

PORTLAND PLANNING AND ZONING COMMISSION
REGULAR MEETING
Thursday, May 2, 2024 at 7:00 PM
Buck Foreman Room (2nd Floor)
265 Main Street, Portland, CT.
Public access through Zoom link A at www.portlandct.org

Regular Meeting Minutes

1. Call Meeting to Order

Robert Ellsworth called the meeting to order at 7:00 p.m.

2. Introduction of Members and Seating of Alternates

Present: Bob Ellsworth, Victoria Tchetchet, Chantal Foster, Carolyn Freeman, Robert Taylor, Tom Bransfield, Jennifer Tellone, Joe Spada.

Staff: Dan Bourret, Town Planner
Kari Olson, Town Attorney
Dawn Guite, Recording Secretary

3. Accept Agenda

MOTION: Chantal Foster MOVED, seconded by Robert Taylor to ACCEPT the agenda as PRESENTED. **VOTE UNANIMOUS. MOTION CARRIED.**

4. Meeting Procedures

Chairman Ellsworth said that public comments are limited to five minutes with permission to circle back after all who have requested have spoken.

Public Hearing

5. PZC Application #23-11: 1561 Portland Cobalt Road. Request for Special Permit Renewal of Sand and Gravel Excavation Permit to excavate and remove 193,323 cubic yards of earth material that includes onsite crushing and screening. Application and property of Riverside Equities LLC. Map 6, Lot 21-1. Zone B-2.

MOTION: Chantal Foster MOVED, seconded by Robert Taylor to OPEN the Public Hearing. **VOTE UNANIMOUS. MOTION CARRIED.**

David Erlandson, the Applicant and Owner of Riverside Equities is requesting a Special Permit Renewal of Sand and Gravel Excavation Permit to excavate and remove 193,323 cubic yards of earth material that includes onsite crushing and screening. This is ongoing from previous approved permits in 2012 and 2021. The Town Engineer sees no deficiencies for renewing permit. There are no erosion control issues.

Public Comment:

Ben Srb, West Cotton Hill Road, is a direct abutter to this property and said that Mr. Erlandson does good work.

MOTION: Chantal Foster MOVED, seconded by Robert Taylor to CLOSE the Public Hearing.
VOTE UNANIMOUS. MOTION CARRIED.

RECORDED VOTE

DATE: May 2, 2024

COMMISSION: PLANNING & ZONING

MOTION

To Approve PZC Application #23-11: 1561 Portland Cobalt Road. Request for Special Permit Renewal of Sand and Gravel Excavation Permit to excavate and remove 193,323 cubic yards of earth material which includes onsite crushing and screening. Application and property of Riverside Equities LLC. Map 6, Lot 21-1. Zone B-2. As shown on plans entitled "Excavation Plan 1561 Portland Cobalt Road Prepared for Riverside Equities, LLC Portland, Conn.", prepared by Chatham Engineering, Inc., dated 1/25/24, and based on testimony and subject to the following instructions and conditions:

1. That this permit will expire on 05/02/2027.
2. That 3 paper copies of the final revised plan and one mylar be submitted to the Planning Department for endorsement by an officer of the Commission. The endorsed mylar shall be filed on the Land Records within 180 days, as per ZR Section 10.5.3.2.a.
3. That the Town Engineer review and recommend appropriate bond amounts for Erosion & Sediment Control and Site Restoration for all project phases and that the applicant submit the required bond amount(s) prior to endorsement of the plan.
4. That all E&S controls and delineated limits of clearing be installed and/or maintained per the plan and inspected by Town Staff.
5. That a Zoning Permit be issued prior to the start of activity associated with this approval.
6. That the applicant submit monthly reports indicating amount removed from the site, status of E&S controls, and status of restoration.
7. That the applicant only excavate at levels at or above proposed final grades shown on the approved plans.
8. That this approval does not allow hauling of any off-site material into the subject property and specifically prohibits on-site burning and/or waste disposal.

Reasons: This proposal conforms to Sections 5.1, 9.5, 10.4 and 10.5 of the Zoning Regulations.

Made by: Victoria Tchetchet

Seconded by: Robert Taylor

IN FAVOR

IN OPPOSITION

Victoria Tchetchet
Chantal Foster
Jennifer Tellone
Robert Taylor
Bob Ellsworth

IN ABSTENTION

6. PZC Application #23-12: 220 Isinglass Hill Road. Request for Special Permit for construction of an 8-bedroom residential care home. Application of Oroville Place, LLC and property of Sean McGrail Revocable Trust. Map 129, Lot 9. Zone RR. (*Will be opened at May 16th meeting.*)
7. PZC Application #23-15: Proposed Amendment to the Portland Zoning Regulations. Change to section 9.17.1 to change the maximum number of 2 bedrooms to 30% where 55% is currently allowed. To add a maximum number of 16 residential units per historic building restored. To remove text from section 9.17.5.M.2 “For good cause shown, and following a public hearing, the developer may secure relief from this requirement as a modification to the approved plan provided that the Commission is satisfied that conditions beyond the control of the developer will prevent the execution of the schedule of development as approved.” Application of Ben Srb.

MOTION: Victoria Tchetchet MOVED, seconded by Robert Taylor to OPEN the Public Hearing.
VOTE UNANIMOUS. MOTION CARRIED.

Ben Srb, West Cotton Hill Road, the Applicant is seeking amendment to the Portland Zoning Regulations as noted. Mr. Srb asked that Attorney Olson’s memo be taken into account for consideration of the zoning amendment. Ms. Olson noted that the memo addressed a general/hypothetical situation not specific applications per questions raised by the PZC. There is no correct answer at the moment. She agrees that applications are not in conflict. Information provided is a general overview of text amendments and how they interplay. Examples are given if amendments do conflict. The PZC reviews applications individually on their merit. It is up to the PZC to make decisions about amendments that are being proposed, whether public hearings are kept open or closed, and decide on approval and what effective dates will be.

Mr. Srb is in agreement with the hypothetical however it is not the reality of the two applications. The reality is that the applications do not compete, that his stand on their own, and Mr. Bertram’s stand on their own. He urged the PZC to ask questions about his changes that he feels will help the community.

Ms. Tchetchet said that she asked for explanation and what would happen with conflicting applications as hypothetical.

Mr. Srb referred specifically to MUD/floating zone regarding section 9.17.1 to change the maximum number of 2 bedrooms to 30% where 55% is currently allowed. He wants this changed to 30/70 mix because the sewer plant is running at 50% capacity (600K gallons per day) and needs over \$4M in repairs. This dollar amount was determined by input from the town superintendent and town engineer. Portland has a discharge for 1M 2 gallons per day. It is running at 96% of the 50% capacity. Only one application to date is at this ratio. The town needs to be cognizant of this deficiency.

Commissioners said that it should be action by the Public Works Director with justification by the Town Engineer to fix the sewer. Mr. Bourret said that there is a letter from the Public Works Director regarding the sewer. Mr. Srb asked for a copy of the letter so that it is included as part of his package.

Mr. Srb said that to change the maximum number to a 30/70 mix is currently allowed meets the criteria (10.3D) to allow for changes. He said that he identified mixed use sites in town.

Atty. Olson said that with Covid the legislature did a complete overhaul of Title 8 and that the general character of neighborhoods is included. This is referenced at the end of her email.

Commissioners want to know how the character of the town and property values will be impacted and how the 55% number currently allowed was determined. There is a difference of 60 bedrooms based on the current 240.

Mr. Srb, next, wants to add a maximum number of 16 residential units per historic building restored. He consulted with the town's historical society which will present its information. Regulations allow for 1-3 residential units per 5,000 square feet of commercial space without restoration. For mixed use development with historic building restoration no less than one unit per 5,000 square feet of commercial space is allowed. No more than 16 units per 5,000 square feet for one structure restored is allowed.

There was a discussion to change definition of historic *building* restored to historic *resource* restored and that *preserved* be included in the definitions section.

Mr. Srb said that adding a maximum number of 16 residential units per historic building restored meets the criteria (10.D) to allow for changes.

Mr. Srb, finally, wants to remove text from section 9.17.5.M.2 "For good cause shown, and following a public hearing, the developer may secure relief from this requirement as a modification to the approved plan provided that the Commission is satisfied that conditions beyond the control of the developer will prevent the execution of the schedule of development as approved."

There was a discussion whether this should be a variance or a text amendment when conditions are beyond the control of the developer.

Mr. Bourret will research when clause became part of the regulation.

Atty. Olson said this the clause was modified for flexibility. "For good cause shown" allows PZC to say yes or no.

Commissioners would like this to be clearly defined.

The public hearing will remain open.

Mr. Bourret will research and provide the following information:

1. Public Works Director letter on sewer and Town Engineer's review.
2. How the 55% number currently allowed was determined; how the 16 residential units number was determined.
3. When 9.17.5.M.2 came into existence and clear definition of "For good cause shown".

Public Comment:

Dan Bertram, 69 Marlborough Street, said that unit mixing is a technique based on percentage of typical complexes being built. With number of children being a concern, a higher proportion with

smaller units means a lower impact on schools. For utilities – with 240 units online there is improvement in infrastructure. 50% sewage capacity doesn't change. 23 students projected coming in will bring \$3,000 a year in taxes per unit. If part of the strategy is to have high density housing as a different option without having to leave town before and after different life cycles, he has no objection to 30%. It is a good tax base. Unit mixing serves both younger and older community members.

Susan Colby, 11 Russell Avenue, said that regarding “good cause” – we should not let a developer's financial burden be a reason to allow more apartments and more costs for the town.

Paula Agogliati, 4 Victoria Road, said that in speaking with elderly residents, they are looking to downsize to get into these apartments. Neighboring towns have pushed commercial in addition to housing. Portland is pushing more housing than commercial. Zoning needs to look at the big picture when changes to laws are not specific to a site. Townspeople are nervous because everyone is impacted. What does the town want, what is it looking for.

Dan Bertram, 69 Marlborough Street, said that the concept of financial cannot be overstated. It is very difficult to create a plan that changes a town center where there isn't one. Without discretion in the regulations, he would not have started the project. Commitments are being made. Bottlenecks hinder going forward.

Elwin Guild, 332 Middle Haddam Road, referred to waiver/phasing of regulations and said it is not fair or reasonable for the PZC to have to deal with subjectivity. He asked that attention be given to requesting removal. It is difficult enough to focus on the real task – to apply objectively the laws and regulations that the PZC is responsible for. He is disappointed with the history of the application of the waiver. It is time to reconsider other avenues of approach that are available.

Dan Bertram, 69 Marlborough Street, said that in dealing with municipalities sometimes there is a waiting toward what is allowed in a central business district. He suggested weaving in the proximity of the central business district into what Ben Srb is talking about regarding how ratios are interpreted.

RECORDED VOTE

DATE: May 2, 2024

COMMISSION: PLANNING & ZONING COMMISSION

MOTION

To **Continue** Application #23-15: Proposed Amendment to the Portland Zoning Regulations. Change to section 9.17.1 to change to the maximum number of 2 bedrooms to 30% where 55% is currently allowed. To add a maximum number of 16 residential units per historic building restored. To remove text from section 9.17.5.M.2 “For good cause shown, and following a public hearing, the developer may secure relief from this requirement as a modification to the approved plan provided that the Commission is satisfied that conditions beyond the control of the developer will prevent the execution of the schedule of development as approved.” Application of Ben Srb.

Made by: Victoria Tchetchet

Seconded by: Robert Taylor

IN FAVOR

IN OPPOSITION

Unanimous by voice vote

IN ABSTENTION

Recorded By: Dawn Guite

8. PZC Application #23-16: Proposed Amendment to the Portland Zoning Regulations. Change to section 9.17.1 to increase the allowable MUD residential units to 350 from the current 240 and to increase the ratio of allowable apartments from 16 to 21 per 5,000 square feet of commercial space. Change to section 9.17.5.E to allow the sum of the total commercial area to include any single upper floor to the total commercial area where only the ground floor counts currently. Application of BRT DiMarco PTP, LLC. *(To be opened at May 8th Special Meeting at 6:00 p.m. at Portland High School).*
9. PZC Application #23-17: 69 Marlborough Street. Request for Special Permit Modification Application and Property of BRT DiMarco PTP, LLC. Map 19, Lot 68. Zone B-2, B-3 and TCVD. *(To be determined).*

Regular Meeting

10. Application 23-09: 850 Portland Cobalt Road. Request for a Site Plan Review for a proposed retail fueling station and convenience with drive thru. Application of Jannat LLC and property of MJS Realty Venture LLC. Map 31, Lot 23-2. Zone B-2. *(Waiting on State of CT approval/signatures of Phase 1A. If not received by first meeting in June, application will be withdrawn and requested for resubmission.)*
11. New Business:
 - None
12. Old Business:
 - Business and Industrial Zoning – nothing to report
13. Staff Report:
 - Correspondence – None
 - Brainerd Place Update – nothing to report
14. Public Comment: The Commission will hear brief comments at this time from anyone wishing to speak. Comments may not be made regarding any pending application.

There was no public comment.

15. Approval of Minutes: 4/18/2024

MOTION: Robert Taylor MOVED, seconded by Jennifer Tellone to APPROVE Minutes for 4/18/2024 as PRESENTED. **VOTE UNANIMOUS. MOTION CARRIED.**

16. Adjourn

MOTION: Chantal Foster MOVED, seconded by Robert Taylor to ADJOURN the meeting at 9:20 p.m. **VOTE UNANIMOUS. MOTION CARRIED.**

Respectfully Submitted:

Dawn Guite

Dawn Guite, Recording Secretary