

East Hampton Planning and Zoning Commission  
Regular Meeting  
January 7, 2009  
Town Hall Meeting Room

Unapproved Minutes

1. **Call to Order and Seating of Alternates:** Chairman Philhower called the meeting to order at 7:00 p.m.

**Present:** Chairman Mark Philhower, Vice-Chairman Ray Zatorski, Members Peter Aarrestad, Roy Gauthier, Rowland Rux, James Sennett, Alternate Member Michael Brogan, Richard Gosselin and Darin Hurne were present. Town Manager Jeffery O'Keefe; Planning, Zoning, and Building Administrator, James Carey; and Town Attorney, Janet Brooks were also present.

**Absent:** No members were absent.

Mr. Hurne was seated as a voting member at this time.

2. **Approval of Minutes:**
  - A. **December 3, 2008 Special Meeting; and**
  - B. **December 3, 2008 Regular Meeting.**

*Mr. Zatorski moved, and Mr. Rux seconded, to approved the Minutes of the December 3, 2008 Special Meeting and the December 3, 2008 Regular Meeting as written. The motion carried unanimously.*

3. **Communications, Liaison Reports, and Public Comments:**

**Communications:** Mr. Carey informed the Commission of a Connecticut Bar Association Education & Training, Planning & Zoning Seminar which is to be held on Saturday, March 28, 2009. He strongly urged anyone who could participate to attend. Mr. Aarrestad agreed that the course is well worth attending. Members should contact the office if they would like to attend.

Mr. Carey pointed out the first article in the Connecticut Federation of Planning and Zoning Agencies Quarterly Newsletter which was distributed to the members of the Commission electronically today. It is of interest to this Commission because it speaks to the issue of special permit requirements for subdivisions. A discussion this Commission has had in the past. He asked the Commissioners to review this article in preparation for the upcoming Open Space Subdivision Regulation discussion.

A copy of CONNECTICUT WILDLIFE has been electronically distributed for review.

Mr. Carey reported that a copy of the Planning & Zoning Commission Bylaws have been distributed for review and will be on the Agenda for the next regularly scheduled meeting.

The Draft Design Review Board Guidelines have been distributed for review and will be on the Agenda for the next regularly scheduled meeting. Scott Hill, Chairman of

the Design Review Board, will be present to discuss the Guidelines and receive comments.

**Liaison Report:** Mr. Sennett reported that there was not a meeting of the ZBA in December.

Mr. Brogan reported that he was not able to attend the December meeting of the Conservation Commission. The minutes of that meeting are available in the Town Clerk's Office.

Mr. Gauthier reported that the EDC did not have a meeting in December.

Mr. Zatorski explained that he will discuss all pertinent information from the IWWA as they are brought up on the Agenda.

Mr. Aarrestad reported that there will be a meeting of the Water Development Task Force on Friday that he will be attending. He also reported on the Salmon River Watershed Partnership. Shelley Green of the Nature Conservancy, who is leading this endeavor has applied for and received a Long Island Sound Futures Funds Grant to be used with municipal donations to evaluate landuse policies, regulations, and practices in the basin towns. The primary goal is to ensure that management and stewardship of the Watershed is a collective effort of the basin communities. In the fall they advertised a request for quotes from qualified firms. They have selected the Horsely Whitten Group of Sandwich, Massachusetts. Their planner works out of the Providence office. They are well qualified to meet with the Planning Offices of each of the Partnership towns. Ultimately they will report on the strengths and weaknesses of each town and develop regional solutions, as well as town by town programs. The target date for the final report is October 2009.

Mr. Carey has already met with Shelley Green. They discussed at length the Town's existing standards, regulations, zoning, and maps. He expects to hear from the consultant and looks forward to working cooperatively with the participating towns.

**Public Comments:** The Chairman opened the meeting to the public for comments at this time.

John Hines, 38 South Main Street, distributed copies of a letter including attachments to the Commission regarding the recent results of the aquifer test performed on the wells on Main Street. He discussed the results which clearly state that his well will be adversely affected by any water system placed at the Belltown Place site. He requests that the Commission consider this adverse effect when considering any approvals that they may grant and anything that they may be able to do to rectify the situation.

Bill Reardon, 55 South Main Street, requested test results. He would like an explanation of the results. He is very dissatisfied with the whole process but he does appreciate what the Commission has done.

Andy Shelto, 60 South Main Street, discussed a few areas of concern regarding the record breaking precipitation, supply versus demand on an average precipitation year or a draught year, the peaking factors used, ground water recharge, and Precision

Engineering and Eastern Water's involvement in the study. He submitted his comments in writing for the record. **\*Attachment 1\***

Ellen Nosal, 150 Main Street, discussed her concerns regarding the discussion of a zoning change on Main Street. She believes that this is a bad idea and explained why. Her comments were submitted in writing. **\*Attachment 2\***

Kenneth Dobson, 148 Main Street, discussed his opposition to a zone change on Main Street. **\*Attachment 3\***

Patricia Powers, 146 Main Street, spoke against the zone change on Main Street and explained her concern for the historic area.

Ryan Bothamley, 141 Main Street, expressed similar concerns regarding the potential zone change on Main Street.

The Chairman closed the Public Comments portion of the meeting at this time.

**4. Set Public Hearing for February 4, 2009:**

- A. Application of Denise Morrow, R&M Logging, for a Timber Harvest located at Bear Swamp Road, M32/B85-86/L4-2; and
- B. Application of Skyline Estates, LLC., Skyline Estates Phase I & III, Modification of Subdivision Approval for Road Width Waiver.

A. *Mr. Zatorski moved to set a public hearing at the next regularly scheduled meeting on February 4, 2009 for the application of Denise Morrow, R&M Logging, for a timber harvest located at Bear Swamp Road, M32/B85-86/L4-2; and the application of Skyline Estates, LLC., Skyline Estates Phase I & III, for a modification of subdivision approval for road width waiver. Motion was seconded by Mr. Hurne. Motion carried 6-0-1. (Yes votes: Aarrestad, Gauthier, Hurne, Philhower, Sennett, and Zatorski. No votes: None. Abstentions: Rux).*

**5. Old Business:**

- A. **Executive Session: Belltown Place:** *Mr. Zatorski moved the PZC enter executive session at this time. Mr. Rux seconded.*

The Chairman invited Janet Brooks, Town Counsel; John Hankins of Fuss & O'Neill, Consulting Engineer; James Carey, Town Planner; and Jeff O'Keefe, Town Manager to be included in the Executive Session.

*The motion carried unanimously.*

The executive session began at 7:25 p.m.

The Commission came out of executive session at 9:16 p.m.

- B. **Discussion/Possible Action: Proposed Settlement and Stipulated Judgment – Belltown Place:** The Chairman requested that the consulting engineer from Fuss & O'Neill make his presentation at this time.

John Hankins, Fuss & O'Neill, was present and explained that his background is in geology and hydrogeology. His practice is primarily environmental assessment work, as well as water supply investigations, similar to the work done at Belltown

Place. He was retained by the Planning and Zoning Commission specifically to look at two issues with respect to the Belltown Place water supply. The first issue is the sufficiency of the wells that have been installed to supply a safe yield that could provide for a development the size of Belltown Place. The second issue was to determine that if the wells that were pumped at that safe yield rate would there be adverse impacts on other residential wells in the area. He focused his work on three public documents. The first two documents were submitted by the Applicant. This was the Phase 1A, Water Supply Application to the DPUC and a Phase 1B Application to the same agency. The third document is the report by Malone & MacBroom. Fuss & O'Neill did not collect any of their own data. All of the data relied upon was obtained by other engineering firms.

Mr. Hankins discussed the safe yield test and how it was conducted. He discussed the concept of draw down. He explained that it is his opinion that the data that has been submitted by the applicant to the Department of Public Health and the Department of Public Utility Control meet the requirement for determining safe yield. He is quite sure the Applicant will be granted the approval from DPUC based on this information. This approval has nothing to do with draw downs on individual wells. It has only to do with the water that they can actually pump out of the wells that they have drilled.

The second questioned involved the impact on residential wells. This is a more difficult question. Mr. Hankins used two graphs to explain how this question is answered. The information available provides a picture of the water level going down slightly. The draw down appears to be two to three feet over the course of the test. To determine if there will be a long-term adverse impact the data must be plotted on a semi-logarithmic scale for a total projection of 180 days. This is the industry standard for making this determination. This projection indicates that 10' of draw down may be expected in a year. This may seem like a lot but it assumes several things: First that there will be no rain for half a year, second the wells will continue to pump at the rate they were pumping during the pumping test, and third water levels go up and down many, many feet in response to residential use every day.

A series of dug wells were also observed for the five-day test period. One of these wells showed a full foot of draw down during that period. Projecting that draw down out for the 180 days would be two feet of draw down. This is starting to be concerning for a dug well. At 84,000 gallons of water a day this would be a concern. However, the actually pumping of water will be more like half that amount and projected out 180 day the draw down becomes one foot and is in the acceptable range. Mr. Hankins is in general concurrence with that statement.

Mr. Hankins discussed the requirement for a water diversion permit. In Connecticut if an individual pumps more than 50,000 gallons of water per day, they are required to get a water diversion permit. This development is expected to have an average daily demand of 34,800 gallons. That demand for water does not require a diversion permit.

Mr. Hankins explained that a peaking factor is a multiplier that is used to determine the maximum rate of water to be pumped from a well during any given period. Recommendations have been made to limit outside water use, such as irrigation, to keep the peaking factor down. Therefore not approaching the need for the permit and avoiding the potential draw down of residential wells.

The Chairman opened the meeting to comments by the Interveners.

Don Martin, 31 South Main Street, believes that the town should accommodate those people who have water problems due to this development.

Dan Miller, 30 Young Street, representing the SMET Interveners questioned the recharge that was referred to at length in the Malone & MacBroom report.

Mr. Hankins believes that the recharge figure used may have been slightly high but it definitely wasn't out of range. He explained in depth how it was determined.

*Mr. Zatorski moved that the East Hampton Planning & Zoning Commission accept Exhibit A of the Settlement Agreement of Pelletier Development Company, LLC v. East Hampton Planning & Zoning Commission, Docket No. HHB CV 08 4018432 as presented this evening by Town Staff. Mr. Rux seconded the motion.*

Mr. Carey asked the maker and seconder of the motion to amend their motion to include the amendments as made during the course of the executive session. Section 8.c of Exhibit A should be amended to read, "No further site plan review shall be required if Pelletier elects to make no infrastructure changes to the development."

Messrs. Zatorski and Rux amended their motions to include the amendments discussed by Mr. Carey. The Chairman asked if there was any further discussion.

Mr. Rux discussed the vast amount of work by the Commission and Town Staff involved in bringing this project to this point. He thanked them for their efforts. He also discussed the outstanding consultants that were hired to help the Commission make this decision and the importance of treating all parties fairly.

*There being no further discussion the Chairman called for the vote. The motion carried 6-1-0. (Yes votes: Aarrestad, Hurne, Philhower, Rux, Sennett, and Zatorski. No votes: Gauthier. Abstentions: None).*

**6. Read Legal Notice:** Mr. Carey read the legal notice into the record.

**7. Public Hearing for January 7, 2009:**

**A. Application of Global Self Storage, 11 Hog Hill Road, Special Permit under Section 7.6.2 of the Zoning Regulations for Storage/Self-Storage Uses.**

The applicant requested that public hearing be opened and continued to the next regularly scheduled meeting as he is unable to attend this evening.

The Chairman opened the public hearing.

Mr. Carey read a communication from James and Marney Elliot into the record regarding their concern about lighting on the site. **\*Attachment 4\***

The Applicant will be made aware of the concern made by the Elliots. The Elliots will be made aware that the public hearing was continued.

Mr. Zatorski asked anyone else present for this public hearing to come forward at this time.

Mary Ann Dostaler, 56 William Drive, questioned whether it was appropriate for the Chairman to open the public hearing without a vote.

*Mr. Zatorski moved to continue the public hearing of Global Self Storage, 11 Hog Hill Road, Special Permit under Section 7.6.2 of the Zoning Regulations for Storage/Self-Storage Uses to the next regular meeting. Mr. Rux seconded the motion.*

Mr. Aarrestad voiced concern that the public hearing was opened and the site plan was not available. Staff placed the map of the property available on the board. Mr. Carey clarified that the lot was currently undeveloped with no site improvements. There has been some planting done as a buffer to the neighboring residential uses.

*There being no further discussion the Chairman called for the vote. The motion carried unanimously.*

*Mr. Zatorski moved to continue the application of Global Self-Storage, 11 Hog Hill Road, Special Permit under Section 7.6.2 of the Zoning Regulations for Storage/Self-Storage Uses to the next regular meeting. Mr. Rux seconded the motion. The motion carried unanimously.*

## **8. New Business:**

### **A. Discussion: Zone Change on Main Street from Route 16 to Route 66 from R-2, Single Family Residential, to PO/R, Professional Office and Residential Zone:**

Chris Edge of Connected to Connecticut was present to discuss the Economic Development Commission's interest in changing the zoning from Route 66 to Route 16 on Main Street to PO/R from R-2. **\*Attachment 5\***

The EDC has been contacted by business owners who live in East Hampton but keep their offices out of town due to a lack of available office space. They have not considered addressing this change incrementally. Guidelines to protect the character, architecture, established landscaping, etc during the possible conversion have, also, not been considered. Bringing this before the P&Z at this time is for exploration purposes rather than as a proposal of the potential change.

The Chairman suggested that there were possibly other areas in Town that would benefit more by a change of this type.

Mr. Edge will go back to the EDC and discuss the feedback he received this evening.

### **B. Election of Officers:**

The Chairman opened nominations for election of officers at this time.

*Mr. Philhower nominated Ray Zatorski for Chairman of the Planning & Zoning Commission. Mr. Arrestad seconded that nomination.*

*Mr. Philhower nominated Rowland Rux for Vice-Chairman of the Planning & Zoning Commission. Mr. Zatorski seconded that nomination.*

*The Chairman asked for any other nominations. There being none, Mr. Rux moved, and Mr. Hurne seconded, to close the nominations. The motion carried unanimously. The nominations were closed.*

*The Chairman called for the vote to elect Mr. Zatorski Chairman and Mr. Rux Vice-Chairman. The vote was unanimous.*

Mr. Philhower turned the meeting over to the new Chairman, Mr. Zatorski.

Mr. Carey thanked Mr. Philhower for his service to the Planning & Zoning Commission.

9. **Adjournment:** *Chairman Zatorski moved to adjourn the meeting. Vice-Chairman Rux seconded the motion. The motion carried unanimously.*

The meeting adjourned at 9:55 p.m.

Respectfully submitted,

Daphne C. Schaub  
Recording Secretary