Avenue in a C-Commercial Zoning District; ID# 12-161;

Attorney Tony Frederick Hellish of 1055 Boston Post Road in West Haven addressed the Commission representing the applicant, who is asking for a restaurant liquor permit. The site plan that was approved last year included a bar area. Liquor use is vital for this type of operation and the viability of the restaurant is compromised without it. Approval of the permit will not cause any changes to the site plan, nor will it affect the exterior. They do not think approving this permit will affect the safety, health or welfare of the community. Liquor permits have already been approved at neighboring restaurants. Although there is a residential community behind the restaurant, there is large buffer zone, which completely shields the back of the building. Atty. Hellish submitted pictures of the buffer area to the Commission.

Mr. Bo Tan, General Manager of the Asian Bistro addressed the Commission. He has been General Manager of other Asian Bistro Restaurants for 4 years. There are no problems at the Shelton restaurant, which has a liquor permit.

There were no questions from the public.

Commissioners Comments/Questions

Chairman DiLorenzo asked if the applicant would consider allowing customers to bring in their own wine in exchange for a corkage fee. He feels this would contribute to the quality of life in Rocky Hill. Vice Chairman Goldberg noted that this is not a condition of the permit and if the applicant were to say no, it would not affect the approval of the liquor permit. Atty. Hellish said the General Manager is not the only decision maker for the business and they could consider it, but he doesn't think it would be completely compatible with the concept of an upscale restaurant.

Town Manager Barbara Gilbert of 761 Old Main Street, said in today's economic climate it is unfair to ask a restaurant to have a B.Y.O.B. policy because it would put them at a great disadvantage to all the other restaurants in town. Chairman DiLorenzo said he is looking out for the interests and benefit of the citizens of Rocky Hill.

Commissioner Angelo said other restaurants in town to have a B.Y.O.B. Policy and he wondered if the Town Manager was saying it wasn't allowed.

A MOTION was made by Vice Chairman Goldberg to close the public hearing for Special Permit Application for Asian Bistro of Rocky Hill LLC, seeking a restaurant liquor permit for the approximately 6,00 square foot sit down restaurant located in the northerly most unit of Cromwell Avenue Shops at 396 Cromwell Avenue in a C-Commercial Zoning District. Seconded by Commissioner Faulkner. All were in favor, MOTION CARRIED UNANIMOUSLY.

C. Zone Change Application for Ralph D. Govoni Sr, proposing to change the zone on a 3.68-acre vacant property located at 45 Laurel Road from WF-Waterfront Zone to BP-Business Park; ID # 14-367;

Mr. Ken Slater, Partner in the Land Use and Environmental Group of Halloran and Sage, 1 Goodwin Square, Hartford addressed the Commission representing the applicant and the potential occupant of the property, Thirau, LLC. He said he believes this change would bring the property more into consistency with the surrounding area. He asked the Commissioners to note that this application is not about a development proposal but more about proper planning sense. Mr. Slater showed prints of the area. Almost the entire neighborhood is zoned BP-Business Park, with the exception of two parcels. The Waterfront Zone for this property really doesn't make sense because of the railroad and because it doesn't actually border the Connecticut River. Mr. Slater said he feels this change is consistent with the current Plan of Conservation and Development.

Mr. Kirby Ghering of 71 Nolan Lane, Feeding Hills Massachusetts addressed the Commission to talk about the history of Thirau, LLC. Vice Chairman Goldberg said since this is a zone change application, they don't need this testimony at this time.

Public

Mr. Michael Bocchini of 311 Charter Road addressed the Commission as the Chairman of the Economic Development Commission to reiterate what he submitted in a letter dated July 7, 2011, in which he and the Economic Development Commission said they feel this is a reasonable and positive zone change.

Town Manager Barbara Gilbert addressed the Commission to speak on behalf of the zone change. Mr. Gavoni has two pieces of abutting property that are in two different zones. Without this zone change it is very difficult to market the property that is zoned waterfront in order to bring in quality business.

Mr. Jim Zagroba of 263 Meadow Road addressed the Commission. He asked if he could give the Commission a page out of the Plan of Conservation and Development and ask the applicant to explain how it fits into the flood overlay zone. The page showed the Natural Resource Conservation Plan, Areas Sensitive to Development. He said he remembers when creating the Plan of Conservation and Development the Town looked at that area as a potential for greenway development and trails. Chairman DiLorenzo said the flood overlay zone would remain no matter what the zone changed to. Mr. Zagroba asked if the Open Space and Conservation Commission should give their opinion on this application. Chairman DiLorenzo said this is only an application for a zone change, not to build anything. Anything proposed to be built in the future would be subject to the overlay zone.

Mrs. Ricci said they received an e-mail from **ADC Enterprises, Alfred Chiulli III** dated August 11, 2011. Mr. Chiulli objects to the zone change and expresses some concerns about the application. The property isn't vacant; it is occupied by a landscaper, tree company and trailer company. He said as far as he knows, Mr. Ralph Gavoni, Sr. is deceased. He also said he is against the Town using a "band-aid" approach to fixing the problem of spot zoning. He would like the Town to change the uses allowed in the Waterfront Zone instead of changing the zone. Mr. Chiulli, III asked that this application be denied.

Mr. Slater said this zone change makes sense. A good planning approach is to consider what the neighboring property uses are, what the historical uses of the property are and what makes sense for the future. He said this is really the reverse of spot zoning because this property is a little island in the middle of another zone and changing the zone will bring it more into conformity with the Business Park Zone.

Commissioner Faulkner noted for the record that he is a former Partner with Halloran and Sage and left the firm in 2004. He said he doesn't see any reason why he couldn't discuss and vote on this application.

Vice Chairman Goldberg asked who owns the other Waterfront Zoned property. Mr. Slater said Mr. Govoni does not own it. Vice Chairman Goldberg asked that they make note of this other parcel so they can address it during the update of the Plan of Conservation and Development.

Mr. Ralph D. Gavoni, Sr. addressed the Commission. He said it his father who is deceased.

A MOTION was made by Vice Chairman Goldberg to close the public hearing for Zone Change Application for Ralph D. Govoni Sr., proposing to change the zone on a 3.68-acre vacant property located at 45 Laurel Road from WF-Waterfront Zone to BP-Business Park. Seconded by Commissioner Zarrilli. All were in favor, MOTION CARRIED UNANIMOUSLY.

D. Special Permit Application for, Phemila Edward Balrat, proposing a private school (MathSprint leaning center), at 53 New Britain Avenue Unit 6 in a C-Commercial Zoning District; ID # 08-352;

Ms. Phemila Edward Balrat of Sisson Lane, Trumbull addressed the Commission along with another resident of Trumbull. (His name and address were unclear on the tape.) They would like to open a mathematic teaching center where they teach by using an abacus. Ages of the students would be from 5-12 years. There will be no modifications to the building at 53 New Britain Avenue.

A MOTION was made by Vice Chairman Goldberg to recess the public hearing for Special Permit Application for, Phemila Edward Balrat, proposing a private school (MathSprint leaning center), at 53 New Britain Avenue Unit 6 in a C-Commercial Zoning District because the mailings were not sent out per regulations. Seconded by Commissioner Angelo. All were in favor, MOTION CARRIED UNANIMOUSLY.

Commissioner Angelo made a MOTION for a 5-minute recess. Seconded by Commissioner Faulkner. All were in favor, MOTION CARRIED UNANIMOUSLY.

2. CALL TO ORDER

Regular Meeting called to order at 7:29 p.m.

3. PUBLIC

Mr. Gary Capitanio of Borghesi Building and Engineering in Torrington asked to be added to the Consent Agenda to schedule a public hearing for, **Rino Mozzicato** – Change of use of one of the tenants in an existing 6,000 sq. ft. building, 366 Cromwell Avenue.

4. ADOPT THE AGENDA

A MOTION was made by Vice Chairman Goldberg to adopt the Agenda adding to the Consent Agenda, Item D. Set a Public Hearing for September 21, 2011, Rino Mozzicato – Change of use of one of the tenants in an existing 6,000 sq. ft. building, 366 Cromwell Avenue. Seconded by Commissioner Angelo. All were in favor, MOTION CARRIED UNANIMOUSLY.

5. CONSENT AGENDA

A MOTION was made by Vice Chairman Goldberg to adopt the Consent Agenda. Seconded by Commissioner Angelo. All were in favor, MOTION CARRIED UNANIMOUSLY. The following items were approved on the Consent Agenda:

- A. Approve Minutes and Working Notes from July 20, 2011;
- B. Accessory Apartment Request, Joanne Brannan, proposing a 550 square foot accessory unit with a screened porch, as approximately 23.8 % of the gross floor area, for property located at 345 Farmstead Road, in a R-20 Residential Zoning District; ID #12-110;
- C. Set a public hearing on Wednesday, September 21, 2011 beginning immediately following the close or recess of previously scheduled hearings, which are to begin at 6:00p.m. in the Council Room, Second Floor, Town Hall, 761 Old Main Street, Rocky Hill, 06067, for a Special Permit, Malik Sherwani, proposing an area to prepare and sell food (creating a deli) in an existing convenience store , located at 2409 Main Street, Unit B, in a C-Commercial Zoning District; ID # 10-082;
- D. Set a Public Hearing for September 21, 2011, Rino Mozzicato – Change of use of one of the tenants in an existing 6.000 sq. ft. building, 366 Cromwell Avenue

6. AGENDA ITEMS

- A. Discussion as related to a \$5,000 Bond for Parcel 16, Century Hills Backlands,

Mrs. Ricci said at a previous meeting the Commission discussed the \$5,000 bond with respect to the Rolling Greens Parcel 16. It was determined by a motion at that meeting that staff and Mr. Farnham would meet to discuss the bond and any other correspondence related to that issue. Mrs. Ricci did meet with Mr. Farnham and a member of the Engineering Department. She said the key fact to note is that bonds are to be used for public improvements only and all public improvements have been made at this site. Mr. Farnham would like to discuss a legal issue brought up in a letter dated April 26, 2006, from the Town Attorney to the Town Manager stating that the bond is to be used for public improvements.

Chairman DiLorenzo asked what is to be done with the \$5,000 bond. Mrs. Ricci said there are still issues with the pavement on France Street and Spino Ridge.

Mr. John Farnham of 902 Gray Fox Lane addressed the Commission. He said it is in writing that the \$5,000 bond was withheld specifically for the landscaping of Parcel 16. According to Statute 47-280, it is the Town's obligation to make sure that the developer finished the development in accordance with the site plan. Only 20% of the landscaping has been done. Mr. Farnham said this money is for landscaping and only landscaping, not for roads on Spino Ridge. He said staff was asked to come up with a resolution and that was not done.

Chairman DiLorenzo asked if there is any way to compel the landscaper to complete the landscaping. Mrs. Ricci said it is up to the landscaper whether or not he wants to put in additional landscaping, the Town has no way to compel him to do it.

Mr. Farnham said the developer conceded the \$5,000 bond for the landscaping of Parcel 16 and now no one wants to admit that they made a mistake.

Chairman DiLorenzo asked if there was any way for anyone other than the developer to access the bond money. Mrs. Ricci said the bond would have to be assigned by the developer.

Commissioner Faulkner asked to see the bond. Mrs. Ricci said she can get it, but it is a collateral agreement between the developer or contractor and the Town. Mr. Farnham wanted to know why all these new questions were coming up now. The Director of Planning and Building was supposed to come up with a solution; he wanted to know what the solution is.

A MOTION was made by Vice Chairman Goldberg to approach the developer of Parcel 16 and request him to assign the \$5,000 bond to an entity to work with the Condo Association to help with the landscaping issue. Seconded by Commissioner Zarrilli. 4 were in favor (DiLorenzo, Goldberg, Zarrilli, Angelo), one opposed (Faulkner), MOTION CARRIED.

- B. Special Permit/Site Plan application, Patrick Gorman with the LRC Group, proposing a mixed use development, 144 multi family units and approximately 5, 750 square feet of medical office use for property located on the north side of Brook Street, in a OP-Office Park Zoning District; ID # 16-274;**

A MOTION was made by Vice Chairman Goldberg to table the Special Permit/Site Plan application, Patrick Gorman with the LRC Group, proposing a mixed use development, 144 multi-family units and approximately 5, 750 square feet of medical office use for property located on the north side of Brook Street, in a OP-Office Park Zoning District; ID # 16-274. Seconded by Commissioner Angelo. All were in favor, MOTION CARRIED UNANIMOUSLY.

- C. Special Permit Application for Asian **Bistro of Rocky Hill LLC**, seeking a restaurant liquor permit for the approximately 6,00 square foot sit down**

restaurant located in the northerly most unit of Cromwell Avenue Shops at 396 Cromwell Avenue in a C-Commercial Zoning District; ID# 12-161;

A MOTION was made by Vice Chairman Goldberg to approve the Special Permit Application for Asian Bistro of Rocky Hill LLC, seeking a restaurant liquor permit for the approximately 6,00 square foot sit down restaurant located in the northerly most unit of Cromwell Avenue Shops at 396 Cromwell Avenue in a C-Commercial Zoning District with the following comments:

- **That the motion to approve is in accordance with proper planning with this specific area of Cromwell Avenue.**
- **That there were no derogatory comments made at the public hearing asking that the Special Permit be denied.**
- **This is the typical normal operation of a restaurant of this type and he doesn't feel there would be any ill effect on the area by granting this Special Permit.**

Seconded by Commissioner Angelo. All were in favor, MOTION CARRIED UNANIMOUSLY.

D. Zone Change Application for Ralph D. Govoni Sr, proposing to change the zone on a 3.68-acre vacant property located at 45 Laurel Road from WF- Waterfront Zone to BP-Business Park; ID # 14-367;

A MOTION was made by Vice Chairman Goldberg to approve the Zone Change Application for Ralph D. Govoni, Sr., proposing to change the zone on a 3.68-acre vacant property located at 45 Laurel Road from WF-Waterfront Zone to BP-Business Park with the following reasons:

- **by changing the zone to BP, it would be contiguous to the zoning that is already there.**
- **The change would create no adverse affects to this part of Town.**
- **The existing uses in this business park and this area of the Town are in conformity to the uses that would be with this parcel if they were to approve changing it to Business Park.**
- **This change does comply with proper planning philosophy in the growth of this area of the Town.**

Seconded by Commissioner Faulkner. Commissioner Zarilli asked if Mr. Gavoni owns the property all the way to the Connecticut River. Mrs. Ricci said the zone change does not extend to the river and there is no development being proposed at this time. All were in favor, MOTION CARRIED UNANIMOUSLY.

E. Special Permit Application for, Phemila Edward Balrat, proposing a private school (MathSprint leaning center), at 53 New Britain Avenue Unit 6 in a C-Commercial Zoning District; ID # 08-352;

A MOTION was made by Vice Chairman Goldberg to table the Special Permit Application for, Phemila Edward Balrat, proposing a private school (MathSprint leaning center), at 53 New Britain Avenue Unit 6 in a C-Commercial Zoning District. Seconded by Commissioner Faulkner. All were in favor, MOTION CARRIED UNANIMOUSLY.

7. ANY OTHER BUSINESS

The Commission discussed setting up a special meeting to discuss the update of the Plan of Conservation and Development. They decided to continue meeting on the first Wednesday of the month.

A MOTION was made by Commissioner Angelo that he advertise in the Courant and/or other medium inviting anyone from the Town of Rocky Hill to be on the subcommittee to update the POCD to submit their credentials to Staff by October 1, 2011. Seconded by Commissioner Zarrilli. Mr. Joseph Wenzel of the Rocky Hill Patch said they are a local medium that publishes every day of the week and they can publish legal notices just as well as the Hartford Courant can. **All were in favor, MOTION CARRIED UNANIMOUSLY.**

Commissioner Angelo wanted to make sure that if there are any sub-committee meetings, they give public notice. Mrs. Ricci said when they hold a public hearing, the Town does need to give public notice, but you do not need to give a legal notice for an agenda. Chairman DiLorenzo agreed that they also needed to hold a public hearing when they are ready to present the draft Plan of Conservation and Development and therefore that meeting would have to be publicized by way of a legal notice. Commissioner Angelo asked Mrs. Ricci to find out exactly what needs to be published in the form of a legal notice.

8. COMMUNICATIONS

The Commission received copies of a letter dated July 20, 2011 regarding an administrative decision by the STC for the First Niagara Bank at 1901 Silas Deane Highway. The STC decided that there is no need for them to get involved.

The Town received a memorandum of decision for the ITM Retail Corp. vs. the Rocky Hill Planning and Zoning Commission. In September of 2010 a decision was made by the Planning and Zoning Commission to deny a grocery beer permit for the Krauzer's location. The P&Z decision was not supported. The applicant can come back to the Commission for another permit.

9. APPROVE BILLS

None.

10. ADJOURN

A MOTION was made by Commissioner Angelo to adjourn. Seconded by Commissioner Faulkner. All were in favor, MOTION CARRIED UNANIMOUSLY.

Meeting adjourned at 8:40 p.m.

Respectfully submitted,

Eileen A. Knapp
Recording Secretary