

PLANNING & ZONING COMMISSION  
TOLLAND, CONNECTICUT  
REGULAR MEETING MINUTES OF JANUARY 10, 2011

MEMBERS PRESENT: Michael Cardin, Chair  
Marilee Beebe, Vice Chair  
Jack Scavone, Regular  
Dave Barrow, Regular  
John Hughes, Alternate  
Benjamin Stanford, Alternate

MEMBERS ABSENT: Sue Errickson, Secretary

OTHERS PRESENT: Linda Farmer, AICP, Director of Planning & Community Development  
Omar Rajeh, applicant  
Robert Miller, Director of Public Health, Eastern Highlands Health District  
Beverly Bellody, Director of Human Services  
Nancy Taylor Dunn, Coordinator Tolland Youth Health Services  
Public

1. **Call to Order:** Michael Cardin called the meeting to order at 7:36 in Council Chambers. The Commission observed a moment of silence for fellow Commissioner Susan Errickson's husband, who passed away last Thursday.
2. **Public Comment:** None
3. **Public Hearing**
  - 3.1 **P&Z App. #804 – Mediterranean** – 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. Continue Public Hearing which commenced on December 13, 2010.

Mr. Cardin seated John Hughes for Susan Errickson, noting that Mr. Hughes was present at the December 13, 2010 meeting when the Public Hearing was opened.

Ms. Beebe read several items of correspondence:

- A January 3, 2011 memo to Michael Cardin, PZC Chair, from Sargeant Scott Smith of the State Police.
- A January 5, 2011 memo to Linda Farmer, Director of Planning & Community Development from Robert Miller, Director of Health with the Eastern Highlands Health District
- A January 6, 2011 letter to the PZC from Nancy Taylor Dunn, coordinator for Tolland Youth Health Services, and signed by members of the Tolland Substance Abuse Task Force.
- A January 10, 2011 memo to the PZC from George Mantak, Chair of the Economic Development Commission

Mr. Cardin noted that a number of members of the public have tried to contact Commission members to discuss this application, and that the reason the Commissioners did not respond was because they are not allowed to engage in ex-parte communications.

Mr. Cardin said he felt the correspondence read into the record appeared to answer all of the Commissioner's previous questions, with the exception of getting a follow up on ventilation requirements. Ms. Farmer said she did talk to Dick Municello, the Fire Marshall, and he said there

are no specific requirements, but that ventilation would be addressed further down the line during the Special Permit process.

Ms. Beebe asked if smoking outside of the confines of a business is regulated. Robert Miller, Director of Public Health said smoking regulations are confined to inside a business.

The Public hearing was opened to public comment. Terry Holybee of 56 Mountain Spring Road, asked why the Commission would even consider an application for a hookah lounge. She said they already have a business in town that thrives on the degradation of women and they don't need to add one that thrives on the health of their young people. She asked why they cannot instead seek out businesses like a coffee shop or franchise restaurant. Mr. Cardin explained that it is not the Commission's purview to seek out specific businesses for the town. The Economic Development Commission can do that, but not the PZC. He said their job is as a land use board to hear any applicant's request and make decisions based on the best interests of the community.

Heather Freeman of 338 Shenipsit Lake Road said she is opposed to a hookah lounge in town. She said as a mother and public health educator, the risks of smoking are well established and allowing a hookah lounge in town does not send a healthy message.

Ken Kittredge of 37 Farmbrook Drive was opposed to the application, and referred to health risk warnings in 2010 cited by the Surgeon General. He provided statistics about health care costs related to smoking and to loss of productivity. He also said he was concerned about the businesses in the same complex as the proposed lounge, such as Cardio Express, that he hopes would not have to share the same ventilation system.

Abigail Jefferies of 121 Wildwood Road was opposed to the hookah lounge. She spoke about a June 2009 article in the New Haven Register about the Olive Tree Hookah Lounge being ordered closed by the local sanitarian. She said the order was challenged in court adding that it would be a mistake to allow a hookah business to become established, because it would make it harder to shut it down. She also referred to another article on the qualities of hookah smoke.

Sheri Miller of 42 Farmbrook Drive said she feels the Commission is obligated to deny the application because of their charge to promote the health, safety, and welfare of the community. She said the applicant has stated that he is trying to attract UConn students and that it would be Tolland taxpayers dollars that would pay for the repercussions of any negative problems that occurred. She also feared it will entice Tolland High School students to visit the business. She asked the Commission to think of the community first over any potential business in town.

Laurel Leibewitz of 44 Tolland Farms Road also objected. She said she was a big advocate of the DARE program before they lost it due to budget cuts. She feared a hookah lounge would be an exciting, enticing place for the town's youth. She also questioned what kind of litter the business might generate in having on the sidewalks outside.

Weston Brooke of 205 Crystal Lake Road objected as he feels it is not consistent with Tolland's vision, particularly for its youth. He said young kids are always looking up to older kids and a hookah lounge will make smoking seem attractive and glamorized. He feared visiting the hookah lounge would become a "rite of passage" for all kids turning 18 in town.

Mike Pascuzzi also said he was opposed to the hookah lounge application.

Anne Zimmerman of 81 Brandon Way said she felt this is not a good fit for their town and could be a gateway to some bad things down the road.

Melissa DeLoreto of 169 Wildwood Road said every knows what the health implications are from cigarettes, and they should not have a smoking lounge next to a fitness center or a medical office. She said lung cancer is not pretty and implored the PZC to use its best judgement.

Vickie Hadge of 8 Timber Trail said she was opposed citing statistics on the health implications on one hour of a hookah smoking session. She referenced an article in the Hartford Courant from the World Health Organization.

Steve Martin of 160 Robin Circle referencing George Mantak's letter said the application to create a new use in town is inconsistent with the vision of the town. He provided statistics on health impacts from smoking such as various cancers and low birth-weight babies, saying he wanted to dispel the myth that hookah smoking is less harmful than cigarettes.

Kevin Moran of 50 Merlot Way said he is opposed to the application and is concerned about how the lounge might affect already established businesses. He was concerned about how a hookah smoking session might impact kids who then get in cars and drive home.

Christine Colenbaugh of 119 Buff Cap Road said kids are always looking for something new to do and will very likely want to go there to check it out if a hookah lounge opens. She said they will try to get in, and if not, try to order their own hookahs and products online or make their own homemade water pipes. She said kids already try to get into bars before they are 21. She said they have been working hard as a society and town to become healthier and this is not a message they want to send to their youth.

Ms. Beebe asked Nancy Taylor Dunn, Coordinator of Tolland Youth Health Services, if their Local Prevention Council funding would be jeopardized if the hookah lounge was approved. Ms. Dunn said they accept funding stating as a town that they endeavor to discourage tobacco, alcohol, and other drug use. She said tobacco is considered a drug. She said the funding would not be jeopardized, but it is counterproductive to what they are trying to do.

Ms. Beebe asked Ms. Farmer if she encountered enforcement issues in other towns with regard to hookah lounges. Ms. Farmer said she spoke to the zoning officer in West Hartford, and he said they don't have any enforcement issues there. Ms. Beebe also asked Rob Miller about the outcome of the legal challenge with the hookah lounge in Milford. Mr. Miller said the order was appealed to the State Health Department and a hearing was held. He said the State Health Commission modified the order, which he said essentially took the teeth out of enforcement. He said he is uncertain at this time if the hookah lounge there is open or not.

Ms. Beebe reviewed the statements of several emails and letters sent by local residents, who she listed by name. There were 29 in all sent since the Public Hearing was opened in December. All communications were in opposition to the application. Ms. Farmer noted they were all distributed to members of the PZC and are part of the public record.

After hearing the list of names, Sheri Miller of 42 Farmbrook Drive said she knew there were others too. She said some people only learned of the application today from a front page article in the Hartford Courant. She said many were blindsided and upset. Ms. Farmer said they do an e-blast to the community for anyone who wishes to sign up, and they try to publicize such things as much as possible. She said they welcome suggestions on ways to get the word out even more. Ms. Miller did not blame the PZC, but trust the Commission to do the right thing for the town..

Ms. Beebe said people do need to understand the process. She said any business can make an application to their Commission and they are bound by law to hear it. She said they cannot cherry-pick businesses for the town and they don't have a choice about who they hear. She said the town really should not want the Commission to have that power either, deciding who can be heard and who can't.

Pauline Sardo of 97 Brandon Way said she and her husband sent an email opposing the application but was not on the list. She said the gist of the letter was that her husband smoked for many years and from his personal experience especially seeing others who have had negative health consequences from smoking, he is glad he quit when he did.

Steve Martin asked if the Special Permit application is a way to get around laws that prohibit smoking in certain establishments. Rob Miller said it was not. He said the smoking prohibition laws impact businesses that serve food or beverages. He said there are tobacco use laws that apply to the workplace also. Mr. Cardin explained that any use in the Gateway Design District requires a Special Permit. Ms. Farmer said tobacco use laws came out of State law. She said there is some overlap between the purview of the PZC and State laws, but you cannot go around State laws.

Ken Wolfe of Old Ken Road North said a challenge to the PZC in their decision is to look at the broader picture. He said they should be looking at what they want to protect in Tolland, just as the PZC sets aside green space to protect Open Space.

Laurel Leibewitz of 44 Tolland Farms road said the “hookah” is not a definable word to Tolland residents. She said they talk about marijuana but they don’t talk about hookah. She said this type of business will be targeting kids who aren’t necessarily going to be telling their parents where they are going. She questioned if the business will have signs that state smoking is harmful to their health, and if they did, if the kids would even pay attention to it. She said college and high school age kids are not going to do the research.

Jack Scavone/Dave Barrow motion to close the Public Hearing. The motion was unanimously approved.

#### **4. Action on Public Hearing**

- 4.1 **P&Z App. #804 – Mediterranean** – 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. Commission to take action on December 13, 2010 and January 10, 2011 Public Hearing items.

Mr. Cardin said he would like to bifurcate the application into two votes, one on whether to add a definition of hookah lounges to the zoning regulations and then a second vote whether to approve hookah lounges as a Special Permit use in the Gateway Design District. Mr. Cardin asked Ms. Farmer to explain why a hookah lounge does not fit the definition of retail goods and services. Ms. Farmer said when an application for a use comes before them, they first look to see if it can be encompassed by another permitted use. After discussing it with the town attorney about whether it might be considered a retail goods or service, it was determined that a hookah lounge operates more like a restaurant in that people are seated and provided a service, but restaurants serve food and beverages and that is not proposed here. Ms. Farmer explained that any use not specifically permitted is prohibited. Mr. Cardin asked if in a hypothetical situation if a cigar bar would be seen similarly, Ms. Farmer said it would if it functions in the same way.

Mr. Cardin asked what parameters the PZC could act upon. He asked if a definition of a hookah lounge were not added to the zoning regulations, what would happen to the application. Ms. Farmer said both the definition and the request to add hookah lounges as a Special Permit use need to be addressed. She said a negative response on the first question (definition) would not make the second question moot.

Mr. Hughes asked if they define a hookah lounge, if they could still prohibit it. Ms. Farmer said they could.

Mr. Cardin read the beginning section of the zoning code which referred to the ultimate objectives of the PZC. Ms. Farmer said in Tolland the PZC has two jobs, one for Planning and one for Zoning. She said in this application the Commission is acting as a Zoning Commission, which is a legislative process. She said they are charged with being in compliance with the Plan of Conservation and Development.

Ms. Beebe asked if the Big Y sells alcohol and tobacco. Ms. Farmer said, yes, that they sell beer. Ms. Beebe asked if a hookah lounge could be considered an entertainment type of business. Ms. Farmer said hookah lounges share similarities with other existing uses, but it is not a good fit with any particular use as it is neither a nightclub nor a food service establishment. She added that hookah lounges are classified differently from town to town, particularly in those where food and drink are served. She said she would expect that the proposed definition of a hookah lounge would be a standalone and would not include other similar type businesses, such as cigar bars.

Ms. Beebe noted that smoking has a negative health impact, but at the same time so does alcohol and some drive through restaurant offerings. She asked if they could say a hookah lounge is inconsistent with the vision for the Gateway Design District (GDD) but not necessarily another district. She said they are looking to maximize the potential of the GDD for the community and asked if the application before them is for the GDD or the town as a whole. Ms. Farmer said it is for the GDD, so that is all they would be deciding here tonight. Mr. Cardin said the PZC is charged to promote business in a manner that respects town character. Ms. Beebe asked if that refers only to architectural design. Ms. Farmer said the charge is not specific in the Plan of Conservation and Development.

Motion John Hughes/Jack Scavone to add a definition of a hookah lounge to Section 170-5 of the Zoning Regulations to read as follows, effective date January 15, 2011: *Hookah Lounge (Shisha Bar): An establishment where patrons share flavored tobacco or molasses from a communal hookah.*

Mr. Hughes asked if they should expand the definition to cover a broader range of businesses such as cigar bars. Ms. Farmer said they could clarify the definition but not expand on it without holding another public hearing. Ms. Beebe clarified that then if they had an application for a cigar bar, they would need to add another amendment to the regulations. Ms. Farmer said they would.

A vote was taken on the motion and the motion was unanimously approved.  
(Michael Cardin, affirmative; Marilee Beebe, affirmative; Jack Scavone, affirmative; Dave Barrow, affirmative; John Hughes, affirmative)

Motion John Hughes/Marilee Beebe to deny a Special Permit use for a hookah lounge in the Gateway Design District as the proposal is adverse to the Commission's stated goals to promote the health, safety, and welfare of the community. Additionally based on the vision for the Gateway Design District for which this Special Permit is requested, the use is inconsistent with providing goods and services in that district. The request is not consistent with the goals of the Plan of Conservation and Development and is not consistent with the authority and purpose clause in the regulations.

A vote was taken, and the motion to deny was unanimously approved.  
(Michael Cardin, affirmative; Marilee Beebe, affirmative; Jack Scavone, affirmative; Dave Barrow, affirmative; John Hughes, affirmative).

## 5. **Other Agenda Items**

5.1 Discuss future joint workshop with Economic Development Commission and topics of discussion. Mr. Cardin asked if the EDC had a specific date in mind for the workshop. Ms. Farmer said George Mantak and the EDC want to move forward on several issues including the Stakeholders report, discussing sign regulations, role of the EDC in the Tolland Village Area, and implementation of the Plan of Conservation and Development, which is enough for a full workshop. There was consensus to hold this on February 14, 2011.

5.2 Appointments to CRCOG Regional Planning Commission. Ms. Farmer said Sue Errickson has expressed an interest in being reappointed to this Commission. Dave Barrow/Marilee Beebe motion to reappoint Sue Errickson to the CRCOG Regional Planning Commission. Motion was unanimously approved..

6. **Approval of Minutes:** Approve minutes of December 13, 2010 Regular Meeting and December 20, 2010 Special Meeting. Jack Scavone/Marilee Beebe motion to approve the minutes of the December 13, 2010 Regular Meeting. Motion was unanimously approved. Dave Barrow/Jack Scavone motion to approve the minutes of the December 20, 2010 Special Meeting. Mr. Barrow, Mr. Scavone, Mr. Hughes, Mr. Cardin all voted to approve. Ms. Beebe abstained. Motion passed.

7. **Activities and Updates** – Ms. Farmer asked to open the agenda to add an item. Marilee Beebe/Dave Barrow motion to open the agenda. Motion was unanimously approved.

Dave Barrow/Jack Scavone motion to allow a 90-day extension on P&Z App. #802 to file mylars. Motion was unanimously approved.

## 8. **Town Staff Comments**

8.1 **Tolland Village Area** – Discuss Town Council action and future discussion. Ms. Farmer said she was unable to attend the Town Council meeting on December 27, 2010 with State Senator Tony Guglielmo and with State Representative Bryan Hurlburt. The Town Council authorized the Town Manager to work with the EDC to have the State restriction on the 9.7 acre parcel in the TVA removed. She said she will discuss this with the Town Manager to get the details.

Ms. Farmer also noted a CT Land Use Law conference pamphlet in Commissioner's packets and asked if anyone was interested in attending that she could get funding for them.

Ms. Farmer referred to a CNC Software map of a future parking plan. She said the proposed to use pervious pavers in back of the building to add a parking area and install a yard drain. She said they plan to pick up the wet area in a depression and tie it into existing drainage. Ms. Farmer said she feels this could be handled administratively but wanted Commissioners' input. Ms. Beebe said she would be good with it, if they look at it with eyes toward other ways than piping the runoff.

Ms. Farmer said she will be going to a talk at the Tolland Agricultural Center, meeting with members of the Town of Vernon, the Farmland Trust, and TAC people about the Gunther property.

Ms. Farmer said she and Mr. Cardin will be meeting with Heidi Samokar of Planimetrics tomorrow to discuss zoning. She said they will be meeting with Michael Taylor as well. She said Mr. Taylor is very enthusiastic about the plans for the TVA and feels they are on the same page.

8.2 **PZC Budget** – Fiscal year 2011/2012 Budget – no update.

8.3 **Report from Steve Lowrey** – Page Property, 431 Gehring Road – no update.

9. **Announcements** – Upcoming Meetings. The next PZC meeting will be January 24, 2011.
10. **Reading of Correspondence** – None.
11. **Communications and Petitions from Commission Members** – Mr. Scavone suggested that Commissioners’ packets could be sent to them electronically and they could bring their laptops to meetings to review documents. Ms. Farmer said they send them electronically to the WPCA. Mr. Cardin suggested town staff might put the information all in one file and copy it to a flash drive. Ms. Beebe felt laptops at the meetings would be all right, so long as they do not interfere with their interaction with the public. She also expressed an interest in web-casting meetings to the public. Ms. Farmer noted they don’t have an I.T. department at the town but will talk with staff to see how they can handle packets electronically.
12. **Public Participation**: None.
13. **Adjournment**: Marilee Beebe/Dave Barrow motion to adjourn the meeting and pay the clerk at 9:45p.m. Motion was unanimously approved.

Respectfully submitted,

Annie Gentile  
Clerk