

PLANNING & ZONING COMMISSION
TOLLAND, CONNECTICUT
REGULAR MEETING MINUTES OF DECEMBER 13, 2010

MEMBERS PRESENT: Michael Cardin, Chair
Marilee Beebe, Vice Chair
Sue Errickson, Secretary
Dave Barrow, Regular
Jack Scavone, Regular
John Hughes, Alternate

MEMBERS ABSENT: Benjamin Stanford, Alternate

OTHERS PRESENT: Linda Farmer, AICP, Director of Planning & Community Development
Omar Rajeh and Eric Alquist of Mediterranea
Public

1. **Call to Order:** Michael Cardin, Chair called the meeting to order at 7:32 in Council Chambers.
2. **Public Comment:** None.
3. **Public Hearing(s)**

- 3.1 **P&Z App. #804 Mediterranea** – Proposed Zoning Regulation revisions to add a definition of Hookah Lounge to Section 170-5 and to add Hookah Lounge to Section 170-58 as Special Permit Use in the Gateway Design District.

Ms. Errickson read the public notice for the two public hearings this evening. She also read into the record Ms. Farmer's December 9, 2010 memo to Mr. Cardin. Mr. Cardin noted they also received a December article from the Connecticut Post from a fellow Commissioner regarding Hookah Lounges. Ms. Farmer said her memo lays out the legal guidelines and guiding documents the Commission must consider in this proposal.

Ms. Beebe confirmed with Ms. Farmer that all uses in the Gateway Design District are Special Permit uses. Ms. Farmer said it was determined by the town attorney that Hookah lounges are not a retail goods or service and that they are not a use provided for in their regulations.

Omar Rajeh and his father-in-law Eric Alquist spoke about the Hookah lounge they would like to open in Tolland. Mr. Rajeh said he has lounges in New Haven and Woodbridge. The original Hookah lounge is on Orange Street. They described the lounge as a meet and greet type of place typically appealing to college kids that is an alternative to alcohol. Mr. Alquist said he realizes tobacco is not the healthiest product, but may be preferable in comparison to alcohol. Mr. Rajeh said the New Haven Mediterranea also serves food, but he understands that the proposed lounge for Tolland cannot serve any food or drink.

Ms. Errickson asked if there would be any age restriction on who could enter the facility. Mr. Rajeh said it is his policy to card people at the door, only allowing patrons who are 18 or older inside. Mr. Rajeh described the hookah experience, which involves a central glass

container filled with water, and patrons smoke a product that is a mix of fruit with tobacco and honey. He said it is filtered and cooled so there is a white smoke. He said it does not lead to addiction and there is no inhaling of the product. Asked how many hookahs could be in use at a time, Mr. Rajeh said it depends on how big the room is. He said two to three people can share a hookah at a table, and a room might possibly hold about 25 or 30 people.

Ms. Errickson asked if hookah use is regulated by the State. Ms. Farmer said this is all relatively new for them and the health department said there are no specific regulations that apply to it. Ms. Errickson also asked if a hookah lounge would need to meet any specific fire regulations. Mr. Rajeh said eh would need to have smoke detectors, sprinklers and appropriate exit signs. He added that he also has cameras installed in his facilities and has been in the hookah lounge business for thirteen years and has never had any incidents or problems with the police.

Ms. Errickson asked how Mr. Rajeh would address the surgeon general's report that smoking is bad for human health. She also asked about the impact of second hand smoke on those in the room not smoking. Mr. Rajeh said the people that come to a hookah lounge do so to smoke the hookah and meet others. He said they go to taste in the smoking the flavor of the fruits. Mr. Alquist acknowledged that smoking is not the healthiest activity, but when compared to imbibing alcohol, it is less dangerous. He said students have said they were glad to have a place to go and socialize where there is an alternative to alcohol.

Mr. Hughes said an important obligation of the PZC is to promote the health and general welfare of the town and he feels this might pose a conflict here. However, both Ms. Beebe and Mr. Barrow noted that they do allow bars and liquor stores in town. Mr. Barrow asked Mr. Rajeh if he allows other tobacco products such as cigarettes and cigars to be used in his establishments. Mr. Rajeh said he does not. He added that he was drawn to this particular location in town because the location included outside seating.

Ms. Beebe asked if Mr. Rajeh has any special ventilation systems in his facilities. Mr. Rajeh said they have exhaust fans, and filters, and bring in make-up air. Mr. Barrow asked if the facilities have smoke-eaters, which he described as basically a unit that ionizes whatever is in the air. Mr. Rajeh said his ventilation systems are separate and he does not share them with any other adjoining businesses.

Mr. Scavone asked for an elaboration on how hookah use purchases work. Mr. Rajeh said patrons come in and are seated. They then select the flavor they wish to try. They pay for the use of the hookah and the flavored tobacco and stay until they are finished, which is generally an hour or so. There is usually music playing and occasionally entertainment such as a belly dancer.

Ms. Errickson asked what would be Mr. Rajeh's hours of operation. Mr. Rajeh said they are open seven days from 10AM to 12PM, and until 2AM on weekends.

Ms. Farmer asked about the business model, questioning how it might be profitable if they cannot serve any food or drink whatsoever. Mr. Barrow agreed, asking if the Mediterranean could not serve food if they could be profitable. He said they would want to have a good feeling that a business would succeed here in town. Mr. Rajeh said one of his establishments does not serve food either, but has been in business and profitable for the past 2-1/2 years. He said it draws on the college crowd and he is expecting that the model in Tolland would

draw on UConn students. He explained that without food, his expenses are also considerably lower as he does not require a chef, waitstaff, or food and beverage purchases.

Ms. Beebe asked if Mr. Rajeh could get a liquor license after the fact if there is smoking in his establishment. Ms. Farmer said she would need to get a clarification on that. Ms. Errickson said she spoke to the State Police in town to get their input. She said in the DARE program for students in school, they don't just talk about avoiding alcohol and drugs, but also smoking. She said she is concerned that once one gets in the habit of smoking, it can be difficult to give up. She said even though hookahs are not cigarettes, the process still involves taking the product into your lungs in a routine manner. She said any exposure to second hand smoke is bad for your health. She added that they cannot control alcohol in town because the State does that, but they can control smoking.

Mr. Cardin asked for clarification if the State requires such establishments limit service to those 18 and over. Mr. Rajeh said he is uncertain about State requirements, but this is his practice in his establishments. Mr. Cardin also asked if this were approved, could hookahs be used both indoors and outdoors. Ms. Farmer said that would be reviewed as part of the Special Permit. Ms. Beebe asked if the tobacco substance in hookahs are considered regulated as tobacco. Mr. Rajeh said he assumes so, and that is why he serves those only 18 and over. Ms. Beebe said she would expect the tobacco umbrella to include hookahs. She questioned how jurisdictions handle cigar bars and if this would be treated similarly.

Ms. Farmer asked if there is any police oversight of Mr. Rajeh's establishments to make sure they are not selling to people under age. Mr. Ahlquist said the police come into the New Haven location fairly regularly because of their location.

The public hearing was opened to public comments. Candy Victorino of 10 Robbie Road said she and her family have lived in town for about ten years and are raising four young children. She quoted from Section 171-1 about protecting the health, safety and welfare of the community and said she was opposed to this change as smoking is not a healthy activity. She reiterated an earlier statement that the town cannot control alcohol sales in town, but they can control smoking and should do so. She said she understands the cultural aspects of socializing with a hookah, but feels they would be inviting college kids into town to partake of a practice they don't want them to. She said New Haven is more conducive to this type of activity because its is busier and more diverse, but it would not be a good fit in Tolland.

Mary Anne Delany Tuttle of 195 Old Post Road said she is also opposed to a regulation change. She said they have more than 30 years of research that shows smoking is not a healthy practice and over 22 reports from the Surgeon General that speak to the adversity of smoking. She said it is impossible not to inhale when one is smoking. She said if they allowed a Special Permit use for this, they would not be doing due diligence for the town. She added that Tolland is not a college town and this activity will bring in outsiders. She said it is not something that would enhance the town.

Mike Pascuzzi of 55 Avebury Lane said he concurred with Ms. Delaney Tuttle's comments. He said he would not want Tolland to be known for the town that has a hookah lounge. He said he does not feel it is something people would look up to.

Ms. Beebe asked Ms. Farmer why hookah lounges are not considered a retail service. Ms. Farmer said that Attorney Conti felt it functioned more like a restaurant but that it couldn't

qualify for the restaurant definition because of the lack of food and drink. Therefore, it doesn't fit any current definitions for Special Permit uses in the Gateway Design District. Mr. Scavone said he would like to get a better handle on whether this type of establishment is self-regulated or regulated by the State. Mr. Cardin asked if a person could purchase hookah materials and product at the lounge for use at home. Mr. Rajeh said they could not at his establishments.

Mr. Hughes asked how the Health Department regulates the mouthpieces that people would use. Mr. Rajeh explained that they are used once by each patron and then disposed of. Ms. Farmer reviewed some of the regulations in the public health code regarding tobacco bars.

Mr. Cardin recapped the items that they discussed. He said they need to get clarification on State regulations with regard to serving only those 18 and over. The Commission also would like to follow up on ventilation requirements under the public health code. They would like to get a better handle on police oversight of this type of activity. Is the 18-year or older age requirement enforced? Are spot checks done? Lastly, the Commission would like to get clarification on whether food service establishments include both foods that are served at the premises and food that is brought in.

Ms. Errickson read into the record a December 9, 2010 letter from Eastern Highlands Health Director Rob Miller to Linda Farmer, as well as a letter from WINCOG.

Marilee Beebe/Jack Scavone motion to continue the public hearing to January 10, 2011 in order to obtain additional information as noted above. Motion was unanimously approved.

3.2 **P&Z App. #805 – Town of Tolland** – Staff Proposed Zoning Regulation Revision. The Commission reviewed the proposed zoning regulation revisions as provided in the handout. Ms. Farmer reviewed Section 170-23, Designation of Public Act 490 Open Space land. This proposed regulation change will clarify that a parcel of land without a home on it does not have to have a 2-acre building lot subtracted from the amount of land that can go into Public Act 490 Open Space.

Ms. Beebe and Mr. Scavone discussed the philosophical merits of this issue. Ms. Beebe said that developed land tends to cost more for a town in services, so it incentivizes keeping land undeveloped. Mr. Scavone questioned if people put their land into Public Act 490 Open Space to lower their taxes, is this not simply shifting the tax burden to the rest of the taxpayers. Ms. Farmer said the long range picture created with this change would allow property owners in town to not feel they have to develop their land if they don't want to, ultimately saving the town money.

The Commission also discussed whether the land under a structure such as a barn on an otherwise undeveloped property could qualify for the P.A. 490 Open Space. Ms. Farmer said she always understood that the land under such structures does not qualify and would need to be subtracted out. The Commission discussed a recent P.A. 490 Open Space application from a property owner on Charter Road where this came into question.

The Commission discussed the proposed revision to Section 170-35.L. It was agreed to remove this item from the list until clarification can be obtained on state statutes regarding Family Day-Care Homes.

The Commission discussed the proposed revision to Section 170-37 K.4 Rear Lots. Ms. Farmer explained that under the current regulation a rear lot could only be used for a single family home and associated structures. They cannot have any Special Permit uses on them such as a dog grooming service, and this would allow the Commission to consider such an application as a Special Permit Use.

The Commission discussed the proposed revision to Section 170-85.B.1. Ms. Farmer said this reflects the increased setbacks that have since been approved and makes the regulations consistent.

The wording under Section 170-85.C.2 was clarified to read: *Private swimming pools and accessory structure. Minimum setbacks: 75' from streetline and 25' from side and rear lot lines. A swimming pool and attached deck, if any, shall be located in the rear or side yard only. Swimming pools may be located in the front yard if set back at least 200' from the streetline. Swimming pools on rear lots may be located in front yards, but the minimum front lot line setback is 100'.*

There was consensus from the Commission to review further Section 170-41.F Permitted Uses in order to get clarification on State statutes on Family Day-care Homes.

There was consensus in Section 170-51.Q to capitalize Group Day Care Homes in this section.

Jack Scavone/Dave Barrow motion to close the Public Hearing on items 170-23A and B, 170-36, 170-36.R, 170-37 K.4, 170-85, 170-97, 170-42, and 170-51 with changes noted in the discussion above. Motion was unanimously approved.

4. Action on Public Hearing

4.2 P&Z App. #805 – Town of Tolland – Staff Proposed Zoning Regulation Revisions.

Commission to take action on December 13, 2010 Public Hearing item. Jack Scavone/Dave Barrow motion to approve the regulation revisions on the closed public hearing items with the changes noted in the Public Hearing discussion. Motion was unanimously approved.

5. Other Agenda Items

5.1 **Conceptual Discussion** – 31 Kingsbury Avenue – Ms. Farmer said she is working with the property owner and his attorney. They will be ready on January 10, 2011 to discuss this. She said she is pleased with their progress.

5.2 **Conceptual Discussion** – Lot 9 – Tolland Business Park – Ms. Farmer said referred Commissioners to the map in their packets of Lot 9. She said Gardner and Peterson did the drainage design in conjunction with the Star Hill Family Athletic Center. The drainage handles Lot 9, Lot 10, Lot 11 and the end of Gerber Drive and is designed to accommodate the increased flow from these areas. Ms. Farmer said the Economic Development Commission worked on the site plan so that it can be priced for sale. They were originally speculating that the Lot could accommodate 12,000 square feet in building, but after further review it has been sized down to about 10,000 square feet. Ms. Farmer said Town Engineer Jennifer Usher weighed in on this also.

5.3 Discuss and approve revised 2011 PZC meeting schedule (November 21st should be 28th). Sue Errickson/Marilee Beebe motion to approve the revised meeting schedule. Motion was unanimously approved.

5.4 Discussion to endorse sending a support letter to the Town Council regarding legislation, working with Rep. Bryan Hurlburt and Sen. Tony Guglielmo to amend use of Town parcel along I-84. Ms. Farmer explained that this is for the Tolland Village Area and that Rep. Hurlburt and Sen. Guglielmo are willing to introduce legislation in January. There was consensus for a letter to be written from the PZC and signed by Mr. Cardin to give the Commission's endorsement of the Town Council going forward.

6. **Approval of Minutes** – Approve minutes of November 8, 2010 Regular meeting and November 30, 2010 Special Meeting.

Sue Errickson/Marilee Beebe motion to approve the minutes of the November 8, 2010 Regular meeting. Motion was unanimously approved.

Sue Errickson/Dave Barrow motion to approve the minutes of the November 30, 2010 Special Meeting. Ms. Errickson, Mr. Barrow, Ms. Beebe, Mr. Cardin all voted to approve. Mr. Scavone abstained. Motion passed.

7. **Activities and Updates:** None.

8. **Town Staff Comments**

8.1 Tolland Village Area – Discuss next steps. Ms. Farmer said it was good seeing George Mantak and the Economic Development Commission expressing a desire to partner with the PZC to move forward. She said they will need to see a little more information from a traffic standpoint and the impact that might have on the community. She would like to talk to Steve O'Neill from VHB and possibly Norm Garrick from UConn, and she wanted to get the Commission's feelings about moving forward on this for professional services budgeting. Ms. Farmer said she is looking less for specifics than for traffic impact on the community. She added that it also might be good to get information on a market nature, but not a full market survey.

Ms. Beebe asked if their design guidelines are robust enough to handle the TVA. Ms. Farmer said the design guidelines will be big part of what they get from Planimetrics which is included in the budget already.

Mr. Barrow said that the Economic Development Commission is looking at an economic road map for the town over the next five years. He said George Mantak would like to have a joint EDC/PZC discussion on this.

8.2 PZC Budget – Fiscal year 2011/2012 Budget. This item was discussed in conjunction with Item 8.1 above.

8.3 Development of revised Low Impact Development Regulations. Ms. Farmer said in the latest concept plan for the TVA, the hotel has been moved over a bit to take into consideration wetlands. Additionally, the TVA Sewer Estimate has been sent to the WPCA. Mr. Cardin noted that the town has a 400,000 gallon capacity and is currently using about

50,000 gallons of that capacity. He pointed out that the high end of the estimate only calls for about 80,000 gallons per day capacity.

Ms. Farmer noted that Steve Trinkhaus is revising the town's Low Impact Development regulations at no charge. He is working with Planimetrics on this.

8.4 Town issued RFP for purchase of 227 Hartford Turnpike. Ms. Farmer referred to the property at the corner of Hartford Turnpike and Industrial Park Road. She said the house is rented but not currently occupied and the town put out an RFP to see if they can get a buyer for the appraised value.

9. Announcements – Upcoming Meetings

9.1 **PZC Special Meeting/Workshop** – Monday, December 20, 2010 at 7:30 p.m.

9.2 **Regular Meeting** – Scheduled for Monday, December 27, 2010 is cancelled.

10. **Reading of Correspondence:** None

11. Communications and Petitions from Commission Members

11.1 **CRCOG Report** – Sue Errickson – Ms. Errickson said CRCOG recently gave a presentation on the new studios being built in South Windsor and all the additional development such as hotels and restaurants that are to be built. However, Mr. Scavone noted that it was recently reported that the South Windsor Town Council voted down the entire project in a 7 to 2 vote.

12. **Public Participation:** None.

13. **Adjournment:** Jack Scavone/Marilee Beebe motion to adjourn the meeting and pay the clerk at 9:40p.m. Motion was unanimously approved.

Respectfully submitted,

Annie Gentile
Clerk