

**PLANNING AND ZONING COMMISSION
REGULAR MEETING – MINUTES
APRIL 23, 2014 – 7:00 PM
ANN ANTOLINI SCHOOL – CONFERENCE ROOM – 30 ANTOLINI ROAD**

PRESENT: Chairman James Steadman, David Krimmel, Daniel LaPlante, Gil Pratt; Alternates Robert Moore and Martin Post; Land Use staff Certified Zoning Enforcement Officer Rista Malanca and Recording Secretary Stacey Sefcik.

ABSENT: Ted Stoutenberg; Alternate Peter Ventre.

Chairman Jim Steadman called the meeting to order at 7:00PM. All regular members present were seated for the evening. Alternate Robert Moore was seated for Ted Stoutenberg. The proceedings were recorded digitally and copies are available in the Land Use Office.

1. PUBLIC HEARINGS:

A. Satan's Kingdom, LLC, and Richard L. Sundgren, Jr. – Zone Change From R-1.5 to Industrial Park – Properties Located on the South Side of Main Street (Route 44) Abutting the Town Line with Canton (Assessor's Map #043-047-3-4-5 and Assessor's Map #043-047-006).

Allan Borghesi, PE, addressed the Commission on behalf of Satan's Kingdom, LLC regarding this matter. Mr. Borghesi submitted proof of notice to abutting neighbors. The Recording Secretary then read into the record the legal notice for this public hearing. Mr. Steadman noted that there was information from the Town's planning consultant in the file that the Commission had not yet had time to review.

Referencing maps and plans of the site, Mr. Borghesi then explained the zone change proposal. He explained that Satan's Kingdom, LLC had purchased a sizable lot from Connecticut Sand and Stone, of which a portion was the subject of this public hearing; the larger portion of the parcel was located in the Town of Canton. Mr. Borghesi explained that the lot did not directly front on Route 44; the State of Connecticut had taken possession of an area to the front of this property. There is currently a gated accessway from Route 44 onto the site; this is a right-of-way belonging to the Metropolitan District Commission (MDC) to enable access to a strip of land along the Farmington River that is owned by the MDC. He explained that there was a water main through the property that carried water from the Barkhamsted Reservoir to Reservoir #6 on Avon Mountain.

Mr. Borghesi stated that he wished to obtain a zone change for both the Satan's Kingdom, LLC property and the Sundgren property. The Satan's Kingdom property had at one time been used for a gravel removal operation. Between the previous use of the property for gravel removal and the presence of the MDC right-of-way, Mr. Borghesi expressed the belief that the property was not suitable for residential development. Mr. Sundgren owns the smaller property which is accessed from a dirt road on the Satan's Kingdom, LLC property; he was contacted and expressed a desire to have his piece of property included in the zone change as well.

The larger property had previously been worked as a gravel pit, and there was an accessway through the site that led to Mr. Sundgren's property and the strip of land along the Farmington River that was owned by the Metropolitan District Commission. Mr. Borghesi stated that he had contacted Mr. Sundgren, and he had agreed to add his property to the zone change application. Mr. Borghesi stated that the MDC had been notified of the proposal, and they had commented that they had no objections as long as the water main area was not disturbed. He explained that any development of the site would use the existing accessway. He said that they did not plan intense development on the New Hartford portion of the property; he only anticipated 1-2 users on the site. Mr. Borghesi said that the area where the gravel had been partially mined at the center of the property would likely be the area of the site where development would occur.

Mr. Borghesi noted that the Farmington River Overlay Zone covered the area of the property along the riverbank. He said that that area of the property was also very steep; because of this they intended to keep all development outside of the Farmington River Overlay Zone as well as a 50-foot area beyond the Farmington River Overlay Zone.

Mr. Post questioned whether Mr. Borghesi had any businesses already planned to use the site. Mr. Borghesi stated that no contracts were in place as of yet, but he did not envision a building with large square footage; he estimated a building of 10,000 square feet at most. He also anticipated that any potential development onsite would only generate modest traffic. Mr. Post stated that his concern was not so much with regard to the size of the building, but rather the type of business onsite. Ms. Malanca suggested that the Commission review the use table in Section 4 of the Zoning Regulations, which detailed what uses would be permitted in the Industrial Park Zone, and what level of application would be required for each. Mr. Borghesi noted that the regulations were very detailed, and he pointed out that the Commission would review any proposal before the project could go forward. Mr. Krimmel stated that the Commission should consider whether the area is better zoned for residential or is it better suited for another use. Ms. Malanca also encouraged the Commission to review the zone change application against the Town's Plan of Conservation and Development (POCD). She noted that the Town's Planning Consultant, Marty Connor, had determined that the proposal was consistent with the POCD.

Mr. Pratt noted that Mr. Borghesi had also purchased adjacent property in the Town of Canton, and he questioned whether a similar zone change application had been filed in Canton. Mr. Borghesi stated that it was his intention to do so, but it had not yet been filed. He estimated that the application would be submitted to the Canton Land Use Office within the next 30 days.

Hearing no further questions from the Commission, Mr. Steadman opened the floor to public comment.

George Frascarelli, 50 Mohawk Drive, Canton, addressed the Commission in opposition to the proposal. Mr. Frascarelli stated he preferred the property to remain residential, and he expressed concern that development of the site would lead to increased public access to the riverfront. He feared that more people visiting the riverfront would lead to damage to the area and a loss of a valuable natural resource.

Laura Fracarelli, 50 Mohawk Drive, Canton, next addressed the Commission in opposition to the proposal. She noted that the property was surrounded by residential properties, both in New Hartford and Canton. She stated that development such as that described by Mr. Borghesi would adversely impact their property values.

The following letters were then read into the record:

- A letter from Martin Connor, AICP dated April 9, 2014 which stated that the zone change proposed was consistent with the 2005 Plan of Conservation and Development.
- A letter from First Selectman Daniel Jerram dated April 22, 2014, which expressed support for the application.
- A "Notice of Proposed Zone Change, Subdivision, or Town Plan Update" from the Northwest Hills Council of Governments, which classified this proposal as a Type 2 change that could potentially affect an adjacent municipality. The notice also detailed concerns about potential future industrial uses in close proximity to the Farmington River; however, it noted the Town had a Farmington River Overlay District and that the area immediately adjacent to the river was owned by the MDC. The NHCOC expressed desire for any future zoning applications for industrial use of the property to address concerns about impact to the Farmington River.
- A letter dated April 15, 2014 from David Childs, Chairman of the Town of New Hartford Economic Development Commission (EDC), stating the EDC's unanimous support for this application.
- A letter dated April 22, 2014 from the Metropolitan District Commission which stated that the MDC took no position on the zone change application. However, they wished to note the presence on the property of 48-inch water transmission pipeline and to reiterate that any future use of the property must not interfere with the MDC's right-of-way and water main.

Lynn Hunter, 46 Mohawk Drive, Canton, then addressed the Commission stating that her property abutted both the New Hartford and Canton parcels owned by Mr. Borghesi. She questioned how many buildings Mr. Borghesi proposed. Ms. Malanca pointed out that the Commission only had jurisdiction over the activities within New Hartford; questions about development on the Canton portion of the property would be best addressed when and if Mr. Borghesi applied for a zone change in Canton. Ms. Hunter expressed the belief that the Commission should know exactly what is planned for the entire parcel before it rendered a decision. She noted that she and others in her neighborhood had purchased their properties under the belief that this property was zone residential and would therefore not be developed commercially.

Mr. Steadman then questioned whether any lot that currently had a residence on it was included in the zone change application. Mr. Borghesi stated that no houses were on the New Hartford properties included in the zone change application. He explained that there was a small house adjacent to the New Hartford parcel, which he owned and rented on a month-to-month basis. Mr. Krimmel questioned whether any comment had been received from any New Hartford residential abutters. Mr. Borghesi stated that he had been contacted by the owners of the property at the corner of Route 44 and Satan's Kingdom Road and asked whether they could include their property in the zone change application. He said that he had explained it was too late for this application, but that they could potentially make application at a later date. He noted that those property owners were present in the audience.

Donna LaPlante, Stedman Road, then addressed the Commission in support of the application. Ms. LaPlante stated that she was also a member of the Economic Development Commission, and she had been delighted to hear that the property was potentially going to be developed by a reputable firm like Borghesi Engineering. Ms. LaPlante stated that she had been Chairman of the Planning and Zoning Commission when the Farmington River Overlay Zone regulations had been adopted, and she stated that she was confident that Mr. Borghesi's proposal would in no way negatively impact the Farmington River. She noted that the Town had limited land available for industrial development along major traffic corridors, and she noted that the Town's zoning regulations contained very specific rules as to what sort of development could be on this site and how it must be done. Ms. LaPlante then stated that while she empathized with nearby residential property owners, she believed that the site was no longer suited to residential development. She noted that the property had been unsuccessfully offered for sale for residential development for a long time.

Lynn Hunter, 46 Mohawk Drive, Canton, again addressed the Commission. Ms. Hunter stated her opposition to the zone change. She questioned how the proposal could meet the requirements for being safe and conducted in an environmentally sound manner when it involved development on a property adjacent to a Wild and Scenic River.

Mary Ellen Baer, Mohawk Drive, Canton, then addressed the Commission on behalf of the Baer Pond Association. Ms. Baer said that she did not object to development of the front of the property by Route 44. However, she questioned why Mr. Borghesi would wish to go over the ridge and closer to the Farmington River. Mr. Borghesi reiterated that he intended to leave a substantial buffer area around all areas that abutted residential properties. He stated that it was his intention all along, once the application was filed in Canton, to have a meeting with all the neighboring property owners to review the buffering plans in order to ensure everyone was comfortable with the proposal.

Mr. Borghesi stated that the property had been offered for sale for residential development; however, in his opinion it was impossible to develop this site for residential use. He reiterated that the area he planned to develop was toward the front and center of the property, as that was the area that was level. Mr. Steadman questioned whether the property was within the flood plain. Mr. Borghesi stated that the area he planned to develop was not in the flood plain and did not contain wetlands. Ms. Malanca explained that this would all be reviewed as a part of any specific application for development when it came before the Commission.

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Maria Moore, Town Hill Road, noted that Mr. Borghesi stated he had no plans to develop the area near the Farmington River. She questioned whether he had considered turning that area into open space and perhaps constructing a public walkway. Mr. Borghesi stated that this actually was under consideration, stating he did not see any reason to retain that area of the property since he did not intend to develop it.

First Selectman Dan Jerram, addressed the Commission in support of the application. He stated that he agreed with the thoughts expressed in the EDC's letter to the Commission, as well as the comments made by Ms. LaPlante. He noted that the Town had limited opportunities for this type of development within New Hartford, and he hoped to see the Town take advantage of the proposal now before the Commission. Mr. Jerram noted that the Town's grand list was more reliant on residential tax base than on the commercial base. He stated that in his earlier career as an appraiser he had occasion to see other examples of Mr. Borghesi's work, and the benefits his work brought in to the communities where his developments were located. Mr. Jerram expressed the opinion that the Town of New Hartford would benefit greatly from Mr. Borghesi's development of this site.

Ms. Malanca explained to the Commission that Mr. Borghesi could also have applied to change the zoning on the property to Commercial; however, she believed the Industrial Park Zone was more appropriate. She explained that the IP Zone required larger setbacks and more landscape buffering than the Commercial Zone. She also noted that the Town's stormwater management regulations would come into play on any application for development in the Industrial Park Zone.

Mr. Moore stated that he would like to have time to review the comments received by the Town's planning consultant. Ms. Malanca suggested that the Commission could continue the public hearing rather than closing it. In this way, if the Commission had any questions they wished to have addressed by the applicant after their review, they would be able to do so. She noted that no further testimony could be taken once the public hearing was closed. Mr. Krimmel asked Ms. Malanca whether she felt there were any open issues to be addressed; she stated that she and Mr. Connor believed that the applicant had satisfactorily addressed all of their concerns.

Maria Moore, Town Hill Road, then questioned whether the application would be heard in Canton soon. Mr. Borghesi estimated it would be in about two months or so. Ms. Moore observed that it would have been preferable to have both public hearings open simultaneously.

Lynn Hunter, 46 Mohawk Drive, Canton, again addressed the Commission to ask whether a Natural Diversity database search had been conducted, and if so, what results were found. Mr. Steadman explained that that would not have been necessary for this particular type of application. Ms. Malanca explained that there was a State map and there were small isolated areas; the map would have to be superimposed on this map. Ms. Hunter then questioned whether there were noise regulations in New Hartford. Ms. Malanca responded negatively, stating that the Town did not have a noise ordinance. Mr. Borghesi reiterated that the Town of New Hartford had many protections in place such as the Farmington River Overlay Zone, the Stormwater Management regulations, and the requirements for the specific uses listed as permitted in the Industrial Park Zone.

The Commission then discussed whether or not to continue the public hearing or to close it. Mr. Pratt stated that he wanted to have time to review documents but he did not feel it was necessary to keep the public hearing open. Mr. LaPlante stated that he did not feel it was necessary to continue the public hearing.

MOTION Mr. Moore, second Mr. Krimmel, to continue the public hearing in the matter of **Satan's Kingdom, LLC, and Richard L. Sundgren, Jr. – Zone Change From -1.5 to Industrial Park – Properties Located on the South Side of Main Street (Route 44) Abutting the Town Line with Canton (Assessor's Map #043-047-3-4-5 and Assessor's Map #043-047-006)** to the May 14, 2014 regular meeting; the motion carried 3-2-0 with Mr. LaPlante and Mr. Pratt voting in opposition.

2. **PENDING APPLICATIONS:**

- A. **Satan's Kingdom, LLC, and Richard L. Sundgren, Jr. – Zone Change From -1.5 to Industrial Park – Properties Located on the South Side of Main Street (Route 44) Abutting the Town Line with Canton (Assessor's Map #043-047-3-4-5 and Assessor's Map #043-047-006).**

The Commission agreed to table this matter to the May 14, 2014 regular meeting.

3. **NEW APPLICATIONS:**

No business was discussed.

4. **APPROVAL OF MINUTES:**

- A. **March 12, 2014 regular meeting.**

MOTION Mr. Pratt, second Mr. Moore, to approve the minutes of the March 12, 2014 regular meeting as written; unanimously approved.

5. **ZONING ENFORCEMENT OFFICER'S REPORT:**

No business was discussed.

6. **CORRESPONDENCE:**

No business was discussed.

7. **OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION:**

- A. **Informal Discussion with Richard Novak regarding possible Zone Change of 65 Steele Road from R-1.5 to R-15.**

Richard Novak addressed the Commission regarding this matter. Ms. Malanca explained that Mr. Novak came in to submit a zoning permit application for a shed on his property; however, his lot was only 0.6 acres in the R-1.5 Zone, which required an 80-foot front yard setback. His entire lot was therefore located within the front yard setback, making it very difficult for Mr. Novak to do anything on his property without first obtaining a variance. She noted that, with the exception of one other property, the other properties in the area were zoned R-15, and that the R-15 Zone seemed far more appropriate for Mr. Novak's property. She explained that a zone change application would be very expensive for an individual resident, and she questioned whether the Commission would consider initiating a zone change application for his property.

After reviewing the zoning map and a map of Mr. Novak's property, several commission members concurred that R-1.5 did not appear to be appropriate for this property. Members of the Commission were tentatively in favor of such a proposal, and they suggested also contacting the other resident whose property was zoned R-1.5 in order to see if they would like to be included as well.

MOTION Mr. Pratt, second Mr. Moore, to amend the agenda to add item #7B; unanimously approved.

- B. **Informal Discussion with Karl Nilsen on behalf of Dave Hurley regarding the inclusion of 37 Greenwoods Road in study of properties suitable for the Incentive Housing Zone.**

Karl Nilsen addressed the Commission on behalf of Dave Hurley. He reviewed with the Commission a letter from Mr. Hurley's attorney, which stated that Mr. Hurley wanted to have his property at 37 Greenwoods Road included in any study of suitable properties for inclusion in the proposed Incentive Housing Zone. Ms. Malanca noted that the Commission had contacted Mr. Hurley about this a while ago, and she was very pleased to hear that he would now be interested in having his property considered. Mr. Nilsen requested that the Commission consider acting on this issue quickly so as to ensure the Town did not lose out on development opportunities.

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Mr. Krimmel expressed the opinion that the Commission should not wait for grant money to start working on this issue. Ms. Malanca explained that the grant money would be used to fund feasibility studies and preliminary engineering. Mr. Nilsen suggested that the Commission could review Incentive Housing Zone regulations implemented in other towns. Ms. Malanca said that she could send around copies of different towns' regulations to review; however, she noted that the regulations were specific to the site being developed, so what was suitable for one town might not be suitable here in New Hartford. She noted that nothing prevented Mr. Hurley from filing for a zone change right now if he felt he wished to move forward before the Commission completed their IHZ regulation work.

Mr. Jerram noted that there were funds available in the engineering account and he stated that he was willing to work with the Planning and Zoning Commission to facilitate the process of obtaining funds to move the Incentive Housing Zone project forward. Mr. Hurley addressed the Commission to state he believed this was a good time to move forward on such a development given the additional capacity of the sewer plant. Ms. Malanca suggested that the Commission focus solely on the Hurley property at this point, now that they had Mr. Hurley's approval. Mr. Nilsen said that they had some sketches prepared and they would put together a packet for the Commission to review.

C. Discussion of Land Use Administrator Position.

Mr. Jerram informed the Commission that an offer of employment had been extended to a candidate for the Land Use Administrator position.

MOTION Mr. Post, second Mr. Pratt, to adjourn at 8:56PM; unanimously approved.

Respectfully submitted,

Stacey M. Sefcik
Recording Secretary