

PORTLAND PLANNING AND ZONING COMMISSION
REGULAR MEETING
Thursday, April 4, 2024 at 7:00 PM
High School Auditorium
95 High Street, Portland, CT.

Regular Meeting Minutes

1. Call Meeting to Order

Victoria Tchetchet called the meeting to order at 7:00 p.m.

2. Introduction of Members and Seating of Alternates

Present: Robert Taylor, Carolyn Freeman, Jennifer Tellone, Chantal Foster (remotely),
Tom Bransfield, (new member name?)

Staff: Dan Bourret, Town Planner
Dawn Guite, Recording Secretary

Absent: Bob Ellsworth

Carolyn Freeman is seated for Bob Ellsworth.

3. Accept Amended Agenda – *Items 8 and 9 are moved to the front of the order for Public Hearing.*

MOTION: Robert Taylor MOVED, seconded by Jennifer Tellone to ACCEPT the agenda as AMENDED. **VOTE UNANIMOUS. MOTION CARRIED.**

4. Meeting Procedures

Victoria Tchetchet, acting Chair, explained the procedures for tonight's meeting.

Tonight's meeting is a discussion regarding change in language of text amendment only. The current application for Brainerd Place is a separate application.

Public Hearing

5. PZC Application #23-08: 209 Sand Hill Road. Proposal to modify existing special permit approval for a 15 ft. addition around the whole perimeter of the existing barn structure on site used for event space. Application of Arrigoni Winery LLC and property of R G Manner LLC. Map 5, Lot 14. Zone RR. *Application withdrawn.*

6. 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 Equites LLC. Map 6, Lot 21-1. Zone B-2. (*Public Hearing date needs to be set but not to be heard until at least April 18th.*)

7. 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. (*Public hearing date needs to be set but not to be heard until at least April 18th*)

8. PZC Application #23-13: 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 ration 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.

MOTION: Robert Taylor MOVED, seconded by Jennifer Tellone to OPEN the public hearing for #23-13. **VOTE UNANIMOUS. MOTION CARRIED.**

Dan Bertram, representing the Applicant, said that work has been done through analysis to develop phases of Brainerd Place. The existing site plan was shown on the screen.

Attorney Kari Olson said that the text amendment is being discussed tonight.

Mr. Bertram said that he will do his best to inform the town why the text amendment is justified. Subtleties are best described visually and referred to the screen.

Mr. Bertram summarized what was involved with developing this project. In 2015 another development proposal preceded the project with modification for a ratio between commercial and residential; 16 residences per every 5,000 s.f. of commercial space. Tonight is a change from 16 to 21 residences. There was a 13,000 s.f. pad for CVS and 70,000 s.f., primarily for commercial. It is tough news in the marketplace coming in an area with existing commercial buildings which are being absorbed and markets perceived in a certain way in the surrounding area.

Commercial leasing was originally with Atlantic Realty out of Boston where the site had been marketed for quite some time. The Town of Portland encouraged that a local real estate broker be used for commercial leasing. And this is what was done. Justification for a modification was done as a best result for Portland.

An email was sent to DiMarco Leasing Counterpart, a partner on this deal from Jed Hayes about market conditions. Email (date?) was addressed to an employee named Paul (last name???) and read:

Paul, following up on conversation from Friday, let this email as confirmation of Sullivan's withdrawal as leasing agent for the retail space at Brainerd Place. As we came to better understand the specifics of the retail space at Brainerd Place, we determined that in our opinion there are several concerns regarding the project that would prevent us from being able to successfully lease the project.

- The amount of retail space proposed by your plan is more than the market can conceivably absorb. Location serves as a space for convenience services and not to users requiring a large trade area. This limits the number of tenants that we feel will be reasonable prospects.
- Portland is not a significant retail corridor. Most retail, restaurant, and service users would not know where Portland and this intersection are located and would need to be educated as to the market which makes the leasing process difficult.
- The significant retail cluster in this area is in Middletown, not Portland. The successful restaurant cluster that has grown over 10 years on Main Street in Middletown and regional retail located on Rt. 66 and Washington Street. Once people are educated about the Portland market they will make a decision that if they want to service the Portland market they are better off doing it in Middletown with a much larger draw that would also include the Portland market. The site plan itself is a concern. The second floor space in the A Building, 30,000 s.f., is extremely difficult to lease. Other than a large medical user, the space is not leasable as retail space. It would be considered Class B office space made up of small independent businesses at unattractive rates for new construction.

- The basement space is not leasable.
- It would be very difficult to lease the rear retail space in Building A. It creates an “L” shape which does not have exposure to Marlborough or Main Street. It would not be a problem if the entire “L” portion was leased to one tenant. Given the Portland trade area the tenants will be smaller in size and not likely to want this larger space.

I am not trying to be overly critical of your project. The comments are based on current experience in the market.

Mr. Bertram said that points made required different thinking in order to move forward. Changing conditions in the market and commercial areas were focused on in creating alternative analyses and one analysis is represented in what the team would like to walk through because we want to show the town that we are optimistic about Portland and think that if we make certain changes to the regulations and what regulations allow to deliver to the community. With differentiated success we can compete with the surrounding communities.

Mr. Bertram had another letter from the current broker CBRE that thanks sharing of new site plan for Brainerd Place in Portland. Configurations of Buildings A and B are much more marketable than the previous plan. Currently the demand for retail, office and medical space in Portland is in the 2,500 – 5,000 s.f. range. Space would be more active for market requirements and are hopeful to receive approval from the Town of Portland to promote the new site plan as soon as possible.

Mr. Bertram said that they have a good team on this but we are looking to make modifications. Building B with a 2,500 s.f. Starbucks, and a 10,000 s.f. physical therapy company in Building F fall in line with the smaller user that is consistent with that. There is a broader context than when we were there last.

Steve Sullivan, P.E., CCA LLC, to present next.

Ms. Tchetchet said that we are sticking to the Text Amendment tonight.

Mr. Sullivan said that the applicant is looking to amend the mixed use development regulations, 9.17, in particular 9.17.1 changing the residential density to a maximum of 350 units in the commercial industrial ratio to be not more than 24 for each 5,000 s.f. of commercial space. The change to the other part of the regulation would be to add language to add 50% of upper floor commercial space be counted toward the 30% of commercial space required in a mixed used building. Currently it is only the ground floor. We are looking to include 50% of the upper floors. Changes will require modifications to the site plan. Building A would change to 119 apartments and 19,000 s.f. of commercial space. It includes a rooftop restaurant. There will also be a parking garage constructed similar to Buildings E and F. Building B would be moved closer to the road and would be a 2-story commercial building for a total of about 32,000 s.f. It will replace the 13,000 s.f. CVS Pharmacy that was previously approved. Water and sewer are adequate for these changes that we are looking to make.

Ms. Tchetchet said that we are getting off the topic.

Mr. Sullivan said that was it for me.

Mr. Tchetchet said that we are just going to be talking about the Text Amendment, not landscape architecture.

Mr. Bertram said that when information was received from Sullivan Hayes we were required to figure out what will work in Portland. We are trying to reveal what came back from that analysis. The height calculation shows how it manifests both commercial allocated square feet and ground level. He asked if manifestation in Building A can be shown.

Attorney Olson said that the Text Amendment is going to be discussed. Relevant criteria which applies to the Text Amendment is appropriate. We are not going to get into the nitty gritty of the site plan.

Mr. Bertram said that this is in order to offer space in smaller ways without a large building. This is what was analyzed in a way to move forward.

Attorney Olson said you have to tie in the request to apply height calculation to the criteria for a text amendment.

Mr. Bertram wants to have his architect speak on Buildings A and B as they are potential future uses that follow market demands.

Attorney Olson said we are not asking for justification as to why it is designed in this way. You need to establish for the commission your justification for the text amendment. Why is the height modification appropriate under the Plan of Conservation and Development and the other criteria being considered.

Mr. Bertram said that analysis let us to conclude that this was feasible.

Ms. Freeman said this get us off the text amendment. We are not here to talk about design. We are here to talk about the text amendment. Is this something that we should consider in the Town of Portland.

Mr. Bertram said that they have a lot of experience in bringing the words to life which is usually through visualizations and show how regulations can be manifested.

Ms. Tchetchet said not so much on how regulations are going to be manifested in your plans. I think it is really more. You took something that didn't work and are showing how to make it work. What is the justification for us to make a change to the text amendment. This doesn't have to do with your site plan or landscaping. It is about what you think is going to make it work.

Ms. Freeman said that it also affects the whole town not just a specific site. We have to look at it overall for the Town of Portland not a specific site. So by showing the visualization of certain buildings it has you looking at a specific which is not the intent of what a site amendment is.

Ms. Tchetchet said we have to look at this as spot zoning because it is specific to your project. The text amendment is not specific to your project.

Mr. Bertram said that any changes that we made to the MUD are applicable to this site. He asked to speak with his team and then to the Town Attorney.

(Heckling from audience)

52:00 through 53:40 was side discussion.

Meeting resumed at 54:25.

Mr. Bertram apologized to the audience for the way the presentation started and does not see a way to continue on course tonight. Because of disagreements with counsel we are going to withdraw the application. Once ground rules are worked out we will come back with another presentation. He apologized for not having had enough worked out beforehand.

(Applause from audience).

Mr. Bourret announced that the Public Hearing is not finished and asked audience to file out quietly.

Ms. Tchetchet asked for a motion to close the Public Hearing.

MOTION: Robert Taylor MOVED, seconded by Carolyn Freeman to CLOSE the public hearing for #23-13. **VOTE UNANIMOUS. MOTION CARRIED.**

5. PZC Application #23-08: 209 Sand Hill Road. Proposal to modify existing special permit approval for a 15 ft. addition around the whole perimeter of the existing barn structure on site used for event space. Application of Arrigoni Winery LLC and property of R G Manner LLC. Map 5, Lot 14. Zone RR. *Application withdrawn.*
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9. PZC Application #23-14: 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. *Pending future outcome of PZC 23-13.*

Regular Meeting

10. Application #23-09: 850 Portland Cobalt Road. Request for a Site Plan Review for a proposed retail fueling station and convenience store with drive thru. Application of Jannat LLC and property of MJS Realty Venture LLC. Map 31, Lot 23-2. Zone B-2. *To be heard at meeting on April 18th.*
11. New Business:
 - Business and Industrial Zoning

To be discussed on April 18, 2024.
12. Old Business:

Nothing to report.
13. Staff Report:
 - Correspondence

Nothing to report.
 - Brainerd Place Update

Nothing further to discuss at this time.

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.

Norman Ward, 54 Lake Road, asked if there is an architect in place and a review team for the Village District to make modifications and changes to regulations.

Mr. Bourret said that the Village District is a topic under discussion. We are talking about business and industrial zoning in town, touching on landscape regulations and building design. This has been a topic for the last two or three months.

Mr. Ward said so there are no formal regulations.

Ms. Tchetchet said no but the board is actively working on it.

Mr. Ward said it doesn't seem like we have done very well in that aspect. He hates to see Dollar General represent the Town of Portland.

Ms. Tchetchet said this is a priority of the commission and it is working on it currently.

Ben Srb, 139 West Cotton Hill Road, said that the carriage house on Route 66, otherwise known as Starbucks; the rear portion of the building was to have a brownstone façade and metal roof as part of the original special permit approval. It has neither and he asked why and how it will be fixed. Residential Tower E and F are supposed to have brick façade but looks more like stucco. Regulation 9.16.6 states that sidewalks along the street are to be 5 feet wide. They are 4 feet wide.

Ryan Crafa, 230 Isinglass Hill Road, said that seeing a large site coming off the bridge could be the pinnacle of the town. This is a huge opportunity for Portland to have commercial and medical office space there. He is not buying that they cannot lease commercial space based on what other communities have done. He has seen expansion of medical practices. He sees positive changes being made in Portland.

Mr. Bourret encouraged that he speak when the application is refiled.

Mike Warnoff, 41 Great Hill Pond Road, asked in the middle of a public hearing with a microphone on, who is allowed to have a side meeting.

Attorney Olson, who is not a commission or voting member, agreed with Mr. Warnoff that no one on the board should have a side discussion during a public hearing. She is legal counsel for the town and was speaking with legal counsel for the applicant so there was nothing illegal about have that conversation. If a voting member, it would be different.

Mr. Warnoff said to Attorney Olson that they had a disagreement during a similar large application where he was an alternate and not allowed to speak. He asked to revisit because legal advice that he had been given was about not seating alternates. Should they be excused to the audience. Cannot speak during a meeting and also as a member of the public.

Attorney Olson said the appellate precedent disagreed upon, Mr. Warnoff was allowed to participate and is encouraged that alternates participate and ask questions. The issue becomes when the public hearing closes and are now down to deliberations, this is where we parted company. Alternates cannot participate in voting. This is where you wanted to deliberate. You have every right to ask questions as an alternate member because the notion is that at some point one of the others may not be available and so that you can step right in and finish the job. We can talk offline if there is any confusion.

Mr. Warnoff encouraged revisiting this as applications come before the PZC.

Attorney Olson said to Mr. Warnoff, you did participate throughout the public hearing and provided a lot of good questions and good comments. Once the public hearing is closed you cannot have more than seated members deliberating and voting.

Ms. Tchetchet said that this commission is very careful about alternates speaking during the public hearing portion of our meetings and not to deliberate once the public hearing is closed.

Norm Emond, 20 Hall Hill Road, said that the biggest and first thing you look at coming over the Portland Bridge is Brainerd Place. For him to tell us that he is having trouble getting commercial is unacceptable. He is not trying hard enough to bring commercial in. He is leading the town down the wrong path. On Application 23.09...

Mr. Bourret said that it is a pending application and cannot be discussed tonight. He encouraged Mr. Emond to come to the next meeting.

Kathy Yarbrough, 9 Hilltop Drive, asked for confirmation that part of the parking at Brainerd Place would be underground with underground charging stations. There is a fire safety hazard if you have an electric vehicle.

Mr. Bourret said that he will be happy to speak with her after the meeting.

Joseph Bials, 1 Cross Street, said that new buildings close to the road look like tobacco sheds with windows. We're taxpayers, people born and raised in Portland. We don't need more of what they have built on the corner of the street.

Mr. Bourret said that too many comments are being made about Brainerd Place and would like to end it at that until the applicant returns.

Mark Gosselin, 142 Thompson Hill Road, said it would be best to have a special meeting for the applicant and hear public reaction of not wanting it to happen.

Attorney Olson said that will be a decision of the commission.

Elwin Guild, 332 Middle Haddam Road, thanked commissioners for their patience and professionalism. He was proud to be a witness. He said that there is a correction that the Hart Jarvis House was always a part of the Brainerd Place application. It was not newly added. He would love to see it moved to the southwest corner and made part of the hotel.

Terry Grady, 16 Victoria Road, asked if the Welcome to Portland Sign will be replaced.

Mr. Bourret said it was originally reviewed by the State and said it could be placed there. It was removed per the State and does not know if it will be replaced. The State was forceful in its directive to remove the stone the same day as the directive. State said it was a site line issue and threatened to fine the town.

Ben Barrett (online), grew up in Portland and thinks that the town is going the wrong way.

15. Approval of Minutes: 3/21/2024 Regular Meeting

MOTION: Robert Taylor MOVED, seconded by Jennifer Tellone to ACCEPT the Regular Meeting Minutes of 3/21/2024 as written. **VOTE UNANIMOUS. MOTION CARRIED.**

16. Adjourn

MOTION: Robert Taylor MOVED, seconded by Carolyn Freeman to ADJOURN the meeting at 8:26 p.m. **VOTE UNANIMOUS. MOTION CARRIED.**

Respectfully Submitted:

Dawn Guite

Recording Secretary