

The Planning and Zoning Commission of the Town of Avon held a GoToMeeting on Tuesday, July 20, 2021. Present were Thomas Armstrong, Chair, Brian Ladouceur, Jr., Vice Chair, Peter Mahoney, Lisa Levin, Mary Harrop, Dean Hamilton, Joseph Gentile, and Alternates Drew Bloom, Raz Alexe and Elaine Primeau (alternates did not sit). Also present was Hiram Peck, Director of Planning and Community Development.

Mr. Armstrong called the meeting to order at 7pm.

APPROVAL OF MINUTES

Mr. Mahoney motioned to approve the minutes of the June 8, 2021, meeting. The motion was seconded by Mrs. Harrop and received unanimous approval.

INFORMAL DISCUSSION

Beacon Communities - potential development - 20 Security Drive

Present were Dara Kovel, Nicole Ferreira, and Gina Martinez, Beacon Communities; and Tim Hollister, Hinckley Allen.

Ms. Kovel displayed a PowerPoint with a proposal for the reuse of 20 Security Drive. Beacon has 700 employees and 150 properties with 18,000 apartment homes across the Northeast (some in CT) and the Mid Atlantic. Beacon develops and owns properties and commits to be long-term owners but also act as third-party managers for other owners. Montgomery Mill Apartments, located in Windsor Locks, was completed about 9 months ago; it has about 160 apartments that are mixed income, half affordable and half market rate. Ms. Kovel noted that Beacon would be happy to give anyone interested a tour of this site. In New Haven a complex called Ninth Square celebrated a ribbon cutting recently. This site is an existing set of buildings, some historic and some new, with both affordable and market rate housing with 50K SF of retail on the ground floor. She noted that Beacon also redeveloped a large public housing project in New Haven 20 years ago and people still ask how much the condos sell for. Wilber School Apartments, located in Sharon, MA, most closely resembles the ideas for 20 Security Drive. The existing building was renovated with historic and housing tax credits and also built a new wing adding additional units to result in a mixed-income community of 75 homes. Ames Shovel Works Apartments, located in North Easton, MA, was vacant for many decades before Beacon renovated it into 113 mixed-income units. Each property just noted has various degrees of sustainability, as a high level of environmental focus was applied.

Ms. Ferreira explained that 20 Security Drive is located across the municipal buildings and the police station; the site is isolated and surrounded by trees such that it can't be seen from any surrounding roadways. The portion of the site for purposes of this proposal is 11 acres which includes the existing office building. The front part of the site that contains a five-story parking garage would remain with the current owner. The existing building was constructed in 1973 to be the headquarters of Security CT Life Insurance; the building was later occupied by Swiss RE until 2009 and then sat vacant for a couple of years. Currently the building is occupied by the CREC School; their lease is ending and CREC is moving to a new building in Bloomfield. She noted that since the site is isolated from the community it may be a good opportunity for a mixed-income development. An additional building would be considered to complement the existing building. Residents in mixed-income communities like to have high-quality

neighborhood amenities and institutions as exist in Avon. Federal and State funding is received to offset rent charges for the affordable residents. Both one and two bedroom units would be offered; 60% of area median income would equate to \$1,000/mo for a one bedroom and \$1,200/mo for a two bedroom. The market rate side would equate to \$1,600/mo for a one bedroom and \$2,000/mo for a two bedroom. She concluded by noting that the hope is to create a vibrant community on this site.

In response to Mr. Armstrong, Ms. Kovel explained that the existing building could be renovated into about 76 units but added that the additional number of units for the new/proposed building have not yet been determined but is likely to be a similar number (76).

In response to Ms. Levin, Ms. Kovel explained that the units would be affordable and income and deed restricted for at least 30 years and possibly 50 years. Somewhere between 50-80% of the total unit count would potentially be affordable.

In response to Mr. Mahoney, Ms. Kovel explained that half of the units would be one bedroom and the other half two bedrooms. She added that if there was a call for three bedroom units some could be added.

In response to Mr. Ladouceur, Ms. Kovel explained that the smaller units are attractive to empty nesters, seniors on limited incomes, and also young professionals. Marketing efforts will be directed where needs are the greatest. She indicated that if there were a way to connect the subject site to the Avon Village Center they would love to see it happen as it would benefit the residents. The grade changes from the site to Route 44 are challenging but the concept will be studied and is something that will be worked on with the Town.

In response to Mrs. Harrop, Ms. Kovel explained that enough on-grade parking would be provided as needed for the one and two bedroom units and noted that parking would be discussed in greater detail if/when they return with a proposal in the fall. She noted that the existing parking garage, discussed earlier, would remain with the existing owner.

In response to Mr. Armstrong, Ms. Kovel confirmed that the property would be staffed with a property management team. She indicated that the property would have a community engagement team who would be responsible for organizing activities and programs and connecting with local services for the residents.

Mr. Armstrong commented that comments from the Commission indicate that Beacon should move forward.

Ms. Kovel noted her understanding adding that she looks forward to bringing a proposal in for the fall and continuing to work with the Town.

Mr. Peck indicated that Beacon has created developments in similar sized communities that are very interesting; their approach and analysis is different from others we have seen. He agreed with working to get access to the Village Center adding that he would like to work with the State DOT to make the existing tunnel under Route 44 much more comfortable for people to reach and be able to cross over Route 44 without having to use their cars. It's important to be able to

reutilize the building on this site, as it has sat empty for a long time. He noted that he looks forward to working with Beacon on this project.

PUBLIC HEARING

App. #4948 - Jason Addison, owner, Michelle and Anthony Angeloni, applicants, request for Special Exception under Section III.H. of Avon Zoning Regulations to permit earth removal, 4 Vermillion Drive, Parcel 4420004, in an RU2A Zone

Present were David Whitney, PE, Consulting Engineers, and Anthony Angeloni, applicant.

In response to Mr. Armstrong, Mr. Whitney explained that due to high prices in construction right now the owners don't plan to begin site activities for two to three years but noted that once site activities begin the site would only be open for several months while grading is taking place. Mr. Whitney indicated that the applicants accept the items in Mr. Peck's Staff Comments but will need clarification on the permit approval expiration date and would also like to discuss the landscape plan.

Mr. Whitney began his presentation by noting that the site is 4.4 acres and relatively steep. A wetlands approval was granted a few months ago and the Farmington Valley Health District has approved a septic system. He explained that there is no realistic way to develop/build on this site without removing earth material; the cuts outweigh the fills relative to the grading that is required to create a building pad. The earth material requested to be removed is 18,200 CY. Approximately three months will be needed for earth removal with 27 truck trips per day, five days per week. He explained that a detailed construction sequence plan was prepared as part of the wetlands application; this plan has been approved by both Town Staff and the Wetlands Commission.

Mr. Peck addressed site disturbance explaining that his recommendation is that the period of actual work should be minimized to the extent possible. He noted that he suggested a two-year time period such that Town Staff and the Commission could get periodic progress updates from the applicant to ensure that the project keeps moving along and that the site is properly stabilized to avoid any adverse impacts to nearby properties.

Mr. Whitney confirmed that the applicants, who currently live nearby, wish to be good neighbors such that keeping the site clean would not be an issue. He explained that a landscaping buffer should be provided on the northern side, as the adjacent house is relatively close to the property line. He noted that the plan shows an area to be planted and revegetated to provide a 35-foot buffer where there will be cutting and grading taking place. The existing house on the adjacent lot to the south is about 250 feet away from this site. A retaining wall is proposed in this area and a little relief on the width of the landscape buffer on the southwest corner of this site is requested. He confirmed that he is agreeable to submitting a landscape plan to Mr. Peck for review and approval by Town Staff.

Mr. Mahoney noted, for safety reasons, that left turns onto Route 10 from Oak Bluff are difficult and will be very tough for a loaded truck (earth removal); the sightline is very limited in both directions.

Mr. Whitney noted his understanding adding that while the actual truck route is not yet known, he confirmed that the trucks would not travel through any other residential neighborhoods.

There were no public comments or any further comments from the Commission or applicant.

The public hearing for App. #4948 was closed.

Mr. Ladouceur motioned to waive Administrative Procedure #6 and consider App. #4948.

Mr. Hamilton seconded the motion that received unanimous approval.

Mr. Ladouceur motioned to approve App. #4948 subject to the following conditions:

1. Applicant shall meet requirements of Town of Avon Engineering as follows:
 - a. A complete topographic asbuilt shall be provided to include but not limited to all improvements on the property, final grades with contours, drainage structures and piping, existing and proposed tree line, and a comparison between the proposed plot plan and the asbuilt information.
 - b. Property line shall be clearly marked between 4 and 14 Vermillion Drive to prevent grading activity encroachment onto neighboring property.
2. Applicant shall provide security to the Town (in an amount to be determined satisfactory by the Town Engineer - cash bond or LOC) to complete site work and/or stabilize the site in the event the applicant does not complete site work by the approval expiration date. Said security shall be in the Town's possession and approved prior to beginning any site disturbance activities.
3. Permit approval expiration date is July 20, 2023.
4. Applicant shall submit plans showing details of proposed driveway; the grades shown on the site plan at this time do not meet the driveway regulation standards.
5. Driveway entrance shall be constructed on site during excavation to control any erosion and sedimentation onto the public roadway. Rip rap or other acceptable anti-tracking pad material shall be used. The pad shall be maintained in good working order throughout excavation until the site is stabilized.
6. Site plans shall be modified/revised to show where the 35-foot buffer is required. Landscaping plan for buffer areas shall be prepared and submitted to the Planning Department for review and approval prior to installation of any plantings.
7. Plans prepared by a professional engineer showing the design of the proposed retaining walls shall be submitted to the Avon Building Official for review and approval prior to construction. A building permit is required for these retaining walls.
8. Routing and scheduling for truck traffic related to earth removal shall be prepared and approved by Avon Traffic Authority, Engineering Department, and Planning Department prior to beginning any earth excavation hauling activity.

The motion was seconded by Mrs. Harrop and received unanimous approval.

PUBLIC HEARING

App. #4949 - Proposed amendment to Avon Zoning Regulations pertaining to prohibition of recreational marijuana establishments; Town of Avon, applicant

Mr. Armstrong said that this amendment is proposed because the State approved and the Governor signed a Bill authorizing recreational cannabis effective July 1, 2021. The Bill allows municipalities to prohibit recreational marijuana establishments. The Bill allows municipalities to place conditions and restrictions on recreational marijuana establishments. The proposed amendment to the Avon Zoning Regulations does not change Avon's Zoning Regulations authorizing medical marijuana distribution facilities. The proposed amendment does prohibit recreational distribution facilities including retail facilities of cannabis. It also prohibits all other kinds of cannabis such as culture, product, manufacture, product packaging, etc. The amendment does not address cannabis use.

In response to Mr. Hamilton, Mr. Armstrong noted that the State Law uses the term cannabis but we have used the term marijuana in our Regulations. He commented that for practical purposes and for what we are talking about he doesn't see a difference.

Mr. Ladouceur said that the Bill defines cannabis establishments and it's not just marijuana but it has different elements relating to certain potency of edibles, liquids, and things like that. It is specifically laid out in the Statute what a cannabis establishment is; the Statute also provides that towns may prohibit recreational facilities, which is what we are doing here.

Ms. Levin asked what the rationale is for why the Town of Avon feels the need to act on this right now while many towns are waiting and agreeing to study the issue before acting. Is there a time frame under State law or are there other considerations.

Mr. Armstrong said there are potential time frames as there is a provision for a referendum that comes up with a requirement that a petition of 10% of the voters file; the deadline for a referendum is coming up very fast and probably this year (November). The Law will go into effect and allow someone to apply to the Town to establish one recreational cannabis facility in Avon. He said that while he doesn't disagree with those who wish to put in place a moratorium or a stay but added that he thinks that keeps a community in limbo and doesn't really inform the residents the direction the Town intends to go. He said that he doesn't think the economics are there for the Town. He acknowledged awareness of standalone facilities located in Colorado that do not affect other nearby retail businesses. He said that the Commission would find it difficult to figure out where to locate these facilities should the Town decide to go that route.

Ms. Levin noted her concern with saying no to something that many people are trying to sort out; 60-70% of the public has supported legalizing cannabis in various states. The State Legislature has put the decision as to whether the Town wants to allow this on the Zoning Commission. She said she has a problem with this because she's not an elected official but rather is an appointed representative who is being asked to vote on something that is very new. She said she would feel far more comfortable if a citizen or group petitioned to put this on a referendum because the community should exercise their right to choose whether or not this should be allowed. She noted her frustration with being forced to vote on something that is premature. She acknowledged the arguments but noted there are a lot of communities taking a wait and see approach. She noted that people should be involved in the democratic process.

Mr. Mahoney said he agrees adding that there should be wider involvement than just the people at this hearing; all of Avon should be involved and have a say. He asked if a moratorium could be installed until we have a referendum.

Mr. Ladouceur said that although the law allowing recreational marijuana is new it's been kicking around for years. We had the same discussion when we talked about medical marijuana dispensaries and locations several years ago and it was decided that there was really no place for recreational within the Town; this was brought up at several public meetings. The law has been passed and gives Zoning Commissions the ability to regulate. He said he wants to avoid applications being submitted to the State or people calling the Town asking where facilities can be located when we have the ability to just say no to recreational facilities within Avon. He said that he is in favor of approving this amendment today. If people want to petition and have a referendum to overturn this decision they can. This issue could be revisited in a few years after seeing how other communities and businesses have handled it and seen repercussions, if any, relative to crime and quality of life in neighborhoods near where facilities are located.

Mrs. Harrop said that she has spoken to quite a few people about this and nobody wants it near them so that's something to consider in Avon; where would we put it. If we vote where we know what's going on in Avon we probably have more information than the average voter. She said that it should be put to a vote in Planning and Zoning.

Ms. Levin asked Mr. Peck that if we vote on this tonight does it still allow for a referendum.

Mr. Peck explained that the Town Attorney as well as a number of other CT attorneys who deal with the subject issue as well as other land use issues do not know the answer on a referendum. There are a number of items in the Bill that are hard to fathom at this point in time. There are no guidelines for the referendum; there are questions about how a referendum would be held. The Law says a referendum would have to be held 60 days prior to a regular election. If someone wanted to petition a referendum would need to be held sometime in September. He said that both the Zoning Commission (via the Zoning Regulations) and the Town Council (via Town Ordinances) both a role in this and there are a number of questions that need to be answered. The Town Attorney is looking into all this and would like to provide answers at the Commission's September meeting.

Mr. Ladouceur said that the issue of use is not before us right now; it's the issue of retail recreational sales establishments only.

Mr. Peck said yes clarifying that what he meant by use is the creation of recreational establishments. He asked that everyone keep in mind that the Commission has no control if someone were to purchase substance in a nearby town and bring it into Avon and use in their house.

Mr. Ladouceur noted his understanding adding that use in public areas (Sperry Park, schools and sidewalks, Town Center, outside restaurants, etc) will be discussed and dealt with at a future date. Right now we are talking only about facilities that would sell recreational cannabis and other allowable items per the Statute; this would largely be a cash business due to banking regulations. He reiterated that prohibiting this now is the best course of action, as changes could be made in the future.

The hearing was opened for public comment.

Sonia Larkin Thorne, Avondale Drive, said that she supports the amendment and opposes any recreational facilities at this time. The Legislature rushed this through without looking at comments by the medical community and understanding the impacts it may have on many people. She noted her concerns with our youth, the Town and how the police force will handle and enforce the use of this drug. Avon is doing the right thing by banning it from the start so we can see what happens in other areas.

Jim McGarrah, Sylvan Street, said that currently Federal law prohibits recreational sales and use of marijuana so by acting on this amendment you are preventing the Town from having a potential business operating against federal law. This distinction bothers some towns in CT. The prohibition being taken in Avon at this time is necessary to keep consistency in the legal sense. It's best not to have a business that can't operate within our banking system because it is illegal. He supports adoption of the subject amendment.

Anthony Angeloni, Mountain Estates Drive, said that it would be a cash only business and create problems in banking, unless Federal laws change. He noted that he has two young children adding that he supports not allowing these facilities at this time; its best to give it some time to observe what happens in other towns (traffic, policing).

Mr. Armstrong said that two letters have been received by the Town noting support of this amendment and being against allowing recreational establishments.

Ms. Levin noted her understanding and awareness about the Federal preemption adding that it's been out there for decades. There's never been a case where the DOJ has chosen to exercise its Federal authority over State Laws regarding cannabis so the risks have to be quantified. She noted that she thinks we may see a change in Federal law via Executive Order. She said that this amendment is premature for the Commission to be acting on at this time, as the risk of a Federal enforcement is negligible. Taking this action encourages the community to exercise their rights to a referendum.

Mr. Mahoney said that the State of CT has had medical marijuana since 2012 and recreational is just an extension; the State has good experience in dealing with programs like this. The banking issues will be dealt with and are not a consideration for this Commission.

Mr. Armstrong said that he thinks the toughest decision would be deciding where to locate these facilities should we decide to allow them. We have Route 10 but we have daycare centers; we have industrial parks but the school bus depot is there; we have the area where Luke's Donuts is but the middle and high school are there. The real issue, in part, is use, which is not before us

tonight. He said he can't think of one person who would want to relocate to Avon because we have a retail sales facility they like to go to but added he can think of many people who would like to come to Avon, especially young families, because they like Avon. The subject amendment could always be revised in the future if need be but for now he noted he's content with it.

Mr. Ladouceur said that it's also an issue of public safety and it makes sense to wait and see what the adverse impacts would be to other communities. Cars are being stolen out of driveways in Avon and nearby communities with armed youth who are shooting back at residents. These establishments are cash only businesses which creates potential for violent crimes. People would not want such an establishment near their daycare, grocery store, or restaurants. Changes may occur to federal banking laws so that these businesses would not be cash only. He said that the rules can always be changed in the future.

There being no further comments the public hearing for App. #4949 was closed, as well as the entire public hearing portion of the meeting.

Mr. Ladouceur motioned to waive Administrative Procedure #6 and consider App. #4949.

Mr. Hamilton seconded the motion that received approval from Messrs. Ladouceur, Hamilton, Gentile, Armstrong, and Mrs. Harrop. Voting in opposition were Ms. Levin and Mr. Mahoney.

App. #4949 - Proposed amendment to Avon Zoning Regulations pertaining to prohibition of recreational marijuana establishments; Town of Avon, applicant

Mr. Ladouceur motioned to approve App. #4949, as presented. The motion was seconded by Mrs. Harrop and received approval from Mr. Ladouceur, Mrs. Harrop, and Messrs. Armstrong, Hamilton, and Gentile. Voting in opposition of approval were Ms. Levin and Mr. Mahoney.

PLANNING AND ZONING COMMISSION MEETING

OTHER BUSINESS

Affordable Housing - Tyche Planning & Policy Group; Avon Affordable Housing Plan Study

John Guskowski, Tyche Planning, was present.

Mr. Armstrong said that he would like to hold a special workshop meeting in August to review the draft of Affordable Housing Plan so that the Plan is ready for public comment in September.

Mr. Peck explained that the Plan needs to be sent to CRCOG 35 days prior to holding a public hearing.

Mr. Guskowski explained that he incorporated a number of the suggestions received into the Plan; he further explained that he meant all the suggestions/action steps/goals to be reasonable and attainable by the Town. He welcomed any and all feedback about the Draft. The Executive Summary and Implementation, located near the end, summarize the Plan.

In response to Ms. Levin, Mr. Guskowski explained that the Appeals List is maintained by the CT Department of Housing. Each year the Department of Housing sends to municipal officials a

list to be updated as to whether there are any new developments in town that have a deed restriction element. He confirmed that units with government subsidized mortgages will fall off the list when the units sell; he clarified that this number fluctuates the most, from year to year, more than any of the other numbers. He clarified that some units may not show on the list because the C/O's were issues after the reporting deadline. The time limit for a deed restriction depends on the category of the unit (e.g. 8-30g units are 40 years, incentive zone housing units are 20 years, and income restricted accessory apartments are 10 years).

Mr. Peck indicated that it would be very helpful if everyone can send him their comments and questions by the end of July so they can be passed along to Mr. Guskowski and we can be ready for the August workshop.

STAFF UPDATES

Avon Village Center Status

Mr. Peck reported that the buildings on the west side of Climax Road are progressing quickly. All five buildings in Phase 1A will be complete and ready for tenants soon. Whole Foods should be open by September 1, 2021. Landscaping and boulder work near the bike trail is coming along nicely. There is one confirmed tenant (physical rehab/ therapy) for the building behind Whole Foods.

Legislative Updates

Mr. Peck reported that a number of land use Bills have been passed; in addition Desegregate CT has put together a lot of information presented as Public Act 21-29. He indicated that there are some changes to Avon's Zoning Regulations that will need to be made pertaining to ADUs and parking requirements. The Legislature is also trying to make permit expirations the same for both Inland Wetlands and Planning and Zoning; there is a lot to talk about at the September meeting.

There being no further business, the meeting adjourned at 9:10pm.

Linda Sadlon
Avon Planning and Community Development