



TOWN OF OXFORD
S.B. Church Memorial Town Hall
486 Oxford Road, Oxford, Connecticut 06478-1298
www.Oxford-CT.gov

Planning & Zoning Commission

PUBLIC HEARING

MINUTES

April 1, 2014

7:00 PM

Main Meeting Room

Oxford Town Hall

CALL TO ORDER

ROLL CALL

PUBLIC HEARING

**Z-14-012 – Oxford Commons – Owner & Applicant: Garden Homes Management Corp.,
By Mark Branse, Esq. Address: 117 Hurley Road (Map:2 Block: 36 Lot: 2) & Hurley Road
(Map:2 Block: 36 Lot: 2B) (Application for Site Plan Approval – C.G.S. 8-30g) (Proposed
Development for manufactured housing community containing 124 home spaces and
infrastructure)**

PUBLIC HEARING PROCEDURES

CORRESPONDENCE

APPLICANT PRESENTATION

Mark Branse stated that they are discussing a site plan application and a remand from the court. He stated that this site plan was remanded by Judge Pickard with an order to approve it upon conditions that addressed five particular issues, which will be addressed later on. He commented that there are some new materials that they would like to submit into the record, he noted that he has already provided them to Ms. Pennell and they include a letter dated 3/21/2014 from Fred D'Amico who is the director of the W.P.C.A. He also stated that Mr. Trinkaus will be submitting that during his presentation, in addition because this is a remand and he is not quite sure how the record works. They are submitted the two traffic studies from the 2007 applications'. He noted that the Commission already has multiple copies of an updated traffic letter from Michael Anti, who is the traffic engineer who prepared those two balloon studies that he has just submitted, basically tracing what has changed between his reports of 2007 and today. He noted that it is just a brief summary of why those conclusions remain valid, that is also in the record. He stated that as he has indicated to the Commission that they are here on the remand of the Superior Court, he commented that they have filed a site plan application form because they know that at the Commission's meeting of 2/4/14, Peter Olson, who was then representing this Commission, indicated that this constituted, in his mind, a modification of the site plan and it is true, it has been modified in ways to address those items identified by

Judge Pickard. He commented that they were asked to submit an application form and an application fee and they have done so, and basically they are here to review with the Commission this evening what these changes are and how they respond to Judge Pickard's items that he delegated back to the Commission. He stated that his client Mr. Freedman would like to address the Commission.

Richard Freedman "Good Evening, thank you all for being here, after many public hearings since 2006, I will address this board for the very first time and I'm speaking this evening to briefly review the history of this application and to help explain how we arrived at this point we are at this evening. We purchased our site in Oxford in 2003. We filed our initial application in May of 2006. We proposed a development of 127 homes laid out by a landscape architect nationally renowned for his site planning of manufactured housing developments. While the pads are rented in such a development, the homes are sold and the housing market back then was going strong. We proposed a showcase community with gently curved main entrance roads that followed the existing contours of the land, and led to a series of graceful, undulating cul-de-sacs. The typical home was 1500 square feet with a two car garage, there was a clubhouse, by the standards of manufactured housing developments our project was luxurious offering large homes and amenities. Our plans were rejected twice by Inland/Wetlands and this Commission, finally ending in August of 2007. We appealed two years later in late 2009. The court vote issued its decision upholding the decision by the Inland/Wetlands Commission and overturning the denial of this Commission. It ordered our proposed zoning enacted and remanded the site plan back to this Commission instructing us to address five issues, which we have done and Mr. Trinkaus will discuss later. I had extended settlement discussions with the Town throughout 2010, coming out of that in mid 2011; I submitted a compromised plan in which 20% of the homes were age restricted and another 25% restricted to two bedrooms. However, it became clear that the town's only interest was in making our project go away, which has been the same from the beginning, so I withdrew our application. By mid 2011 the for sale housing market had long since deteriorated and the obvious approach was smaller less expensive rental homes as opposed to the larger more expensive homes for sale. The revised plan also had to uphold the denial reasons by Judge Pickard in his decision, one of them a wetlands buffer of 100 feet meant a smaller developed footprint, so in addition to smaller houses we reduced lot sizes and eliminated garages, we eliminated the clubhouse, which allowed us to shrink the developed area from 26 acres to 17 acres without sacrificing density. Our shift of for rent has other implications as well. During our hearings of 2006 the town retained Don Kleppersmith, a prominent Connecticut Economist and authority on Affordable Housing to measure the fiscal impact of our project. His study showed a net cost which is tax revenues minus the cost of municipal services for our residents of \$647,000.00 per year, about \$860,000.00 in current dollars. His largest cost factor was school aged children which he made it at \$69,000.00. His study is part of this record. I disputed Mr. Kleppersmith's analysis; I provided telltale evidence questioning his use of national averages when both industry data and our own data showed that most homes sold in manufactured housing developments are sold to buyers without children. Low maintenance one story ranch homes naturally appeal to empty nesters, whether over 55 or under 55, I provided data to this commission that estimated 36 school aged children, that's 75% of the homes would have no children at all of any age and an annual cost to the town of about \$20,000.00. Of course 2006 is long gone and the downsizing market has shriveled up which is something I know first hand from other projects and consequently our target market is no longer empty nesters, our target market now is what Mr. Kleppersmith assumed it would be, that is families with school age children, a demographic for whom we have a unique and compelling product. We are not renting apartments, we are renting houses, typically three bedrooms with a yard and private parking in a nice town with well regarded schools, few rentals and no Affordable Housing for families for \$1,100.00 to \$1,300.00 a month, that's market or affordable, our community will be the only path for many families into Oxford and its schools and the last two sentences show that Oxford is a place that families want to live. Consequently in the current context I no longer disagree with Mr. Kleppersmith. On the cost side, his estimate of 69 children in what would be 124 rented homes now seems (inaudible). On the revenue side, his tax revenue estimates were based on home values of about \$140,000.00 each which is roughly double the value we currently plan to construct. Consequently his estimated fiscal cost of \$860,000.00 in current dollars is a minimum, the actual likely cost is much higher, in the end however, the path into Oxford is what matters, not your costs, and why 8-30g exists. I provide the benefits of livable communities to decent hardworking people who otherwise can't afford to live in those communities, all along of course, we could have triggered 8-30g by building luxury

housing and setting aside 30% as Affordable that would certainly have been less contentious. But providing decent, clean affordable housing is our only business for over 50 years. We create housing that otherwise would not exist and we don't create it five units at a time or ten units at a time because that doesn't even scratch the surface of the problem. We've used 8-30g five times in five towns, including Oxford and four of those projects have been built, we will build this one, it's only a matter of time and once it is built it will be here forever, all the delay long forgotten." He then introduced Attorney Wendy Lecher who is an expert on school funding, equity and integration.

Attorney Wendy Lecher stated that she is a senior attorney with the Campaign for Fiscal Equity Project at the Education Law Center. She commented that in this position she works in school funding equity issues in New York State and other school issues such as segregation.

Chairman Carver commented that this is a site plan application and anything to do with the school and 8-30g; she is not sure why we are discussing the fiscal impact because it really doesn't matter. She stated that they are discussing a site plan approval. She referred to Counsel, stating that we are here to really listen to what's happened regarding the four points for the site plan approval. She commented that she is not sure why we need to go to the school because it's not really relevant.

Attorney Eugene Micci, Commission Counsel, stated that the Chairman's point is well taken; we are here to see if the applicants were able to perform the requirements set forth in Judge Pickard's decision. He commented that there were five items mentioned in his decision and that the Commission is anxious to see how those items have been approached. He noted that going into the whole general theme here is beyond the scope of this meeting.

Mark Branse questioned if his understanding is that no member of the public will be allowed to address anything except the four items in Judge Pickard's decision.

Chairman Carver answered, that this is a site plan, and that is correct.

Mark Branse reiterated for clarification that the only topics that the public will be allowed to address would be those items in Judge Pickard's decision, he questioned again if that is the ruling, because if so, they will abide by it as well.

Chairman Carver stated that the Commission would like to hear on the four items that the judge ruled, because it doesn't matter on an 8-30g application what the economic impact is.

Mark Branse agreed with Chairman Carver.

Chairman Carver stated that would be great.

Mark Branse stated that his concern was just to make sure the rules are the same for everyone.

Chairman Carver reiterated that is correct.

Mark Branse again stated that there is no discussion, only the four items. He noted that Caleb Hamel from their office is going to review those items and then Mr. Trinkaus who will review the site plan and focus on those items.

Chairman Carver thanked Mark Branse.

Caleb Hamel, "Good Evening, I'm Attorney Caleb Hamel of Branse, Willis & Knapp, attorney for the applicant, Garden Homes. As you just discussed, there are five items of Judge Pickard's decision to be addressed and those items are very clear, Judge Pickard said and I quote:

The court sustains the appeal and remands this matter to the Commission and orders it to approve the site plan and zoning permit application subject to reasonable and necessary conditions not inconsistent with this decision for a full second access road which is separated from the access on Hurley Road, additional parking, redesign of the hammerheads at the ends of the interior streets to prevent fire trucks to prevent fire trucks to make efficient turns, snow removal in the hammerheads, erosion and drainage on the west side of the property.

We've provided revised plans, as you've been told, in order to accommodate you, in order to make sure that because of the substantial time that has passed that everybody will be familiar with our application as it stands today. Steve Trinkaus will go over the minor details of that. But Judge Pickard has determined, very clearly that these are the only five items to be reviewed. You are under the order of the court to only review those. The cost of that review is on yours, just as any other party who had been ordered by the court to act, has to bare the costs of following that court order."

Chairman Carver thanked Caleb Hamel.

Steve Trinkaus began by stating that he is a Consulting Engineer from Southbury, Connecticut. He apologizes for getting hoarse, but he is just getting over a head cold. He commented that he is going to start with the existing conditions map, just to walk the Commission through the site itself. He noted that it is located on Hurley Road on the bottom of the page, Donovan Road on the east side, Airport Road on the north side. There are 40.79 acres in total, there is a central wetlands corridor mostly on the eastern portion of the site about 13 acres and change, two upland areas, a knoll of upland soil in the northeast corner and the majority of the site which is the area proposed for development on the west side of the wetlands, with frontage on both Hurley Road and Airport Road. The proposed site plan called for 124 residential units, there are two access points onto Hurley Road, two distinct roadways here and here (referring to map), another one to the west, both of them have adequate site lines for vehicles on Hurley Road if you are pulling out to see a car before it gets to the point where you are turning.

Anna Rycenga, ZEO asked that Mr. Trinkaus reference the sheet number.

Steve Trinkaus stated that it is sheet #2 of 18 with a date of 2/7/2014. That was one of Judge Pickard's points, of two entrances; we now have two distinct entrances onto Hurley Road. He commented that the original plans from 2006 had what they term "hammer head" cul-de-sacs; they were a Y shaped cul-de-sac at the end of the various roads. He stated that in this particular case, there is no hammerhead, there is one dead end road, but all of the roads loop back and forth onto each other so there are no cul-de-sacs that would preclude a fire truck from turning around. He noted that these are all 90 degree intersections, their roads are 24 feet in width, their curve returns are 24 feet wide so it's just like your standard residential subdivision road. He stated that a fire truck could easily turn in and out and around the corner, these are all controlled by stop signs and that is shown on a plan he will get to. He commented that they have eliminated the cul-de-sacs and the potential access issues with a fire vehicle, we have two entrances, we also have additional parking, there is additional dedicated parking here and up here in addition to two spaces being provided for every unit of their driveway. He stated that there is a driveway area, 20 x 20 that comes off in each of the access roads for each unit so we have dedicated parking here and up here. He noted that they have also provided, in upland areas on the site, dedicated snow storage areas that was another concern on the 2006 application – where to plow the snow at the end of the cul-de-sacs. He stated one, we don't have any cul-de-sacs, typically as you plow a road today, as the plow goes down the road, the snow goes left or right as they plow and basically just like any residential road in Oxford, or any other community the snow goes to the side of the road and it ultimately will melt into the storm water management system which is a series of swales and then it will go to one of five different treatment systems. There are three detention basins along the eastern side of the development above the central swamp and there are two systems on the western portion of the property. He went on to discuss those at this point. He referred to Sheet #4 of 18 with a 2/7/2014 date. He stated that in the northwest corner of the site we have a detention basin for peak rate attenuation; peak rate attenuation was required by your engineer and consultants (Nafis & Young) for

the two year, ten year, twenty-five year and fifty year rainfall events. He stated that this basin is designed to provide a zero increase in runoff for all of those storm water events for the contributing area which now drains to the western basin. He commented that not only do they meet zero increase, but they actually exceed it by having less water runoff the site under development conditions as a peak rate versus what currently runs off for those same storm events. He noted that the water basically comes in at two points, one off the cul-de-sac, the other is here, and the majority of the water is coming in here which is a four bay which is a depressional area that allows sediment to settle out and then it basically....

Mark Branse asked that when Mr. Trinkaus says "here", that he try to give some description.

Steve Trinkaus stated that the northwest corner of the site to the south near the existing property line, when the property line will jog back to the east so once the water comes into the four bay sediments that have not gotten trapped out in the soils will get trapped in the four bay, the water then drains, will pond temporarily in the flat bottom of the bays and the outlet structure is at the northern end of the basin, basically at the northwest corner of the site and it discharges onto both the rip rap pad and a series of arches of stone walls that were used to dissipate the flows over a wider area that's simply a rip rap pad as part of the storm water management report submitted as part of this application. He commented that the 2002 erosion guidelines from the CT DEEP require a non-erosive velocity for the 25 year storm event, which is 3 feet per second. He noted that they have non-erosive velocities, not just for the 25 year storm, but for the whole range of events up through the 100 year event by the design of the system. Ultimately this water drains as overland flow going towards the West about 800 feet where it will ultimately reach the impoundment along 8 mile rock which is located just west of Route 67 or actually Route 1 EE the other Western detention system is located along the western property line and approximately the midpoint of the property.

Chairman Tanya Carver asked that Mr. Trinkaus please refer to the sheet #.

Steve Trinkaus stated that it is Sheet #5 of 18 dated to 2/7/14. This detention system is an underground pipe system; it's a HDP pipe which is a large diameter plastic pipe so the water comes in on the north end of the system. The outlet structure is on the southern end of the system and again it's a small pipe that restricts the flow and restricts the outlet similarly to the other western detention system, we have better than zero increase in the peak rate of runoff at this point. Your consulting engineer at this point expressed a concern during wetlands application of a point discharge at this basin and what we've done is, at the end of the rip rap pad, and this is also true for the northern detention pond, is there will be a gravel trench that runs below the basin, kind of back, in order to allow the runoff to go into the stone filled trenches. It is open stone, 3 to 4 inches in diameter, so kind of modified rip rap, lots of void spaces and then once it fills up the trenches it simply trickles over the edge of the trench. We also have a stone wall along the property line here and then it flows through the wall, it'll infiltrate and it will continue at pretty much at a sub-surface flows until it gets down to 8 Mile Brook. So we not only have zero increase in the flow rates, we have non-erosive velocities and we are maintaining an overland flow condition at both of the two western detention basins. He asked the Commission to stay on Sheet #5, just to go over the other basin, there are three basins on the eastern side of the development area between that and the central wetland, all of the basins are located outside the 100 feet upland review from wetlands. He stated, again, all of these three basins provide attenuation of the peak rates of runoff from the 2, 5, 10, 25, 50 and 100 year storm events at non-erosive velocities. He commented that before the runoff is discharged, ultimately to the wetlands, they come to this existing man made pond and ultimately onto Hurley Road. He stated that they have met the storm water management requirements that they needed to.

Mark Branse stated that they have provided this Commission with an updated report from their soil scientist, James Cowan, from that office, is present if there are questions, but really we dealt with that rather exhaustively with the Wetlands Commission. He stated that he wasn't going to do a presentation on that and that really completes their presentation.

Chairman Carver thanked Mark Branse. She stated that at this point she will have the Commission Secretary list the items for correspondence.

Vice Chairman Luff read the Legal Notice for the Public Hearing. He then listed the following items as correspondence, for the record.

- 11 x 17 maps submitted by the applicant, Sheets 1-18.
- Application Z-14-012.
- Letter dated 2/24/2014 from Richard Freedman.
- Letter dated 2/27/2014 from Mark Branse.
- Affordable Planning for Oxford Commons dated 1/2014.
- Article 6A – Mixed Income Housing District.
- Memorandum of Decision dated 11/3/2009.
- Garden Homes vs. OCCIWA Appeal dated 1/9/2014.
- OCCIWA Approval dated 12/13/2013.
- W.P.C.A. letter dated 4/1/2014 from Scott Halstead.
- Letter from the Borough of Naugatuck W.P.C.A. dated 9/24/2012.
- Letter dated 7/26/2006 to Richard Freedman.
- W.P.C.A. & Town of Oxford Agreement dated 2003, and filed on the land records.
- Letter dated 3/11/2014 from Anna Rycenga, ZEO to Town Planner, Brian Miller and Town Engineer, Jim Galligan.
- Letter dated 3/19/2014 from Anna Rycenga, ZEO to Mark Branse.
- Memorandum dated 3/19/2014 from Town Planner, Brian Miller to Anna Rycenga, ZEO.
- Letter dated 3/19/2014 from Town Engineer, Jim Galligan.
- Letter dated 3/24/2014 from Chairman Carver to Caleb Hamel.
- Letter dated 11/13/2013 from Peter Olson to Mike Herde.
- Letter dated 1/29/2014 from Mark Branse to Peter Olson.
- Letter dated 2/11/2014 from Anna Rycenga, ZEO to Town Planner, Brian Miller and Town Engineer, Jim Galligan.
- Letter dated 3/31/2014 from Jessica Pennell to Mark Branse.
- Letter dated 3/17/2014 from Jessica Pennell to the Borough of Naugatuck.
- Letter dated 3/17/2014 from Jessica Pennell to the Town of Middlebury.
- Letter dated 3/17/2014 from Jessica Pennell to the Town of Southbury.
- Letter dated 2/20/2014 from Mark Branse to Peter Olson.
- Letter dated 10/17/2013 from Mark Branse to Mike Herde.
- Letter dated 11/26/2013 from Kathleen Eldergill to Richard Freedman.
- Letter dated 3/25/2014 from Anna Rycenga, ZEO to Eugene Micci.
- Letter dated 3/26/2014 from Anna Rycenga, ZEO to the Fire Marshal, W.P.C.A and Oxford Ambulance Association.
- Public Hearing Legal Notice.
- Letter dated 11/25/2013 from James Galligan.

Chairman Carver stated that at this time the Commission will hear from the public. She requested that the public only discuss the site plan application and the four items that were listed by the applicant. She stated that she wants to make sure that the comments reflect those items that were addressed by the applicant today. She invited any members of the public to come up and speak.

QUESTIONS/COMMENTS FROM THE PUBLIC

Ann Krane, 411 Mulligan Drive stated that she would like to make a point of information, which is that for many people in the room this is the first they have heard of this plan, therefore, probably a lot of their comments would be out of order at this time.

Chairman Carver stated that they are continuing this in two weeks to April 15th and all the information here will be available at the Planning & Zoning Department so the public will have a couple of weeks to review, and they will have an opportunity on April 15th to ask some more questions because the

Commission and staff at that time will also review what has been brought in front of them and will also have questions for the applicant. She thanked Mrs. Krane, and questioned if anyone else would like to speak.

Frank Munno, 331 Fairway Drive asked that the four or five points be repeated.

Chairman Carver stated that she does not have them in front of her (she then received them), so the four points or the remedy is that "the court sustains the appeals and remands this matter to the Commission and orders it to approve the text amendment to the zoning regulations and the amendment to the zoning map and to approve the site plan and zoning permit applications subject to reasonable and necessary conditions not inconsistent with this decision for:

- 1.) A full second access road which is separated from the access on Hurley Road;
- 2.) additional parking;
- 3.) redesign of the hammerheads at the ends of the interior streets to permit fire trucks to make efficient turns;
- 4.) snow removal in the hammerheads;
- 5.) erosion and drainage on the west side of the property. "

That is what this Public Hearing is about. She asked if anyone else would like to speak.

Scott Hudkins, 163 Country Club Drive questioned if this means that with the exception of those four points the entire plans for the construction of these buildings have been approved or are we just talking about the zoning of the site?

Chairman Carver stated that this application has been approved by the court, so we, at this point, we're only going to discuss the five items if the applicant submits remedy to all the five items, and if this Commission feels that they have, then yes this is all we are discussing, we are not discussing whether this is an okay application or not, this is a site plan approval.

Scott Hudkins, 163 Country Club Drive questioned specifically if things like the sewage and water have all been approved.

Chairman Carver stated only the items, but forwarded the question to the ZEO.

Anna Rycenga, ZEO stated, for clarification purposes, this is just a site plan; the next step would be issuing individual permits for each pad.

Evelyn Kuhn, 624 Troon Court stated that the Commission is approving the site plan, but questioned what sort of structures are going to be on that (inaudible).

Chairman Carver forwarded the questioned to Anna Rycenga, ZEO.

Anna Rycenga, ZEO stated that it is a mobile manufactured home that is the proposal.

Evelyn Kuhn, 624 Troon Court stated that the site plan has been approved, but questioned if the have the mobile homes been approved.

Anna Rycenga, ZEO stated that is the site plan.

Evelyn Kuhn, 624 Troon Court stated that she is not sure if she is correct, when she looks at the television and sees heavy winds, heavy rain, snow, whatever, the first things that are destroyed are mobile homes.

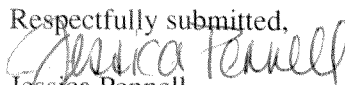
Chairman Carver stated that has nothing to do with this application, and thanked Ms. Hughes for her comments.


MOTION BY Commission Secretary Cocchiarella to *CONTINUE* this Public Hearing to *April 15, 2014* at 7:05 PM. Second by Chairman Carver.
All Ayes.

ADJOURNMENT

MOTION BY Commission Secretary Cocchiarella to *ADJOURN* the Special Meeting at 7:45 PM.
Second by Commissioner Cosgrove.
All Ayes.

Respectfully submitted,


Jessica Pennell
Administrative Secretary
Planning & Zoning Commission

14 MAY 27 PM 2:48
TOWN OF OXFORD, CT

TOWN CLERK