



TOWN OF LEDYARD

Planning & Zoning Commission

Meeting Minutes - Draft Minutes

741 Colonel Ledyard Highway
Ledyard, Connecticut 06339

Chairman
Tony Capon

Regular Meeting

Thursday, June 13, 2024

6:00 PM

Council Chambers - Hybrid Format

Join Zoom Meeting

<https://us06web.zoom.us/j/83048386913?pwd=d4eqDVZOIbUNsMeb5MNtRPXixbtvQ3.1>

Meeting ID: 830 4838 6913

Passcode: 636591

I. CALL TO ORDER

Chairman Capon called the meeting to order at 6:00 p.m. at the Council Chambers, Town Hall Annex Building.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL APPOINTMENT OF ALTERNATES

- Present** Chairman Tony Capon
Vice Chair Paul Whitescarver
Commissioner Howard Craig
Commissioner Jessica Cobb
Alternate Member Matthew Miello
- Excused** Commissioner Marcelle Wood
- Non-voting** Alternate Member Beth E. Ribe

In addition, the following were present:

- Elizabeth Burdick - Director of Land Use and Planning
- Alex Samalot - Zoning Enforcement Official

IV. PUBLIC COMMENT (NON-AGENDA ITEMS - LIMIT 3 MINS)

Eric Treaster, 10 Huntington Way, Ledyard, CT requested the Zoning Official provide him a policy for handing of complaints and enforcement actions, including Short Term Rentals.

V. APPROVAL OF ADDITIONS TO AND/OR CHANGES TO ORDER OF THE AGENDA

None

VI. OLD BUSINESS

- A. **PZ#24-1SITE** - 59 Kings Highway (Parcel ID: 92-1160-59), Gales Ferry, CT -Applicant/Agent, Peter C. Gardner, Attorney, Mark Branse, Halloran & Sage - Owner: Donco, LLC for a 10-unit Mobile Home Park/Affordable Housing Development in accordance with CGS §8-30g. *(Submitted 03-26-24, Date of Receipt 04-11-24, Tabled to 5/30/24 Spec. Mtng, Tabled to 6/13/24 Reg. Mtng, DRD 6-14-24)*

Chairman Tony Capon recused himself from this application and Vice-Chairman Paul Whitescarver assumed said role.

Director of Land Use & Planning Liz Burdick summarized her staff report.

Attorney Mark Branse of Halloran & Sage, 225 Asylum Street, Hartford, CT addressed the Commission on behalf of the Applicant stating that a revised plan to address staff comments was submitted to the Land Use Office, as well as revisions to the Affordability Plan and Park Lease. Director Burdick detailed the revisions that addressed her comments.

Peter Gardner, LS, of Dieter & Gardner of 1641 Rt 12, Gales Ferry, CT reviewed individual details sheet by sheet of the updated plans and gave an overview of the application at its current submission including: a drainage easement, detention basin flagged by a soil scientist, percolation data, utilities (public water, underground electric utilities, and onsite septic). He stated LLHD approval of the plan, that the units have 2 parking spaces per unit, that driveways & parking areas are gravel paved aprons located with considerations to sight lines.

Director Burdick addressed prior concerns of the Commission about backing out of the driveways stating that the plan has been revised so no vehicle has to back-out onto Kings Highway.

Mr. Gardner-stated all work for the application is outside the regulated Inland Wetlands and Water Course Commission (IWWC) Upland Review Area (URA) and opened the floor to address comments on the paved aprons (being less than 3% grade), and a question from Alternate Commissioner Beth Ribe about fire hydrants (no hydrants).

Director Burdick elaborated on the issue of fire hydrants including a Gales Ferry Fire Department letter dated April 11, 2024 that was part of the record. According to the letter, there are 2 hydrants (one at 39 Kings Highway and one at the intersection of Christy Hill Road and Route 12). Hydrants are annually maintained and there is a Fire Truck with a 3,000-gallon capacity that is accessible to this area. The Fire Department did not identify any access issues and can perform alternative fire fighting tactics if necessary. Ms. Burdick addressed other components of her staff report including garbage pickup, deed restrictions/affordability plan (to be referred to lawyer for comment), maintenance of overhead wires (no easement but wires have been there for some time and according to the applicant typical cherry picker equipment would access from road similar to other residential areas).

Mr. Gardner and Commissioner Jessica Cobb discussed how long the electric lines have been onsite and maintenance of vegetation.

Director Burdick discussed changes to the Affordability Plan including that affordable units may not be removed from the site, only sold to qualified buyers on site. The deed is described as a document of conveyance (change in language on affordability plan) and sheds, septic systems, and stormwater infiltration systems will be maintained by the park owner (excluding internal plumbing and laterals to units). Japanese Knotweed in the drainage basin is not to be disturbed by the applicant. The Town of Ledyard has been mowing as part of maintenance of the basin prior to this application (it serves as drainage to the nearby Senior Housing development). The Town of Ledyard will continue to mow as necessary. The applicant would need a permit for any new work in the basin or the regulated area around the basin. Furthermore, an \$8,400.00 bond for soil and erosion controls was referred to the town engineer, reviewed and approved. Additional items that were addressed include plan revisions for clarity and the final plans being signed by the appropriate licensed professionals. Ms. Burdick commented on a lot size discrepancy and the applicant agreed to file the current survey on the land records so that when done the Ledyard Assessor could change her records. Recreation areas have been updated to be a passive area with picnic tables with a short gravel & stone dust surface path, parking spaces have been delineated, a location for trash containers and lighting details are included in the new plans. Soil Erosion and Sediment Control Narrative has been updated to show compliance with the State of CT Guidelines Revised to March 30, 2024.

Attorney Branse stated the Applicant accepted recommended conditions from the staff report (see Burdick staff report dated for full list of conditions).

Town Land Use Attorney Rob Avena, of Suisman & Shapiro discussed 8-30g rules and stated he agrees with Director Burdick's recommended conditions of approval and Affordability Plan revisions to the March revision dated June 2024.

Dir. Burdick discussed suggested conditions of approval detailed in her staff report dated 5/29/24.

Commissioner Howard Craig asked if someone could challenge the restriction that the affordable manufactured homes cannot be moved from the site and his concern with the owner disagreeing. Burdick stated that since the condition is part of the Affordability Plan that anyone buying an affordable home in the development would have to abide by the restriction and could not move the home off-site. Attorney Branse stated the applicant is consenting to the condition, but it is uncommon for homes to be removed from the Park and Attorney Avena concurred. Attorney Branse states if a home is removed, the spot it is still restricted. Director Burdick commented that the Affordability plan has to be filed on land records prior to the start of work.

Commissioner Craig raised question of speed bumps installation on King Highway & Dir.

Burdick stated the construction of speed bumps on Town Roads is at the discretion of the local traffic authority, similar to any other part of the town.

Upon **MOTION** by Vice Chair Paul Whitescarver, seconded by Howard Craig, Vice Chair Paul Whitescarver motioned to **APPROVE** the above-referenced Application #24-1SITE at 59 Kings Highway, Gales Ferry, CT in accordance with the application, supporting documents and a plan entitled “Plan Showing Mobile Manufactured Home Park Development/Affordable Housing Development per C.G.S. §8-30g, Applicant/Owner, Donco, LLC, 59 Kings Highway and Christy Hill Road, Ledyard, CT, Prepared by Dieter & Gardner, Dated March 2024, Revised to June 10, 2024 **with the following conditions:**

1. The final Affordability Plan shall be approved by the Town Attorney and shall be filed on the land records prior to the issuance of any zoning permit to start work.
2. The following shall be included in the Affordability Plan and/or Model Lease as appropriate:
 - a. The affordable units shall be sold proportionate to the market rate units (roughly 3 to 1). No more than 3 market rate units shall be sold until at least one affordable unit is sold, then no more than 3 more market units. A second unit designed at 60% of median income shall not be the last affordable unit sold and shall be part of the first or second group of markets.
 - b. The affordable units may not be removed from the property but must be sold “in place” to a qualified purchaser at the restricted price.
 - c. The sheds will be provided by and maintained by the park owner, and that they will be either *on* the lease site or adjacent to it.
 - d. The septic systems, stormwater management systems, and common water lines shall be maintained by the park owner. Note: “common water lines” to exclude individual laterals or internal plumbing which might be disturbed when units are replaced by the unit owner).
 - e. Any designated affordable housing unit removed from the site shall be replaced by a unit that complies with the Affordability Plan.
3. Any changes to the Affordability plan shall be submitted in writing to the Ledyard Zoning Official, Director of Land Use & Planning and/or Town Attorney for review/approval.
4. Final design and location of mailboxes shall conform to the requirements of the U.S. Postal Service.
5. Utility connections will be underground and in compliance with the requirements of the providers.
6. Foundation covering (skirting) shall be the same design, materials and colors for all homes.
7. Stormwater infiltration system shall be maintained in accordance with the maintenance schedule shown on the approved plan.
8. Permits for individual homes shall be reviewed & approved by LLHD and Ledyard Building Official.
9. Prior to issuance of a zoning permit to start work, a soil erosion & sediment control bond shall be posted by the Applicant in the amount of \$8,400 in a form acceptable to the Town of Ledyard Treasurer.

- 10. Final revised plan sets, along with a digital copy of the final plan, shall be submitted to the Land Use Dept. & shall be signed and sealed with original signatures by P.E., L.S. & C.S.S. as required prior to the issuance of a zoning permit to start work.
- 11. An approved Zoning Permit is required prior to the start of any work.
- 12. The Zoning Official must be contacted and a pre-construction meeting shall be held at least one week prior to the start of any work.
- 13. Soil Erosion and Sediment Controls shall be installed in accordance with the approved plans and inspected by the Zoning Officer prior to the start of any work.
- 14. After work has commenced, any substantive changes to the approved site plan require review and approval by the Land Use Director and/or the Planning & Zoning Commission.
- 15. A final As-Built plan showing all site improvements per the approved plan, including finished grades, shall be submitted to the Zoning Official for review and approval prior to issuance of a certificate of zoning compliance.

RESULT: APPROVED AND SO DECLARED
MOVER: Paul Whitescarver
SECONDER: Howard Craig
AYE: 4 Whitescarver, Craig, Cobb, and Miello
EXCUSED: 1 Wood
RECUSED: 1 Capon

VII. PRE APPLICATION OR WORKSHOP
 None.

VIII. PUBLIC HEARINGS/APPLICATIONS

- A. **Public Hearing: PZ#24-2RESUB** - 96, 98, and 100 Stoddards Wharf Rd., Ledyard, CT
 Agent: Harry Heller, Esq. Heller, Heller & McCoy - Applicant/Owner: Avery Brook Homes, LLC, for an 18-Lot Resubdivision/Affordable Housing Development pursuant to CGS §8-30g. *(Submitted 3/28/24, Date of Receipt 4/11/24, PH set for 5/9/24, PH Opening Postponed to 5/30/24, PH Opened 5/30/24, PH Cont. to 6/13/24, PH must close by July 3, 2024, DRD 65 days from Close PH).*
 Chairman Tony Capon opened the hearing.

Director Burdick read into the record a letter from Attorney Harry Heller on behalf of the Applicant dated 6/11/24 requesting the public hearing for this application be continued to the July 11, 2024 regular meeting and granted the Commission a 35-day extension of time to do so. She stated that she advised Attorney Steven Studer for the Intervenor Groton Utilities of same.

Chairman Capon accepted the extension of time on behalf of the Commission and continued the hearing to the Commission's regularly meeting on Thursday July 11, 2024 at 6pm in the Town Hall Annex and on zoom.

RESULT: CONTINUE

- B. Discussion & Decision: PZ#24-2RESUB - 96, 98, and 100 Stoddards Wharf Rd., Ledyard, CT Agent: Harry Heller, Esq. Heller, Heller & McCoy - Applicant/Owner: Avery Brook Homes, LLC, for an 18-Lot Resubdivision/Affordable Housing Development pursuant to CGS §8-30g. (Submitted 3/28/24, Date of Receipt 4/11/24, DRD 65 days from Close PH).**

Discussion and Decision to be held after the close of the hearing.

RESULT: NO ACTION

IX. NEW BUSINESS

- A. PZ#24-5SITE & PZ#24-6COASTALSITE - 1761 Connecticut Route 12 (Parcel ID: 61-2120-1761), Gales Ferry, CT - Agent, Harry Heller, Esq., Heller, Heller & McCoy - Applicant/Owner, Gales Ferry Intermodal, LLC for site plan modification and coastal site plan modification approval for relocation of 6,000SF building preciously approved under Applications PZ#23-4SUP and PZ#23-5CAM. (Submitted 5/7/24, Date of Receipt 5/9/24, DRD 7/12/24).**

Chairman Capon stated **for the record that** a site plan modification does not require a public hearing and there is no opportunity for public comment.

Director Burdick summarized her staff report. She stated that the application is for modification of the site plan/coastal site plan to relocate a 6000SF building previously approved by the Commission under Application #23-4SUP & 23-5CAM on August 10, 2023. She stated that this request did not require another separate special use permit because the use remains the same with the relocation. For this reason only a modification is required.

Director Burdick stated for the record that statutory requirement to notify the Town of Montville within 7 days of receipt of the application was inadvertently missed and therefore the notice sent on 6/7/24 was defective. The Montville Town Clerk & Director of Land Use & Development acknowledged receipt of the referral by email on 6/10/24 but did not acknowledge official receipt of the Notice until such time as it was received via certified mail.

Director Burdick stated she referred the application to Eimy Quispe of DEEP Land and Water Resource Division who provided a response dated 6/13/24 that stated in relevant part " Thank you for your email and sending over the above noted referral to our office. Please note that at this time, we don't have significant concerns with the subject proposal based on a very cursory review of the proposed modification. If the record remains open into next month we can do a more in depth review and provide comments then."

Director Burdick summarized a letter received from Steve Masalin dated 6/13/24 regarding the application that stated in relevant part, "I am in receipt of the demonstration drawing of the revised location of the 6,000 sq ft building associated with the subject application and the related Stormwater Management Report dated April 25, 2024. I understand that there are only minor changes associated with the move of this building from a drainage standpoint, including an increase of about 700 sq ft of impervious surface and some additional stormwater drainage infrastructure related to the work that accommodates the relocation. I have been able to give the stormwater features of this application a cursory review and have found no real change in my findings from the previously approved plans. The stormwater report demonstrates retention of not only the water quality volume, but the full volume of runoff up to the 100-year storm event. Furthermore, the proposed stormwater management measures also reduced post-development peak flows for all analyzed storm events though again, the 100 year volume. As such, I don't have any significant concerns with the subject proposal based on this review of the proposed modification. I can provide additional comments if noted based on a more thorough review, if the record remains open."

Attorney Harry Heller, of Heller, Heller & McCoy of 736 Route 32 Uncasville, CT addressed the Commission representing the applicant, Gales ferry Intermodal, LLC. He stated the application that is before the Commission is an application for a modification of a site plan and coastal site plan reviewed and approved by the Commission in the summer of 2023 with final decision in August 2023.

Attorney Heller noted that the relocation request not only is cost saving to the applicant but also satisfies the concerns that residents made during public hearings in the summer of 2023 to locate the building in the current proposed location. Attorney Heller shared specifics regarding the special use application that was approved in 2023. In 2023 the Commission approved the additional marine contracting repair aspect to be accomplished in two buildings in the 6,000 sq ft building and the 10,000 sq ft building together with the associated lay down area. Attorney Heller stated that use has not changed. What is proposed in this application is the relocation of the 6,000 sq ft building. The proposed relocation of this building is much closer to Route 12. Attorney Heller referenced the new proposed location on the map displayed. Attorney Heller noted that the new building location results in about 700 sq ft of additional impervious area. Attorney discussed access to the property. Attorney Heller referenced public hearings held in the summer of 2023 in which residents expressed a desire to have the building relocated to this proposed location.

George Andrews, P.E., of Loureiro Engineering, LLC addressed the Commission in regard to the storm water management protocol and changes related to the proposed relocation. Mr. Andrews noted that all the drainage on the site remains the same as the original 2023 application except that which is related to the 6,000 square foot building. Mr. Andrews illustrated the change in drainage on the map displayed. Mr. Andrews shared drainage plans related to potential storm events. Mr. Andrews shared a high-level summary of the storm water management plan that's included in the storm water management report submitted by Lourier Engineering.

Attorney Heller asked Mr. Andrews to discuss volume to the Commission stating that what's being done here is not typical on a site.

Mr. Andrews noted to the Commission that the total volume of runoff from Route 12 discharges down into a kettle that we're using for infiltration. Now we're adding the newly paved area with the 6,000 sq ft to the same kettle instead of having it discharged to a lower portion of the site per the original approved permit. The total volume of runoff from the site has been reduced with this change.

Attorney Heller addressed the jurisdictional issue with respect to the notice to the Town of Montville. Attorney Heller stated that in the planner's staff report you saw that the notice of Town of Montville was not provided by certified mail within the statutory time frame. Attorney Heller stated it was a somewhat uncalled for response from Montville that they would only respond to a notice that was only sent by certified Mail. Attorney Heller explained that there are two types of notice under Connecticut law, the first type is called Constructive Notice which is required to be published in the newspaper twice with respect to any application being considered by the Commission. That constructive notice confers subject matter jurisdiction on the Commission to entertain an application. Attorney Heller also stated that noncompliance with the with the Constructive Notice requirements, the law says you do not have jurisdiction to entertain and act on the application. Attorney Heller then stated that there is a second kind of notice called Personal Notice that takes several different forms. Attorney Heller stated that there is a notice requirement in section 87F of the Connecticut General Statutes to adjoining municipalities. Attorney Heller stated that the notice which was given to Montville did not comply with the language of the statute. However he continued, this matter was considered in the same circumstances in the case of Lauer vs Zoning Commission of the Town of Redding.

Attorney Heller stated that with the clear conclusion that there can be no possible impact on the town of Montville or its residents from this application as it is moving the building further away from it, the applicant is willing to take the risk that the Town of Montville appeals and requested the Commission move forward with the proceeding.

Attorney Heller stated with respect to the coastal site plan application the Coastal Management area is 1,000 ft from the main high tide line of tidal waters so anything within foot strip, in this case the Thames River, is within the CAM zone and requires CAM review and that DEEP LWRD has performed their review.

Attorney Heller stated that this application does not impact outlined coastal resources. Attorney Heller stated that in the narrative we submitted with the application we are proposing no mitigation measures because we have not identified any adverse impacts to coastal resources. The Coastal Management Act is to encourage water dependent uses within the coastal zone including the shore lands within the coastal management area. The facility which is proposed would be accommodated in the 6,000 sq ft and the 10,000 sq ft building

as well as the laydown area are all related activities associated with our client's marine contracting and dredging business. The use that is proposed is a marine dependent use and satisfies the goals outlines in the Coastal Management Act.

Attorney Heller stated that the application is compliant with your zoning requirements as well as being engineered with best practices in terms of drainage and should be approved by the Commission.

Attorney Avena agreed with given interpretations and statements from Attorney Heller regarding Notice.

Director Burdick stated the proposed modification is a minor change in the characteristics of the site plan previously approved with conditions by the PZC on August 10, 2024 for Applications PZ#23-4SUP and PZ#23-5CAM that was thoroughly vetted by staff at that time and recommended conditions for any favorable approval as follows:

1. All conditions of the 8/10/24 approval of Applications PZ#23-4SUP and PZ#23-5CAM listed in the Notice of Decision to the Applicant, Gales Ferry Intermodal, LLC, dated August 14, 2023 shall be conditions of approval for Application #24-5SITE & 24-CAM for site plan modification for relocation of a previously approved 6,000SF building.
2. Prior to issuance of a zoning permit to start work, a Soil Erosion & Sediment Control Bond shall be submitted in a form acceptable to the Town of Ledyard Treasurer in the respective amounts of \$103,312 6000SF building and \$196,870 10,000SF building.

Attorney Heller stated that the applicant agrees to the proposed conditions of approval.

MOTION, by Chairman Capon to APPROVE **PZ#24-5SITE & PZ#24-6COASTALSITE - 1761 Connecticut Route 12 (Parcel ID: 61-2120-1761)**, Gales Ferry, CT - Agent, Harry Heller, Esq., Heller, Heller & McCoy - Applicant/Owner, Gales Ferry Intermodal, LLC for site plan modification and coastal site plan modification approval for relocation of 6,000SF building previously approved under Applications PZ#23-4SUP and PZ#23-5CAM with the following conditions PZ#23-4SUP and PZ#23-5CAM with the following conditions:

1. All conditions of the 8/10/24 approval of Applications PZ#23-4SUP and PZ#23-5CAM listed in the Notice of Decision to the Applicant, Gales Ferry Intermodal, LLC, dated August 14, 2023 shall be conditions of approval for Application #24-5SITE & 24-CAM for site plan modification for relocation of a previously approved 6,000SF building.
2. Prior to issuance of a zoning permit to start work, a Soil Erosion & Sediment Control Bond shall be submitted in a form acceptable to the Town of Ledyard Treasurer in the respective amounts of \$103,312 6000SF building and \$196,870 10,000SF building.

RESULT: APPROVED AND SO DECLARED

MOVER: Tony Capon

SECONDER: Howard Craig

AYE: 5 Capon, Whitescarver, Craig, Cobb, and Miello

EXCUSED: 1 Wood

- B. PZ#24-7ZRA - Applicant, Eric Treaster for proposed amendments to various sections of the Ledyard Zoning Regulations, inc.** Table of Contents, Section 2.2 (Definitions), Pg 5-3 (Uses Res Districts), Pg. 6-7 (Uses Non-Res Districts), Pg 8-14, Sec 8.16 (Excavation), Pg. 5-1 Sec. 5.2 (Dim Reqs. Res Zones), Pg 5-2, Sec. 5.3 (Uses Res Districts), Pg 6-2 Table 6.2.1 General Guidelines: All Development, Cluster & Transition Districts), Pg 6-4 Sec. 6.4 (Permitted/Special Permits Uses Non-Res Zones), Pg. 8-25, Sec. 8.28 (Residence, Multi-Family), Pg 8-26, Sec 8.28.E (Off-Street Parking), Pg 8-26, Sec. 8.28.F (Max Bldng. Height Multi-Fam), Page ii Table of Content (Reserved) & Sec8.3 (Reserved) to add “Affordable Housing Developments (R.I.G.L. §8-30g Applications).” *(Submitted 6/5/24, Date of Receipt 6/13/24, PH must open by 8/17/24).*

Without objection this agenda item is postponed to the PZC regular meeting to be held July 11, 2024 at 6:00pm in the Town Hall Council Chambers and via zoom.

RESULT: POSTPONED

X. APPROVAL OF MINUTES

- A. Draft Regular Meeting Minutes - May 9, 2024
- B. Draft Special Meeting Minutes - May 30, 2024

Chairman Capon stated without objection the regular meeting minutes May 9, 2024 are approved.

Chairman Capon without objection the special meeting minutes of May 30, 2024 are approved.

XI. CORRESPONDENCE

None.

XII. REPORTS

A. Staff Reports

Director Burdick stated she has been busy reviewing applications.

Alex Samalot summarized the staff report submitted with the agenda.

XIII. ADJOURNMENT

Without objection the meeting adjourned at 7:45pm.

Respectively Submitted,

Chairman Capon
Planning and Zoning Commission

DISCLAIMER: Although we try to be timely and accurate these are not official records of the Town.