

**East Hampton Planning and Zoning Commission  
Regular Meeting  
July 6, 2011  
Town Hall Meeting Room**

<b>Unapproved Minutes</b>
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1. **Call to Order and Seating of Alternates:** Chairman Zatorski called the meeting to order at 7:00 p.m.

Present: Chairman Ray Zatorski, Vice-Chairman Mark Philhower, Members Peter Aarrestad, Roy Gauthier, Richard Gosselin, Rowland Rux, Alternate Members Darin Hurne, Kevin Kuhr, Meg Wright, and Interim Town Planner Glenn Chalder were present.

Absent: Regular Member James Sennett was absent.

Alternate Member Kevin Kuhr was seated at this time.

2. **Approval of Minutes:**

A. **June 1, 2011 Regular Meeting:**

*Mr. Aarrestad moved, and Mr. Gauthier seconded, to approve the Minutes of the June 1, 2011 meeting as amended. The motion carried (5-0-2). (Yes Votes: Aarrestad, Gauthier, Gosselin, Sennett, Zatorski. No Votes: None. Abstentions: Philhower and Rux.)*

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

**Communications:**

Staff reported that the Preliminary Site Plans of the Airline Trail Extension prepared by Anchor Engineering and dated June 15<sup>th</sup> and revised June 29<sup>th</sup> 2011 are available for review in the Planning, Zoning & Building Office.

Staff reported that scans of the Brochures from the Connecticut Transportation Institute, Technology Transfer Center on seminars being offered in Effective Communication Skills and Principles of Drainage for Local Roads were sent to the members of the Commission by email.

**Liaison Reports:**

Mr. Zatorski indicated that the IWWA issues would be covered under the pertinent Agenda Items.

Mr. Gauthier reported that the EDC has been unable to meet.

Mr. Philhower reported that he had nothing to report from the Midstate Regional Planning Agency.

Mr. Rux reported that he had nothing to report from the Water Development Task Force.

**Public Comments:** The Chairman opened the meeting to the public for comments regarding any item that would not be covered under the Public Hearing portion of the meeting. There were none.

**4. Set Public Hearing(s) for August 3, 2011:**

**A. Application of Hope Church, 0000 East High Street, for Text Amendment, Special Permit, and Site Plan Review of Proposed Church and Community Center – Map 32/Block 86/Lot 18.**

**5. Read Legal Notice: Staff read the legal notice into the record.**

**6. Public Hearing for July 6, 2011:**

**A. Application of Town of East Hampton, 60 North Main Street, Sears Park Master Plan for Site Plan Modification Review – Map 04A/Block 63B/Lot 20 – Continued from June 1, 2011:**

Brian Long, Professional Engineer with CLA Engineers, was present to discuss the plans with the Commission. He distributed a revised Site Development Plan, last revised on 07/06/2011, photographs of two possible examples of gazebos, and Commitments Related to Sears Park Project to the Commission. Mr. Long explained that the Parks and Recreation Department and the Parks and Recreation Advisory Board have agreed to some revisions to the plan that will be pertinent to the PZC site plan review.

The skate park and the tennis courts will remain in size approximately as they are now. The skate park was moved to a location that had been previously planned for Rain Garden No. 3. That rain garden has been combined with Rain Garden No. 4. This rain garden's overall footprint was increased and its depth was increased from 12 to 18 inches to provide the required volume for water quality and also to serve as a detention area to reduce the flows of water down and across the beach. It is sized to contain the 100 year storm.

The applicant has also opted to retain the jetty. It has been determined that leaving the shoreline in its existing condition and continued retention of the beach area behind the timber wall will aid in attempts to deter sand migration and eliminate the need to fill a wetland in the vicinity of the proposed volleyball court. This change has been made, in part, as a condition of the IWWA permit. A continuous timber retaining wall will be in place from the north of the proposed volleyball court south to the southern property line. The beach area will remain west of this timber retaining wall.

Mr. Long reported that there will be a total of 54 plantings, 19 trees and 35 other plantings, to be removed from various places to allow for the realignment of the parking. There are 51 new plantings of trees and shrubs to replace those to be removed. This includes 17 trees and 34 plantings. At the Commission's request 23 trees were saved from the original plan.

The bandshell because of issues with concerns over the types of performances, crowd control, and noise has been replaced with a performing arts gazebo. The examples of potential gazebos were distributed earlier in the meeting. This will be in the same location as the previously planned bandshell.

The Phasing Plan has been called out on Sheet No. 2 of the Site Plan. The phases have been outlined and named. The order of its completion is dependent upon the availability of funding. The funding for the Performing Arts Gazebo is in place and that will be the first phase to be completed.

Ms. Plummer, Director of the Parks & Recreation Department, indicated that following the gazebo the priority for phasing will be to move the boat launch and install the boat ramp as funding is available.

Mr. Chalder, Interim Town Planner, explained that the intent is setup the Phasing Plan so that each phase will be capable of operating independently with erosion and sedimentation controls in place. If funding is not in place in any specific order the individual phases will be self-sustaining and the Commission will be assured that the overall plan is viable as it progresses.

Mr. Long referred the Commission to the Erosion and Sedimentation Plan as it is called out for the separate phases on Sheet No. 7.

The locations of the right-of-way easements are now indicated on the Site Plan. The Town is in the process of working out a land swap with the property owners to the north of the Park. This will relinquish their rights to the right-of-way in exchange for a small piece of property that is not part of the Park plan fronting North Main Street.

The existing drainage culvert located on the south of the property has never actually been located. During a recent storm the Park employees noted the location of a "geyser" in the vicinity of the area where the location of the outlet is suspected. The culvert will be removed during the Park renovation. A new culvert will be installed from the catch basin on the south side of the Park. The new culvert will be the outlet to the rain garden for treatment and the underdrain will outlet in a similar location.

Mr. Long reported that the emergency entrance for the gravel parking area to the south, adjacent to the tennis courts, has been separated from Sears Lane in the revised plan. It will be gated off and the main access will be through the Park on the other end of the parking area. The strip of land between the parking area and Sears Lane will be a reinforced grass strip for emergency access. There will be a locked gate.

The stockade fence trash enclosure has been removed from the plan. The Park doesn't use that type of trash removal.

The Site Plan has been corrected to reflect an existing gravity sewer line from the existing bath house to a sewer system that runs parallel to the shore. The existing service line from the bath house is directly under the location for the new bath house. This existing service line will be used to connect the new bath house to the sewer.

Parking as it exists now is 46 spaces for cars and approximately 8 boat spaces. The proposed parking will accommodate 40 parking spaces for cars and 27 employee parking spaces, in the gravel parking area, and 9 boat spaces adjacent to the new boat launch. The employee parking area will be used for overflow parking for special events when camp and swimming lessons are not in operation.

Mr. Chalder reported that he received the plans this afternoon and he has reviewed them. He believes the comments of the last meeting have been addressed. Parks and Recreation has submitted their commitments in regard to the operations of the facility. The change from a bandshell to a gazebo and the continuation of the types of operations that have always been in place have alleviated the concerns associated with the bandshell. The commitments regarding the amplification of noise are appropriate. Limiting the noise level

to 60 dBa from 9 a.m. to 10 p.m. would be appropriate. Staff does believe that the concerns raised last month have been addressed appropriately.

The Chatham Health District has reviewed the Site Plan and has provided the Commission with a letter indicating that future coordination with the District will be appropriate during actual construction; however, the plans have been reviewed and are acceptable as submitted.

The IWWA has permitted the activities as reflected in this Site Plan.

The Commission discussed the revisions as submitted this evening. Mr. Rux discussed concerns regarding handicap accessibility to the Lake. The extension of the timber retaining wall will eliminate what accessibility there is. The Commission agreed that current access to the Lake is not fully compliant with ADA requirements. Going forward this would be the time to rectify that situation.

The Chairman opened the meeting to the public at this time. There was no one present to speak to this application.

*Mr. Philhower moved, and Mr. Gauthier seconded, to close the public hearing for the application of the Town of East Hampton, 60 North Main Street, Sears Park Master Plan for Site Plan Modification Review, Map 04A/Block 63B/Lot 20. The motion carried unanimously.*

*Mr. Zatorski moved, and Mr. Rux seconded, to approve application of Town of East Hampton, 60 North Main Street, Sears Park Master Plan for Site Plan Modification Review, Map 04A/Block 63B/Lot 20 as depicted in plans submitted at this meeting dated November 2010, revised 06/22/11, and last revised on 07/06/2011 with the following conditions:*

- *Add ADA compliant access to the beach and water;*
- *The noise level shall be limited to 60 dBa from 9 a.m. to 10 p.m.;*
- *All IWWA Permit conditions are met; and*
- *Commitments Related to the Sears Park Project submitted to the Commission on 07/06/2011 are met.*

*This motion is made for the reasons that the plan as proposed and amended meet the requirements of the zoning regulations and it is a benefit to the Town to improve Sears Park for the betterment and enjoyment of our citizens. The motion carried unanimously.*

#### **B. East Hampton Zoning Regulations, Section 21, Parking Requirements:**

Mr. Chalder reported that he has revisited the Regulation regarding concerns the Commission expressed regarding the numbers of parking spaces required. He explained that he has added provisions for the Commission to evaluate use and ensure that appropriate parking numbers are established specific to the project being reviewed. He also addressed pervious parking. These edits have been reviewed by Horsley Witten and The Nature Conservancy. They did respond with minor comments which have also been incorporated. The version of June 21, 2011 is the most recent and addresses all the concerns and comments of and subsequent to the last meeting.

The Commission agreed to insert the clause, "...unless modified or waived by the Commission," after the word "Location-", and before "Such..." in Section 21.9.3. The Commission also removed the word "where" in Section 21.9.3.d.

The Chairman opened the meeting to the public at this time. There being no comments, *Mr. Philhower moved to close the public hearing. Mr. Kuhr seconded the motion. The motion carried unanimously.*

*Mr. Philhower moved, and Mr. Gosselin seconded, to approve the East Hampton Zoning Regulations, Section 21, Parking Requirements, effective August 1, 2011, as amended thru revisions dated June 21, 2011, and including the revisions made during this meeting, because it updates the Zoning Regulations with guidance from the Horsley Witten Group and The Nature Conservancy to promote healthy watershed development and provides appropriate flexibility where necessary. The motion carried unanimously.*

**C. Application of LCS Properties, LLC, for an Amendment to Zoning Regulations Section 7.11:**

Attorney Harry Heller, Uncasville, was present to represent the applicant. He explained that the Commission received a brief presentation on this application during a Pre-Application Discussion last year. The application being considered this evening is an application for a text amendment to the Zoning Regulations. Currently Section 7.11 is a floating zone regulation for the Housing Opportunity Development Zone (HOD). The proposal before the Commission is to make Section 7.11 an enabling provision in the Regulations for HOD Zone, a Mixed Use Development District (MUDD), being proposed this evening, and also other floating zones which the Commission deems warranted in the future.

Mr. Heller explained that floating zones which are enacted through the adoption of a master plan provide greater flexibility both to the applicant and to the Commission to craft development projects which are a sound development for the community, economically viable, and an asset without the constraints attached to typical Euclidean zoning regulations.

The proposal for Section 7.11.B, Mixed Use Development District, will be allowed in certain underlying zones which will allow a mixture of commercial, recreational, residential, governmental, and open-space uses designed in a comprehensive planning scheme to create lifestyle communities. The applicant envisions a typical, New England, village-type setting. The first phase will entail a mixture of commercial, office, and retail uses on the first floors with second and third floor residential, multi-family housing, recreation, and governmental uses. Specific uses for storage facilities, maintenance garages, etc will be excluded. Churches, town facilities, recreational facilities will be included.

This Zone will require that infrastructure is available or capable of being extended. There are specific parameters that limit the areas within the community where a development of this nature may be sited. Transportation access, utilities, and other governmental infrastructure must be considered when placing this floating zone. This regulation was formulated to enable the Edgewater Hill project. In doing so the applicant strives to craft a regulation that will be broader than necessary for Edgewater Hill and sound legislation for

the Town of East Hampton; providing greater flexibility in considering and enabling life-style communities in the future.

In adopting a planned development district the first step contemplated by the regulation is the submission for the Commission's consideration of a master plan. The next step is the adoption or approval of a site plan. Every project enabled under this regulation is a two-step process. The Master plan is a proposed amendment to the Zoning Map. An application must be submitted to land the MUDD on a particular parcel or combined parcels of land. If the zone change is approved the master plan then becomes the zoning for those parcels and will take precedence over the zoning regulations in the underlying district.

The site plan approval process has been planned to allow the Commission greater flexibility and discretion than in a typical site plan application under existing regulations. This amendment has built in legislative flexibility in the site plan review process for the Commission to evaluate the consistency of architectural-style, screening, and lighting with the proposed neighborhood to ensure harmony with the existing district.

Mr. Heller pointed out that Section 7.11.B.1 incorporates a provision to allow some flexibility in deviation from the master plan. As compensation for that flexibility the proposal includes the ability of the Commission to enjoy elevated discretion during the site plan review process. Projects of this nature are subject to a number of factors that affect the viability of the project. Breaking the project into phases over a number of years with a somewhat flexible master plan allows the developer to adapt the plan to market demands, financing requirements, and capital contributions to keep the project viable. This is addressed in the text amendment by allowing the developer to deviate from the master plan by decreasing the scope by up to 25% and by increasing the net square footage up to 10%. Any deviation more significant would require an application for a modification of the master plan. Anything that was not a substantial and material change would be considered under the site plan review parameters that are incorporated into the regulation.

The district is designed to encourage mixed-use developments incorporating a neighborhood concept for separate and distinct neighborhoods. A unified design criteria, including comprehensive architectural style, provisions for open-space, recreational areas, pedestrian linkages between nodes within the MUDD are incorporated as well. Pedestrian movement and access are important components of the MUDD.

The intention of a MUDD is to provide an environment in which residents can live, work, and recreate. They are holistic communities like an old New England village where residents have the opportunity to conduct many aspects of their life within the community. The regulation recognizes that there must be a benefit to the community of East Hampton as well. Those benefits include expanding the tax base and employment opportunities. Non-residential uses must be satisfied prior to proceeding with the development of residential uses within the mixed use community. There are minimum requirements for the non-residential uses in each phase of the development. The developer can aggregate the non-residential uses for future phases as long as the standard balance is maintained throughout the project.

Mr. Heller explained that this regulation is a blend between two regulations. The Town of Montville drafted a similar regulation that was never actually submitted because the project

did not move forward. The Town of Stonington adopted a regulation similar to this. Mr. Heller entered into the record a narrative on the Hop Brook Development in Simsbury, Connecticut. It is not tailored to this regulation but has many similar types of elements. It will provide the Commission with a concept of what to expect from the proposed development.

Chairman Zatorski requested staff to look into the percentage of proposed dwelling units to be designated as affordable and the density bonus correlated to the percentage. He also requested insight into the minimum requirement of 60 contiguous acres.

Steve Motto, LCS Properties, LLC, discussed his willingness and interest in pursuing financially feasible renewable energy for the development. There is no requirement in the text amendment for this of energy.

Mr. Heller explained that an applicant for a MUDD must have an ownership interest in some property within the district. That applicant does not have to own all of the property within the district. The consent of each non-applicant owner must be submitted to the Commission in conjunction with an application for a MUDD.

The underlying zones upon which a MUDD can be landed are the Commercial, Professional Office/Residential, and Design Development Zones. The commercial uses mirror uses currently allowed in the Commercial, Design Development, or the Village Center Zones. It includes bars, taverns, and night clubs. It excludes gas convenience, gas filling stations, and automotive repair. The text amendment does allow gasoline sales as an accessory use to primarily retail business. MUDD are not allowed in residential zones.

Mr. Heller explained that the regulation will require three performance standards that must be satisfied in addition to having the appropriate underlying zoning. The first is a minimum of 60 acres. The second is that it must have access to a major arterial street as defined in the Town Regulations. Finally, the area must be served by public sewer and public water.

The Chairman asked that Town Staff carefully review and consider the text amendment as it refers to the application procedure, qualifications of traffic engineer, engineer specializing in parking, and the Signage Plan.

Mr. Heller explained that Section 7.11.B.3.2.f, Additional Information, is included specifically to allow the Commission to require additional documentation at the Master Plan stage.

The Chairman requested addition explanation on Section 7.11.B.4, Criteria for Decisions on Change of Zone and Master Plan.

Mr. Heller explained that the intent of Section 7.11.B.4.2, General Findings, is to define the discretion that is afforded to the Commission in acting on the master plan. Items A through D are the typical types of performance standards as seen in zoning regulations for approval of special permit applications. They define the discretion of the Commission to ensure that the landing of the zone is compatible with the neighborhood, will not adversely impact property values or traffic, and will not inhibit future development of adjoining properties.

Mr. Chalder questioned the need for the language in Section 7.11.B.4.2 and is concerned that instead of increasing the Commissions discretion it may limit it. Mr. Heller indicated

that he would be willing to work with the Commission to clarify this intention in the regulation.

The Chairman requested that Staff review Section 7.11.B.5.2. He indicated that no other regulation has allowed that many units in building.

Mr. Heller explained that it is important to the developer to create buildings of this size. They have built in architectural standards requiring an attractive style and giving the Commission discretion to consider, improve, and modify the designs.

Mr. Rux discussed his concerns regarding appropriate review of this application.

Mr. Chalder explained the statutory time constraints on the application. He further explained that the reason the Planning and Zoning Office suggested that the hearing be kept open until August is that the applicant has been before the Commission twice before for informal discussions. Mr. Carey has been involved until this point. The hope was that he would be back in time for the public hearing. This has not happened. Keeping the public hearing opened until August will give Mr. Carey the opportunity to return, coordination of comments and observations from this meeting with Mr. Carey's history with the project, and provide the Commission with a report before the August meeting.

The Chairman opened the meeting to the public at this time.

Henry Osipa, 122 Laurel Ridge, spoke to the Commission as both a tax payer and a Past President of the Laurel Ridge Homeowners Association. He explained that the developer has had an informal meeting with the Homeowners Association regarding this application. The consensus of the Association is supportive of this project and the developer.

John Parra, 8 South Hollow, is the current President of the Laurel Ridge Homeowners Association. He has spoken in support of this project before and continues to speak in favor of this project and the developers. He also believes it will be good for the Town as well as the neighborhood.

Sharon Reed, 58 Laurel Ridge, Homeowners Association Board Member, discussed her experience with a MUDD. The project is Eagle View in Exton, Pennsylvania and was developed by the Hankin Group. It improved the town considerably. She also spoke highly of Steve and Lisa Motto.

Mr. Gauthier believes that there should be no reference to types of energy in the regulation.

The Commission questioned the meaning and intent of the 25% reduction to any component in relation to the 10% increase in the square footage discussed in Section 7.11.B.1, Intent. Mr. Heller explained that the 25% refers to any use. The Commission believes this language is unclear.

*Mr. Philhower moved, and Mr. Kuhr seconded, to continue the public hearing for application of LCS Properties, LLC, for an Amendment to Zoning Regulations Section 7.11, to the next regularly scheduled meeting. The motion carried unanimously.*

*Mr. Philhower moved, and Ms. Wright seconded, to continue the application of LCS Properties, LLC, for an Amendment to Zoning Regulations Section 7.11, to the next regularly scheduled meeting. The motion carried unanimously.*



**7. New Business:**

- A. Application of Dream Developers on behalf of Laurel Ridge H.O.A., Site Plan Modification to eliminate the sidewalks in Phases III and IV – Schedule Site Walk:** The Chairman explained that this application was heard by the Commission during the past winter. At that time it was denied without prejudice to allow the applicant to bring the application back to the Commission at a time when it would be possible to have a site walk and consider the request with firsthand knowledge of the area. The request is to eliminate the sidewalks on the two cul-de-sacs.

Steve Motto, developer of Laurel Ridge, discussed the elimination of the sidewalks on the cul-de-sacs. He explained that the Homeowners Association circulated a petition to all the homes in Phases III and IV which was unanimously signed to eliminate these sidewalks. The developer is putting in its last foundation and is anticipating the final pavement to go in either this fall or next spring depending on how housing sales flow. Mr. Motto further discussed the residents' belief that the sidewalks encroach too much on their homes. It is also possible that Phases I and II may come forward and ask for sidewalks in those areas to be removed as well.

Mr. Rux questioned the road and sidewalk widths. He also questioned if there has been any difficulty taking emergency vehicles off road in these areas.

Mr. Motto would like to invite the members of this Commission to visit the site and walk the areas in question. Staff will provide them with contact information to proceed with the site walk.

John Parra, President of the Laurel Ridge Homeowners Association, discussed the location of the sidewalks on one side of the streets only and mentioned the unanimous petition of the residents regarding the removal of the sidewalks.

Dan Marzi, 11 South Hollow, believes that the Homeowners Association would commit to refraining from any plantings along the roads that could potentially hinder emergency vehicles.

*Mr. Philhower moved, and Mr. Rux seconded, to continue the application of Dream Developers on behalf of Laurel Ridge H.O.A., Site Plan Modification to eliminate the sidewalks in Phases III and IV, to the next regularly scheduled meeting. The motion carried unanimously.*

- B. Application of Liberty Bank – Phase 2, 2 West High Street, for Commercial Site Plan Modification to Construct an Addition to the Front of Building and a Covered Entry Way - Map 1A/Block 39A/Lot 29B:**

The Chairman explained that Commission had approved "Phase 1" of the project and requested Staff provide information on the history of sidewalks in this area. The applicant is before the Commission to finalize their project approvals by presenting a revision to "Phase 2".

Joe Wren, Professional Engineer, was present to represent Liberty Bank. He explained that Phase 2 of the project will include a new entry vestibule on the east side of the building and an addition to the front for offices. Renderings are available and have been reviewed previously. The Commission expressed concern over the elimination of a sidewalk from

the pad for the crosswalk across both Route 66 and North Main Street. The plans have been revised to include a sidewalk from that crosswalk up to the existing sidewalk on the east side of the building.

The Commission discussed lot coverage and determined that the Zoning Regulation definition of Lot Coverage enabled the Commission to consider only “that portion of the lot that is covered by building and structures”.

*Mr. Philhower moved, and Mr. Rux seconded, to approve the application of Liberty Bank – Phase 2, 2 West High Street, for commercial site plan modification to construct an addition to the front of building and a covered entry way, Map 1A/Block 39A/Lot 29B, as presented to the Commission on July 6, 2011, plans dated February 15, 2011 with last revision date of 06/24/2011. The motion carried unanimously.*

**8. Old Business:** None.

**9. Adjournment:** *Mr. Philhower moved to adjourn the meeting. Mr. Rux seconded the motion. The motion carried unanimously.*

The meeting adjourned at 9:18 p.m.

Respectfully submitted,

Daphne C. Schaub  
Recording Secretary