

**THE GLASTONBURY TOWN PLAN AND ZONING COMMISSION
REGULAR MEETING MINUTES OF TUESDAY, FEBRUARY 21, 2023**

The Glastonbury Town Plan and Zoning Commission and Shelley Caltagirone, Director of Planning and Land Use Services, in attendance held a Regular Meeting at 7:00 P.M in the Council Chambers of Town Hall at 2155 Main Street with an option for Zoom video conferencing. The video was broadcast in real time and via a live video stream.

ROLL CALL

Commission Members Present

Mr. Robert J. Zanolungo, Jr., Chairman
Ms. Sharon Purtil, Vice Chairman
Mr. Raymond Hassett {excused}
Mr. Corey Turner
Mr. Emilio Flores
Mr. Philip Markuszka {excused}
Ms. Alice Sexton, Alternate
Ms. Laura Cahill, Alternate {participated via Zoom video conferencing}

Commission Members Absent

Alternate Vacancy

Chairman Zanolungo called the meeting to order at 7:04 P.M. He seated Commissioners Sexton and Cahill in the absence of Commissioners Hassett and Markuszka.

PUBLIC HEARINGS

1. Application of 240 Oakwood, LLC for a Section 20 Groundwater Protection Special Permit for a construction yard with materials processing – 240 Oakwood Drive – Planned Commerce Zone & GWP Zone 1

Attorney Meghan Hope of Alter & Pearson, LLC represented the applicant. At the last meeting, they came before the commission for a Section 12 Special Permit, which they received. This is a bifurcated process because the notice for the Groundwater Protection Special Permit was not posted for the last hearing. There are two groundwater protection zones in Glastonbury: this application is in Zone 1. Ms. Hope provided a narrative on the proposed uses for the site, which are allowed. The only hazardous material is two fuel tanks. They meet the nitrogen loading calculations. While they are reducing the open space, it is within the permitted amount. The Town Engineering Department has signed off on the stormwater system.

Commissioner Cahill pointed out that the Police Department’s memorandum indicated that the applicant agreed to limit hours of manufacturing and processing of materials from 6:00 A.M. to 5:00 P.M. However, because the business has the potential to accept materials at any time, he asked to limit the start time to 7:00 A.M. Ms. Caltagirone noted that when the commission issued an approval for the use for the site, they limited the hours of operation, so these are in the

conditions. They have also stipulated that the applicant return after a year to monitor how the use has unfolded. Ms. Cahill asked about the comment made in the Town Engineer’s memorandum regarding landscaping improvements. Attorney Hope explained that when the Town Engineer wrote that comment, their plans showed landscaping in the town right of way. However, the plan that was approved did not include any landscaping in the town right of way.

Chairman Zanlungo opened the floor for public comments. There were no comments, so he closed the public hearing.

Motion by: Secretary Turner

Seconded by: Vice Chairman Purtill

MOVED, that the Town Plan and Zoning Commission approve the application of 240 Oakwood, LLC, for a Section 20 Groundwater Protection Special Permit for a construction yard with materials processing – 240 Oakwood Drive – Planned Commerce Zone & GWP Zone 1, in accordance with plans on file with the Office of Community Development, and in accordance with the following conditions of approval:

1. In compliance with:
 - a. The recommendations set forth by the Conservation Commission/Inland Wetlands and Watercourses Agency, in their recommendation for approval to the Town Plan and Zoning Commission issued at their Special Meeting of November 2, 2022.
 - b. The recommendation of the Architectural and Site Design Review Committee (ASDRC) as contained in the ASDRC Report for January 17, 2023.
2. In adherence to:
 - a. The Town Engineer’s memorandum dated January 31, 2023.
 - b. The Fire Marshal’s memorandum dated January 19, 2023.
 - c. The Director of Health’s memorandum dated January 25, 2023.
 - d. The Police Chief’s memorandum dated January 24, 2023.
3. If unforeseen conditions are encountered during construction that would cause deviation from the approved plans, the applicant shall consult with the Office of Community Development to determine what further approvals, if any, are required.

Furthermore, the Town Plan and Zoning Commission finds that:

1. Per Section 20.11.4 of the Town Building-Zone Regulations, the proposed tanks would not likely cause a substantial or material adverse impact to the quality or quantity of the Groundwater resources for the following reasons:
 - a. The submitted specifications demonstrate that the proposed above ground tanks comply with the standards set forth in Section 20.8.c.1.b.
 - b. The proposal complies with the nitrogen loading restrictions in Section 20.13.1, as determined by a qualified engineer.
 - c. The proposal complies with Section 20.13.3 for water infiltration controls.
 - d. The proposal complies with Section 20.13.4 for storm water management.

Result: Motion passed unanimously {6-0-0.}

2. Application of VESSEL RE HOLDINGS, LLC for a site plan approval pursuant to CGS Section 8-30g concerning the construction of an apartment building with 48 units, parking & other site improvements – 51 Kreiger Lane – Planned Commerce & Groundwater Protection Zone 1

Attorney Peter Alter of Alter & Pearson, LLC explained that Town Attorney Collins issued an opinion which is unusual because it was requested by someone outside of the commission. He does not know why the opinion was requested by an elected official. The applicant has provided a counter opinion from Hinckley Allen. It may be in the TPZ's interest to seek its own legal opinion, rather than one from an unknown and undisclosed source and motivation.

Mr. Alter then spoke to the issue of whether this application falls in an industrial zone. The case law says that this is not a legal question but a factual question. The planned commerce zone (PCZ) is not an industrial zone. The statute does not say that it is an absolute exclusion, so the TPZ has a choice. Even if the commission felt it were in an industrial zone, they could still approve the application. Historically, Kreiger Lane was a commercial subdivision, divided up into typical business uses, not manufacturing or industrial. From a use standpoint, Kreiger Lane is not an industrial area. He reviewed the history of the planned industrial, planned commerce, and planned employment zones. In the PCZ, there are 38 uses, of which only 8 are manufacturing. He showed a map of what the site looked like before 2004, when it was the PIZ.

Mr. Alter explained that the proposed development will consist of 48 one-bedroom units, of which 30% will be deed-restricted as affordable for at least 40 years. The proposal is a net-zero building with rooftop solar panels. The applicant, Vessel, has spent over three years developing this standard of building to create affordable, high-end opportunities for housing. If approved, site work will take three months and another 6-8 months for construction. The property is served by public water and sewer, is located on a bus line, and within walking distance of a grocery store and a pharmacy. Under 8-30g, they are not required to meet all the zoning requirements for this property. For example, the proposal does not meet the open space requirement.

Seamus Moran, project engineer, explained that the site is just under one acre, with a proposed 8600-square foot building. 55 parking spaces are proposed, which exceeds the 48 spaces required. There is a dumpster with a concrete pad enclosure and snow storage areas in the back. He reviewed the grading and drainage plan, explaining that the topography is very shallow. They have a subsurface stormwater management system. He reviewed the site utilities plan, noting that they have approval for the sewer line from the WPCA.

Mark Vertucci, transportation engineer, described the findings of the traffic impact study. The peak traffic hours are from 7:30-8:30 A.M. and 4:30-5:30 P.M. In 2024, the manual projects 4 cars entering and 3 exiting in the morning peak hour and 12 entering and 8 exiting trips in the afternoon peak hour, which are very low trip generations. He reviewed crash data at the intersection of Kreiger Lane and Oak Street, which is very low. All vehicles will make a right turn out of the cul de sac. 900 feet exceeds the DOT criteria for safe egress. In conclusion, the proposed residential development will have no significant effect on traffic on Kreiger Lane or Oak Street. The police department and engineering department concurred with their findings.

Josh Levy, Vice President of Vessel, spoke about the company and their housing product. Vessel provides small, discreet buildings that are environmentally sustainable, and constructed in less time than typical buildings. The units are meant to provide high-quality housing at affordable rates for hardworking people to live in the communities they work in.

Attorney Alter explained that the lighting plan includes solar lights with few fixtures throughout the site. There is limited light spillage on the street. He reviewed the landscape plan. Because there are units on the first floor, they propose providing privacy screening with evergreen bushes. The Conservation Commission and ASDRC found it unlikely that the existing trees at the rear of the lot will survive because of the site grading's impact on the root system. Thus, they plan to replace them with like trees. There is also a mechanical room which backs up to the elevator in the entryway. Mechanical units will be on top of the first story volume with screening. Mr. Alter stated that Mr. Moran responded to the Town Engineer's comments with a revised plan. They await Mr. Pennington's reply via a supplemental memo. Responding to a suggestion made by the Health Director, there is room to provide external bike racks for residents but not internal storage.

Mr. Alter noted that no staff member has expressed any concern about a public health or safety issue or an overriding community concern that would justify denial of this application. They have applied for an extension through March 31 and will return to the ASDRC. While the TPZ is not bound to wait for them, some of the ASDRC's suggestions will present significant enhancements to the site. He also asked the TPZ to decide whether they accept Attorney Collins' opinion or Attorney Gomes' opinion. However, he does not believe this matter to be a legal one. The PCZ does not meet the test of an industrial zone. Kreiger Lane is clearly a business center.

Ms. Caltagirone noted that the Town Attorney was invited to this meeting and can respond to questions. Chairman Zanolungo opened the floor for public comment:

Lois Gamer of 107 Autumn Lane, has a business on Kreiger Lane. The new car wash on Kreiger Lane does 700 cars a day on average. This alone should deter residential construction, but there are also 40 businesses there. Kreiger Lane is still an industrial area, housing industrial equipment. It is an unsafe area because there are no sidewalks or streetlights. The state realized that industrial zones are not safe for residents.

Thomas Quinlan of 23 Kreiger Lane, reiterated Mrs. Gamer's statements about sidewalks. The applicant has proposed a sidewalk, but it does not go anywhere. He asked where people are going to walk, then. It is simply not safe for pedestrians.

Commissioner Purtill explained that the layout seems more like a hotel, with only one window in the bedroom and none on the side. Mr. Levy explained that natural light will come into the building through the roof and light wells, so there will be light from the interior corridor as well as from the exterior. The interior panel walls can also be opened to allow more light to enter the space. Commissioner Purtill pointed out that in-law apartments go up to 800 square feet, and the smallest units in this proposal are 500 square feet. Mr. Levy contended that there is a difference. This proposed building contains no wasted space. Commissioner Purtill noted that these are not

family units. Mr. Levy stated that is correct. They are one-bedroom units, intended for young working people in the community, or senior citizens looking to downsize. Commissioner Purtill asked about materials. Mr. Levy stated that the walls are made of resin mixed with recycled paper, which is virtually indestructible. It creates an interior panel system.

Commissioner Purtill asked about the lifespan of this building. Mr. Levy stated that the steel superstructure has an infinite lifespan. The interiors should be replaced every 15 years, which is about double the average lifespan of typical constructions. Mr. Turner pointed out that replacements cannot be made without removing the panel. Mr. Levy explained that the panels are very durable and can be used on both sides before needing to be replaced. Even after replacing them, nothing needs to be painted. Commissioner Purtill asked if this will be built with the intention of selling off the building. Mr. Levy replied no, they are the sole owner and operator but will select someone from the community to manage the site, almost like a live-in super.

Commissioner Sexton asked how many other 8-30g properties Vessel has created and operated in Connecticut. Mr. Levy stated that their Simsbury and Rocky Hill developments were 8-30g, while New London was not. Their approach is to prioritize middle-workforce housing regardless of the statute. Commissioner Sexton asked what anticipated rents will be. Mr. Alter explained that for a family qualifying under 80% of the area median income (AMI), rental would be \$1265 per month; 60% of AMI is \$1054 per month, inclusive of utilities. Commissioner Sexton asked about the floor surface. Mr. Levy stated that it is a vinyl composite, like vinyl wood.

Commissioner Turner asked how many completed buildings Vessel has in Connecticut. Mr. Levy stated none. There is one completed building in New Jersey, but it is not an affordable housing development. Commissioner Turner asked about the southeastern portion of the building. Mr. Levy explained that it will allow the passage of air but not rain or snow. The product is a Mallard Technologies tensile textile screen. Mr. Zanolungo remarked that very few changes can be made to the building. He asked whether other communities have been okay with this. Mr. Levy noted that New London asked to change the building color from white to gray, which they did. For the most part, though, the building is a product, so not a lot is changeable.

Commissioner Turner asked if there is manufacturing in the PCZ. Mr. Alter replied yes. He identified a few examples, such as the industrial facility on Oakwood Drive and Commerce Street and a couple small manufacturing concerns on Sequin Drive. Otherwise, there is not a significant amount of industrial use on those streets. Commissioner Turner believes that there are more manufacturers than Mr. Alter is aware of. Commissioner Purtill noted that any use could change, and an industrial use is allowed.

Commissioner Cahill remarked that the TPZ just approved a special permit for what really is an industrial use, so the zone in question is continuously changing. She asked if the applicant would also accept section 8 vouchers for people who wish to apply for this development. Mr. Alter stated that there are different standards. People who qualify for section 8 vouchers may or may not qualify for housing under the 8-30g standards. If they do qualify, then they are eligible to apply for a place in the building. Commissioner Cahill also asked about the snowplow plan because parking is tight there. Mr. Moran explained that they sent the revised site layout plans today, which shows the snow storage area in the back right corner. If they use six parking spaces,

with the aisle and grass area, that will provide for 31 inches of height for a 12-inch snowstorm. If that is not enough, payloaders would haul it off the site.

Commissioner Cahill advocates for full transparency. She asked Town Attorney Collins to address Attorney Alter's concerns about where the legal opinion came from. Attorney Collins stated that it was from Town Manager, Richard Johnson. The two competing legal opinions make Commissioner Cahill uneasy. She respects the Town Attorney's opinion and is hesitant to go against it. She would like a full opinion from the Town Attorney about what Mr. Alter cited in Hinckley Allen's opinion, and about why this qualifies as an industrial zone. Commissioner Sexton agreed. She noted that the PIZ partially overlaps with the PCZ. She asked why the Town kept the PIZ and created the PCZ.

Mr. Alter explained that the commercial area of Glastonbury was developed by private developers. All those streets became different pockets of commercial development within this industrial zone. In 2004, the Director of Community and Development decreed that this zone does not fit with what is going on anymore, so there was an emergence of different uses. The Council divided the PIZ into two zones: the Planned Employment Zone and the Planned Commerce Zone. There emerges a pattern that they do not have a lot of industrial uses in Glastonbury. Commissioner Sexton notes that the Hollister-Gomes memo references the Tannery and the Daycare Center. She asked if those are both in the PCZ. Attorney Alter explained that the Tannery is now in the Adaptive Redevelopment Zone. The Daycare Center is a permitted use in the Planned Commerce Zone.

Mr. Alter explained that the Planned Commerce Zone permits residential uses. Commissioner Cahill does not agree with that interpretation. When that zone was created, the Town grandfathered the residential properties, while prohibiting additional residential development. Mr. Alter contended that the statute does not say that new residential uses are permitted. It says that residential uses are permitted. Commissioner Cahill countered that if grandfathered residential uses are allowed, but no new developments, then it would gut the industrial zone exemption. She would like to be more fully briefed on this because it was not addressed in Attorney Collins' letter. Ms. Caltagirone clarified that new residential uses are not permitted.

Attorney Hope explained that, originally, they did not propose a sidewalk. However, the Town Engineer asked to add one along the entire frontage, which they did. Mr. Pennington has stated that because this is a very short run of walks, it would move higher up in the Town's sidewalk matrix. Commissioner Turner asked about the differences in permitted uses between the PCZ and the PIZ. Attorney Hope explained that they cross-referenced everything. The biggest difference is that, in the PIZ, dwellings and single-family units are by special permit, while in the PCZ, they are permitted as of right. Commissioner Purtill believes that is a misnomer. The PCZ grandfathered in dwelling and single-family units, so it is not actually permitted. Attorney Hope noted that another difference is the retail trade lumber yard. All the other uses are the same.

Attorney Mark Branse, from the Town Attorney's office, explained the historical background of the zones. The north of Hebron Avenue was evolving into becoming a corporate park, so the idea was to give a different title to signify that the area is no longer industrial. However, on the south side of Hebron Avenue, the industrial uses continued. Mr. Alter is trying to conflate that the only

industrial uses are manufacturing, but warehousing is also a typical industrial use. At the time, the commission amended the regulations to allow those two indoor tennis courts, on the basis that the buildings were industrial in use and structure. Their analysis was that the PCZ is industrial in terms of the mix of uses. Attorney Branse also noted that there are no appellate or Supreme Court cases regarding this industrial exemption. They are all superior court cases. While Mr. Alter's argument may be valid, no court has ever endorsed it. He has a feeling that Commissioner Cahill is correct about the purpose of the exemption, which was to protect employment zones, manufacturing, and other industrial type uses from residential encroachment.

Commissioner Sexton is somewhat troubled that the TPZ heard this legal opinion before knowing anything about the application. Commissioner Cahill concurred. She does not have a problem with the opinion being provided but would like to know why the Town Manager asked for it. Attorney Hope explained that they filed the application in November, and it was set for a public hearing in December. The week before that hearing, former Town Planner Jon Mullen was alerted that an elected official had asked the Town Manager to ask for a legal opinion. The next day, they received the opinion.

Commissioner Purtill stated that the Town was short-staffed, so it might have had something to do with that. Either way, she is not that concerned about it. She is glad that they received an opinion on a relevant issue, particularly given their short time frame. Commissioner Turner is also less concerned about how the opinion was initiated. He was more curious about the exemption involving the industrial zone, so is glad that this was presented to them. He believes that the TPZ would have asked for it, anyway, considering the zone it is in. Ultimately, they would have ended up in the same place they are in right now. He is more interested in the exemption and would like more information on how that progressed as the statutes were written.

Commissioner Sexton asked Attorney Collins to go into more detail on the legislative history on assisted housing and why it is allowed. She asked Mr. Levy to bring internal pictures of the Vessel development in New Jersey. Commissioner Purtill also asked for sample materials.

Motion by: Commissioner Sexton

Seconded by: Commissioner Flores

BE IT RESOLVED, that the Glastonbury Town Plan and Zoning Commission hereby continues the public hearing to the meeting of March 21, 2023.

Result: Motion to table passed unanimously {6-0-0}.

REGULAR MEETING

1. Informal session for the purpose of hearing from citizens on Regular Meeting agenda or non-agenda items *None*
2. Acceptance of the Minutes of the February 7, 2023 Regular Meeting

Motion by: Commissioner Sexton

Seconded by: Commissioner Turner

Result: Minutes were accepted unanimously {6-0-0}.

3. CONSENT CALENDAR

- a. Scheduling of Public Hearings for the Regular Meeting of March 7, 2023
 - i. Application of Glastonbury Earth Products, LLC for renewal of a Section 6.2 Excavation Special Permit – excavation of earth products from N2C Dickinson Road (10.4± acres) via 175 Dickinson Road – Rural Residence & Groundwater Protection 1 Zones – Heather Parker for Cavanaugh Enterprises LLC, owner

Motion by: Secretary Turner

Seconded by: Vice Chairman Purtill

Result: Consent calendar was accepted unanimously {6-0-0}.

4. Chairman’s Report *None*

5. Report from Community Development Staff *None*

The Commission adjourned at 9:47 P.M.

Respectfully Submitted,

Lilly Torosyan
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Recording Clerk