

MIDDLEFIELD PLANNING & ZONING COMMISSION
405 Main Street
Middlefield, Connecticut 06455

Minutes of the November 19, 2018 Regular Meeting

Erin Howard called the meeting to order at 6:36 pm.

Attendance:

Members		Alternates	
X	Boyle, Kevin	X	Crocco, Mike
A	Brown, Jay	X	Hinsch, Ken
X	Ekblade, Eric	X	Wojas, Jan
X	Howard, Erin	Others	
A	Wheeler, Scott	X	Colegrove, Geoff
		A	Curtis, Brian
		X	Russ, Jerry
		A	Bailey, Ed, <i>ex officio member</i>

A=Absent
X=Present

Jan Wojas and Ken Hinsch were seated. Erin Howard also welcomed Mike Crocco as an alternate on the Commission. Mr. Crocco introduced himself to the Commission and explained that he served on P&Z in Hamden for 13 years and was chairman for nine.

Public Comment

Marianne Corona stated that CACIWC met last Saturday and she reported that Mark Branse held a workshop, focusing on Planning and Zoning. He stated that a site plan presented to P&Z is not required to have a hearing, however if a special permit is requested a hearing is required. He also mentioned a conflict of interest by members, including having worked for the applicant. Mrs. Corona also mentioned that an official of the town can appear before a board as an *ex officio* member as long as he represents the

municipality and not the applicant. In those instances, the persons must disqualify themselves and leave the room.

Ahearn Builders of Wallingford, LLC (Crestview Condo Association), Application for Special Permit or Special Exception, Modification to Site Plan; 19 Crestview Drive

Erin Howard reviewed that the public hearing had been closed at the last meeting. Anyone not present at the last meeting had listened to the recording of the public hearing.

Ms. Howard noted that the Commission had received a letter from the Resident State Trooper regarding the proposed changes to the site plan. She read the letter into the record and stated that the Resident Trooper had no objections to the proposed changes.

The Commission also received a memo from Brian Curtis. Geoff Colegrove summarized that Mr. Curtis had reviewed the sidewalks, the stop sign and streetlight. Mr. Curtis concluded that he did not see any issues in terms of adverse safety risks. Geoff Colegrove reviewed that Kevin Canning, the president of the homeowners' association, and other residents do not want these items because of the low traffic volume and small population in the neighborhood. Mr. Colegrove also reminded the Commission that Chief Tyc had testified that there have been no issues at the site. Geoff Colegrove had submitted a memo summarizing the two documents mentioned above.

There were no questions or comments from the Commissioners. Erin Howard explained that any decision made would not be based on the questions and requests of the residents, but on the information presented as far as the engineering side of things.

Erin Howard made a motion, seconded by Eric Ekblade, to approve the application for Special Permit or Special Exception for Ahearn Builders of Wallingford, LLC (Crestview Condo Association) for the modification of site plan, 19 Crestview Drive, as was presented. Motion carried unanimously.

Kevin Canning commented that the people that live in the neighborhood actually own the road and the sidewalks, along with all improvements, and the Town has absolutely no right-of-way over any of it. He felt that that would not necessarily be the case in other subdivisions. After discussion, it was commented that property owners are always responsible for the sidewalks, not the town.

Powder Ridge Mountain Park & Resort LLC, Application for Special Permit or Special Exception; Add Short-Term Event-Based Camping; 99 Powder Hill Road

Erin Howard reviewed that the Commission acted on the zone change and accepted camping in town, however it requires a special permit or that the P&Z Commission oversee it. A lot of questions remained on camping specifically at Powder Ridge.

Geoff Colegrove reviewed that Marianne Corona had mentioned Public Act 490 at the public hearing. He investigated that and found that Middlefield Holdings filed for open space assessment on October 1,

2008. The Town of Middlefield purchased the property on December 30, 2008, then selling the property to Powder Ridge Mountain Sports, LLC on September 13, 2012. The reference in the deed was for reclaiming a portion of the taxes if the property was sold prior to October 1, 2018. Under Public Act 490, there is a provision for recapture of taxes over 10 years of the filing. In year one, the open space assessment would be 10 percent of the sale price that would go to the town. In year 10, 1 percent of the sale price would go to the town. The property has been in open space assessment for 10 years as of October 1, 2018, therefore there would be no penalty if the property were sold today.

Mr. Colegrove went on to explain that the proposed campsites are identical to the areas previously approved in the expanded parking plan and in the 2016 plan that had been filed. The assessor has the option to adjust the geography of the areas designated to be classified as open space under Public Act 490. A staff meeting was held on October 31, 2018 (Sean Hayes, Jerry Russ, Peter Tyc, Lee Vito, Rob Poturnicki, the Resident State Trooper and Geoff Colegrove) where various documents were reviewed and discussed. Mr. Hayes had developed a proposed application form and the form that will be submitted to the town was also discussed. Mr. Tyc indicated that the town was working on an application and the two would be melded together. Rules and regulations were reviewed and there was discussion about ash disposal and types of fires. The campsites were laid out based on a 2014 FPA code, so Mr. Tyc provided Mr. Hayes the 2018 edition to review for any changes. Mr. Hayes reported that the criteria had not changed.

There was a lot of discussion about the site plan in terms of State Police concerns. The State Trooper wanted to know which areas would be occupied first and how many occupants would be projected. The revised site plan shows those considerations and comments.

Mr. Colegrove believed that everyone was pretty well set after the meeting, but Mr. Tyc submitted another document for the Commission to review. Some of his comments are already addressed on the site plan. Mr. Colegrove stated that the First Selectman understands what his responsibilities are, which would be to make sure that all of the emergency management and related services are notified in a timely manner. In most cases, security and medical resources will be provided by the applicant.

Jerry Russ didn't know if Pete Tyc had any further concerns with the alert system and Geoff Colegrove noted that there will be a PA system on the site and all registration information will be obtained. A consultant is analyzing the issues related to the storage of materials in the Lyman Orchard area and the radius has not yet been set. Mr. Tyc had originally talked about 1,000 feet, but that may be in flux. The goal would be to evacuate the site within 15 minutes of notification. There are a series of steps involved in the evacuation plan.

Erin Howard stated that those evacuation requirements would be under the purview of the federal government. The Commission does not have any jurisdiction over that. She cautioned the Commission about some of the statements that have been made publicly as the members are not fire experts and do not follow fire code. She felt that the Fire Department was put on the spot and possibly misrepresented by the Commission during the public hearing and prior. She encouraged the Commission to rely on the public

safety officials to do their jobs. These evacuation issues should have no bearing on the Commission's decision.

Geoff Colegrove summarized that everyone is on board and understands their obligations. The Selectmen will handle the permits and the Commission does not need to get involved on an event basis. The First Selectman would be responsible for notifying all of the potentially affected parties and he would coordinate with emergency management. Mr. Colegrove reminded the Commission that this process is not only applicable to Powder Ridge, but to any event that may come along.

Erin Howard reviewed what had been approved at the last meeting regarding short-term camping. These reviews are important to the Commission because they may impact the site plan. Ms. Howard was not sure that all of the issues have been addressed and she would like to confirm that if the Commission decides to move forward.

Geoff Colegrove asked if site plan changes would need to come back to the Commission or if site plan changes that are mandated by emergency management authorities do not need to. Ms. Howard felt that the Commission only needs to see the site plan if it is significantly changed. She felt that staff should be able to make minor changes.

Mr. Colegrove mentioned that a delay may be outside the statutory time period and Kevin Boyle commented that there shouldn't be a rush at this point as no one will want to be camping right now. Mr. Boyle suggested maybe obtaining an extension from the applicant. He felt like the Commission was walking on eggshells about this.

Geoff Colegrove suggested leaving it as is and that the applicant would have to come back to the Commission for any revisions to the site plan. Ms. Howard did not feel it was fair to the applicant to have them come before the Commission with something minor. She is trying to get the Commission away from lengthy reviews of applications. Ms. Howard asked if staff was confident that everything pointed out by the Fire Marshal is on the site plan as requested. Mr. Colegrove felt that everyone was on the same page. The plan was submitted and the 18 requirements were reviewed. Mr. Colegrove felt that the Commission should either approve or disapprove the plan at this point and that improvements will be made as events are held.

Erin Howard thought that the Commission could make an approval with the condition that all items on Peter Tyc's memo dated 11/6/18 are met. She did not want to wait another month or two to receive a final memo. Ms. Howard reviewed that, based on conversation with town staff, that everything has been addressed and the site plan is consistent with what was addressed. Geoff Colegrove reviewed that the present document has been refined since the public hearing and approved by the applicant. It would become part of the special permit.

Ms. Howard reviewed the application and camping specifics, including number of sites and hours. Kevin Boyle asked about the numbers of campsites and how many people would be per campsite. Ms. Howard stated that there would be a maximum of site people per site, with one vehicle allowed per campsite.

Kevin Boyle asked if everyone understood that that would allow 3,600 people on the site. Jan Wojas mentioned that the original site plan was approved for 1,400 cars and that would be reduced to 541. Ms. Howard reviewed that this would now be overnight, the occupancy level could be higher and he would still have to go through the town's process for public safety.

Geoff Colegrove reviewed that the applicant would have an obligation to conform to the site plan and the ZEO would have the ability to enforce that. If it is not in compliance, the Commission would then have to deal with it.

Erin Howard asked if Kevin Boyle had any further questions or comments. Mr. Boyle was shocked that they are even talking about 3,600 people which is almost the size of the town. He asked about the toboggan road being installed and if multiple access roads will be in place, as per the Fire Marshal's memo. Geoff Colegrove explained that it shows as proposed on the site plan, but Mr. Boyle stated that the Fire Marshal's memo stated that it "should" be built. Mr. Colegrove stated that Mr. Hayes had stated at the meeting that it would not be built. Jerry Russ stated that Pete Tyc had stated that the access road was more than 20 feet wide and met the requirements for EMS, fire and safety for egress and ingress. Mr. Hayes had stated that the campsites north and west of the lodge would be tent campsites, with no cars and there would be plenty of access for two-way traffic. Mr. Hayes also offered to provide his private access be ungated, if the Commission required. Mr. Russ felt that these proposed changes were amenable to EMS as well, but there was no specific approval.

Erin Howard had hoped that the Commission could make an approval with the conditions noted, but Kevin Boyle makes a good point. Peter Tyc could not be at tonight's meeting.

Jan Wojas stated that a few of the Commission members had attended a seminar held by the attorney regarding procedures. At that meeting, the possibility of recusing from participation in discussions or voting was mentioned. Mr. Wojas confirmed that this would be up to the individual to do and cannot be forced by third parties. He stated that he has been a resident of the town for the past 20 years and is also the chair of the Chamber of Commerce. Mr. Rojas is an architect with many clients in town and owns his own business. He hopes to be able to contribute to discussions with multiple points of view.

With regard to (3) on the Fire Marshal's memo, he was referring to a single-access road that is in existence. This road was present before the lodge was renovated. Mr. Wojas reviewed that the permit had been for 1,400 cars, 60 buses and 24 handicapped spaces. This holds the assumption of four people per car and 50 people per bus, which brings the total way above 4,000 people on the site. He is not concerned about the intensity of the people or vehicles on the site. Each campsite takes two-and-a-half parking spaces. Mr. Wojas felt that a new access road is not necessary as there are existing roads in place.

Kevin Boyle commented that EMS is telling the Commission that multiple access roads should be in place. Erin Howard also stated that there is a significant difference between overnight stay and regular vehicles being on the property during the daytime. Sleeping people was part of the issue about the

evacuation process. Mr. Wojas agreed that the comparison is not apples to apples. Geoff Colegrove stated that, back in the 70s, 10,000 people were on-site during the course of a ski day.

Kevin Boyle would like to hear from EMS and the Fire Chief to shed some light on the gray areas in the memo. Mr. Boyle also questioned other wording in the memo. Mr. Wojas reminded the Commission that the Fire Marshal would still be involved in the process. Ms. Howard explained that some items pertain strictly to public safety and would be part of the permitting process. She emphasized that she would like to move this forward and not belabor this. Mr. Boyle pointed out that he wanted to do it right and didn't understand what the rush is. Geoff Colegrove reviewed that the Commission has 65 days to make a decision after the close of the public hearing.

If this vote is to be delayed, Erin Howard would want to know specifically what the Commission would be looking for from the Fire Marshal. Would they be looking for written approval of the site plan from public safety? Geoff Colegrove stated that some of the issues that Pete Tyc has pointed out have no relationship to the site plan. Kevin Boyle asked the chairman to explain what (4) regarding the culvert on Mr. Tyc's memo means and what items on the review are actionable. Mr. Boyle would like to be able to ask Mr. Tyc to clarify the items on his memo.

Kevin Boyle would like to have staff and the applicant come to the next meeting to help interpret these items and what conditions they would like put on any possible approval. Ms. Howard agreed that there is too much subjectivity to the memo at this point.

Erin Howard believed that the issue should be tabled at this point, but that the Commission would need to be very clear about what is needed. Geoff Colegrove also explained that the public hearing cannot be reopened at this point and comments cannot be accepted from the applicant or the public. This would have to be done through a staff meeting/report. Ms. Howard would like any comments from staff to be specific to zoning. She requested a formal report back from the Fire Marshal and other staff as well as something in writing from the First Selectman. Ms. Howard reminded the Commission that no new information has been provided after the close of the public hearing other than what was requested by the Commission.

Erin Howard made a motion, seconded by Kevin Boyle, to table the Powder Ridge Mountain Park & Resort, LLC, Application for Special Permit or Special Exception; Add Short-Term Event-Based Camping; 99 Powder Hill Road to the December 17, 2018 meeting. Motion carried unanimously.

Report of the ZEO

Jerry Russ reported that he received a nuisance neighbor complaint at 98 Ross Road and the State Police are doing slow drive-bys. They have instructed the neighbors to call 911 when any activity is going on. Geoff Colegrove explained that they have removed the unregistered vehicles and Zoning is no longer an issue.

Mr. Russ also reported that Ross Farms has gotten their final CO as has Lakeview Estates.

Report of the Town Planner

Geoff Colegrove mentioned that Ross Farms is looking for a road acceptance and will need to get an A-24 review from the Commission to accept the road. The Town Engineer and Public Works have walked the road. The Board of Selectmen can accept the road.

Mr. Colegrove also reported that he and Mr. Russ attended a meeting at the Town Planner's office in Middletown. A company is proposing a major solar project on the corner of Higby Road and Route 66. They have mapped the wetlands in Middlefield, but not in Middletown as of now. This project does not meet the threshold to be under the regulation of the Siting Council. No structures are being proposed in Middlefield at this point though they may be using an existing access road. Mr. Colegrove did suggest that the Commission take a good look at the issue of solar panels being constructed as a primary use, not an accessory use.

Geoff Colegrove did speak with Ed Bailey last week about the Xenelis property and the negotiations for a lease. Ms. Howard reminded him that the Commission authorized him to move forward with enforcement actions on the other two properties. Mr. Colegrove also felt that the Commission would not receive any help from the Wetlands Commission on the Monarca property. Mr. Monarca has material stored on town property and a structure that discharges on town property toward the wetland. Erin Howard stated that the zoning enforcement action would go against Mr. Monarca and the town since it is their property. Kevin Boyle asked why a cease and desist hasn't been issued on this.

Ms. Howard asked Mr. Colegrove to have an update about the Monarca property for the next meeting. Kevin Boyle felt that they can't hold Mr. Xenelis to one standard and not hold Mr. Monarca to it as well. Ms. Howard suggested that Mr. Colegrove check with Attorney Branse on whether it needs another notification or can go directly to cease and desist. Jerry Russ stated that a notice of violation had been sent to both property owners. It was then generally agreed to authorize the staff to do whatever is necessary to begin the process.

Chairman's Report

Erin Howard reviewed that Geoff Colegrove plans to retire as of June 30, 2019 and she has been in discussions with the First Selectman and they feel that it would make a lot of sense to have a shared Town Planner with Durham. Ms. Howard is also pushing for someone to support Jerry Russ and be physically in the office. She feels that there are too many people doing too many different things because that's how things were done in the past and because of that, things take far too long to move through the Commission.

Ms. Howard recognized that Geoff Colegrove has had his hands tied many times in his role as the Town Planner and she feels that he has done a wonderful job for the town. Mr. Colegrove has had discussions with both Selectmen and it is a work in progress. He encouraged the Selectmen to have realistic expectations of what a shared planner would be able to do.

Miscellaneous

None.

Approval of Minutes - October 15, 2018 Meeting

Erin Howard made a motion, seconded by Jan Wojas, to approve the October 15, 2018 meeting minutes, as presented. Motion carried, with Kevin Boyle abstaining.

Adjournment

A motion was made by Erin Howard, seconded by Kevin Boyle, to adjourn the meeting. Motion carried unanimously. The meeting was adjourned at 8:23 pm.

Respectfully submitted,

Debi Waz

Debi Waz
Alwaz First