

Town of Ellington Planning Department



DATE: February 28, 2011
TO: Planning and Zoning Commission
FROM: Robert A. Phillips, AICP - Town Planner
SUBJECT: PUBLIC HEARING for #Z201024-Gardner Chapman

Please be mindful of conflicts of interest, bias, and ex parte communication. It is important to the integrity of the Commission, the town, its staff, and its residents that the land use process is a fair and transparent process in accordance with all applicable laws and regulations.

PUBLIC HEARING - #Z201024-Gardner Chapman, owner/Matthew Chapman, applicant for a zone change to 4.59 acres of planned commercial land to multi-family zone and to change 32.14 acres of residential a land to the multi-family zone in connection with the development of a new apartment complex on properties located at 185 West Road, APN 055-044-0000, West Road, APN 055-043-0000, Sunset Road, APN 055-022-0000 & Portion of 30 Stein Road, APN 046-004-0000. (HEARING MUST BE OPENED OR AN EXTENSION GRANTED)

This memo should be referenced during the public hearing in addition to the Planning Report submitted by Planning Consultant, Don Poland.

BACKGROUND / HISTORY

You will find within the file minutes of several meetings of the PZC dated from Feb. 2, 1987 where a similar zone change request was previously denied on April 6, 1987 based upon on a number of factors outlined in the formal motion. Some of these reasons are no longer legally valid (spot zoning - as our current Multi-family zone is a floating zone) and some are not necessarily relevant almost 25 years later. However, these minutes have been included for your review.

OVERVIEW

Planning Consultant, Don Poland, has provided you with a detailed report with many supporting factors to consider in approving this zone change. While I cannot disagree with, and in many ways I support, his opinions and planning policy statements that he has provided within his report, it should be noted that there are a number of natural assumptions that have been made with respect to the quantitative sections within the report. Regardless of these assumptions, I believe that his report accurately depicts the types of questions that the commission must answer for themselves when considering whether to approve this zone change request. I support the commission's consideration of this report and offer the following additional comments that generally represent an alternative view on this zone change proposal:

MARKET DEMAND

The applicant may state that there is a growing market for rental housing due to the sagging housing market, tighter lending standards and associated foreclosures. Given that opinion, one would think that the previously approved expansion of Autumn Chase may satisfy that demand when constructed

(rental community – 80 additional individual family units). In addition, that development was granted greater sewer capacity than what was allocated to the property during the last Facilities Plan Update. This approval was in response to a charge of “discrimination against families with children” leveraged against the Ellington Water Pollution Control Authority (WPCA) where ultimately the town honored a previous written agreement with the developer which allowed for the necessary excess capacity. Recent correspondence with the Planning Department has indicated that this rental housing, approved on February 25, 2008, will be the subject of a site plan modification application before this commission soon. As a result it appears that the green light to construction is near. Also, Deer Valley continues to expand and is expected to continue its rental offerings on the north side of Windermere Avenue (up to potentially 200 additional individual family units). In addition, there have been two other multi-family developments that have been converted from age-restricted to primarily market value which is expected to create non-rental housing options from starter homes through seniors looking to downsize (Center Village and Windermere Village – 172 total individual family units). Some of these units are expected to be more affordable than what was originally approved as an age-restricted development.

It should also be noted that the Community Survey conducted in 2007 as part of the POCD update indicated that 44% of respondents felt there were too many apartments in town and another 40% felt that the current number was just right. Only 9% felt there were too few apartments in town. Obviously this data is now four years old and the housing climate has changed, however one could argue that a drastic reduction from 84% of respondents stating that there were just enough or too many apartments in town would be unlikely in such a short time.

In summary, it is quite possible that we have a number of multi-family developments, both owner occupied and rental, that have been approved or are awaiting approval that are likely to meet any projected increases in short term demand due to recent market changes.

SEWER CAPACITY

Of particular importance is the question of whether to utilize a relatively large percentage of the available excess sewer capacity for this non-commercial use. There is a finite amount of available flow available to any commercial development that may consider locating within Ellington’s Route 83 commercial corridor. In fact, since 2005 there has been several informal business ventures presented to the Planning Department with a desire to locate in this area but were unable to due to a lack of available sewer capacity. One such proposal was a small lifestyle center similar to a smaller “Evergreen Walk” in located in South Windsor. In an effort to meet the demands of the mixed commercial and residential development, the developer sought to purchase a neighboring property and absorb its sewer capacity. Ultimately, the landowner was unwilling to sell the property and as a result the project failed upon conception.

Of course there are other innovative engineered on-site sewage designs available to either replace or augment existing public sewer capacities; however costs can become an issue and can effectively kill a project. Thus, arguably our best “tool” to attract economic development is to retain as much available sewer capacity as possible. The following are excerpts from the Ellington Plan of Conservation and Development as they relate to the aforementioned topics:

ADDRESSING COMMUNITY NEEDS - CHAPTER 4

- *Sewer Service Area and Capacity (PG 4-24)*

Sewer access and capacity is necessary to achieve the recommendations of the Plan of Conservation and Development as it relates to the Route 83 corridor, planned commercial development, and senior or age-restricted housing alternatives. However, capacity is not endless and must be utilized for the greatest good of the community.

- ***Allocation of Sewer System Capacity (PG 4-24 & 4-25) – (Although directed toward the WPCA, it is still noteworthy)***

Under Connecticut Statutes, it is the WPCA that has the sole authority to determine where sewers are to be provided and where they are not to be provided. In addition, the WPCA is authorized to negotiate contracts with Vernon for wastewater services for the town. No other board or commission has this authority to negotiate nor can an individual negotiate individual capacity with Vernon. The WPCA must prudently allocate sewer system capacity for the best long-term position of the town. Specifically, public sewers should be utilized to support:

- Commercial and industrial growth to help balance the tax base; and
- Diverse housing base such as senior or age-restricted. Single-family housing or additional general-use apartments should not receive additional capacity beyond that allocated in the facility plan.

The WPCA has a current allocation procedure within the wastewater facilities plan which preserves capacity for all properties within the sewer service area.

- The WPCA should approach the Vernon WPCA and the Tolland WPCA to discuss the possibility of purchasing additional capacity for the town's use or to discuss the possibility of an expansion of the Vernon treatment plant. Whereas the Vernon treatment plant already provides advanced wastewater treatment and discharges to a relatively small stream, all town boards must realize that future capacity additions are likely to be limited and must utilize the town's existing capacity wisely for the greatest good of the town.

FUTURE LAND USE - CHAPTER 6

- Designates the majority of the land subject to the zone change application as "land to be developed with moderate density – an area where residential density is expected to occur at between 1 and 2 units per acre."

GENERAL CONSISTENCY WITH THE POCD AND COMPREHENSIVE PLAN

Again, Mr. Poland brings forth many sound planning principles in supporting this zone change, however this remains a local decision made by this commission on what you see is in the best interests of the Town of Ellington. In summary, you should be considering all of the information and opinions submitted to you and should pay particular attention to the following:

Generally:

- 1) Is the town going to be better situated for future commercial development with 172 additional rental units within the Route 83 area at the cost of up to 26% of its available excess sewer capacity or without the additional rental units and 100% of its excess available capacity?

And in Particular:

- 2) Is there a market need to justify adding additional, yet to be constructed, multi-family developments including rental properties?
- 3) Is it justifiable to eliminate 26% of the currently available excess sewer capacity from potential commercial utilization along the Route 83 corridor? Particularly knowing that there is a finite amount of future available sewer capacity even **IF** the WPCA were successful in negotiating additional capacity?

ADDITIONAL COMMENT: If a protest against the proposed change is filed at the hearing, signatures will need to be verified for qualification. If the signatures on the petition qualify such change shall not be adopted except by a vote of two-thirds of **ALL** regular commission members.

**RECOMMENDED MOTION: NONE – DECISION IS AT COMMISSION’S DISCRETION.
IT IS ADVISABLE THAT ANY DECISION SHOULD BE SUPPORTED BY FINDINGS
FROM THE POCD WHETHER IT IS AN APPROVAL OR A DENIAL.**