



TOWN OF WINCHESTER
PLANNING AND ZONING COMMISSION
Town of Winchester Town Hall 338 Main Street - 2nd Floor – P. Francis Hicks
March 14, 2022 – 7:00PM
Regular Meeting Minutes

1. ROLL CALL:

Chairman George Closson called the meeting to order at 7:08PM.

Mr. Closson noted that the following individuals were present: John Cooney, Peter Marchand, Willard Platt, Craig Sanden, and Alternate Troy LaMere. Charlene LaVoie and Feliks Viner were absent excused.

2. PUBLIC COMMENT:

None.

3. AGENDA REVIEW:

No changes were made to the agenda.

4. OTHER BUSINESS:

None.

5. PUBLIC HEARINGS:

None.

6. OLD BUSINESS:

A. PZC#22-2 – C.G.S.§8-24 Referral Location: Various Properties on Danbury Quarter Road, Old Danbury Quarter Road, Rugg Brook Road, Old Waterbury Turnpike, Winchester Road, Preston Road, Rattle Valley Road Applicant/Owner: Town of Winchester Proposal: Conservation Easement of ±1200 Acres of Town-owned Land.

Housatonic Valley Association (HVA) Strategic Land Protection Director Tim Abbott, accompanied by Department of Public Works Director Jim Rollins and Winchester Land Trust President Jen Perga, appeared before the commission regarding this application.

Mr. Closson questioned whether the details surrounding public access had been finalized with the State of Connecticut Department of Energy and Environmental Protection (DEEP). He also questioned whether the areas reserved for the Water Sewer Commission future use/ improvements had been identified. He noted that there had been some questions at the last meeting regarding how timber management would be handled following a transfer.

Mr. Rollins questioned whether the commission had received the updated map. They had not. Mr. Marchand reminded the commission that the map reviewed at the last meeting had included parcels owned by others. Mr. Abbott noted that several edits had been made, including taking those out and adding four other parcels north and west of what had been previously indicated. Mr. LaMere questioned how many acres are being considered. Mr. Abbott explained that until his group can have them surveyed, they are not sure on the exact number of acres being affected through the conservation easement as there is likely a fluctuation of a 50-to-75-acre difference in what the presumed holdings of the Town are.

Mr. Abbott noted that the offer was based on a per acre value. The purchase price is substantiated by their appraisal, according to Mr. Abbott. If the information they have a year from now should change, the transaction is based on the per acre price and that could go up if the market was to change, he noted. Mr. Closson reminded the commission that there had been discussion about the appraised value seeming low. However, he noted that Ms. Perga had pointed out that with the land being located around the watershed rendering its ability to be developed very low, that contributes to the valuation.

Mr. Abbott explained that the basis of the transaction is an appraisal and a purchase price to be funded through HVA paying half and the State paying half. The appraisal had to look for highest and best use of the property with the limitations it had, according to Mr. Abbott. He noted the vast majority of it was Class I and Class II Watershed. He explained that is why there is a small per acre value. Mr. Abbott noted that the appraisal value was established by first determining the value of 25 parcels in those categories and then see what it was worth in its current unrestricted form. Mr. Abbott confirmed the purchase price is an amount that is close to but not the full value of the easement, in part because of the funding strength of this. He reminded the commission that the State has a source of funding that pays for half the value of the easement and so for a slightly below fair market value transaction at \$750K, they are paying \$442,500. Mr. Abbot reported that he will make a good faith effort to raise \$307,500 to reach the purchase price of \$750K.

Mr. Rollins opined the highest and best use of the property was to protect the watershed thereby protecting the water that the Town relies upon. He questioned what role this commission had with this project. Mr. Closson explained that this commission was reviewing a referral pursuant to Connecticut General Statutes Section 8-24, and read aloud a portion of the legislation, "...*No municipal agency or legislative body shall (1) locate, accept, abandon, widen, narrow or extend any street, bridge, parkway or other public way, (2) locate, relocate, substantially improve, acquire land for, abandon, sell or lease any airport, park, playground, school or other municipally owned property or public building, (3) locate or extend any public housing, development, redevelopment or urban renewal project, or (4) locate or extend public utilities and terminals for water, sewerage, light, power, transit and other purposes, until the proposal to take such action has been referred to the commission for a report. Notwithstanding the provisions of this section, a municipality may take final action approving an appropriation for any proposal prior to the approval of the proposal by the commission pursuant to this section...*"

Mr. Closson explained that if the commission failed to weigh in on the matter within 35 days of receipt, it was an automatic positive referral.

Mr. Rollins noted that some of the details have yet to be determined. He noted that the location of the trail itself has not been established. Mr. Rollins reminded the commission that the State of Connecticut Department of Energy and Environmental Protection (DEEP) has required some form of public access. However, either the Water Sewer Commission or the Town can establish the limits of that public access, according to Mr. Rollins. He explained that public access is what the Water Sewer Commission or the Town determines it to be. Mr. Rollins indicated that while there may be some minimums set for that public access, there are also restrictions that can be imposed for things such as sensitive habitat areas. Mr. Rollins indicated that while hunting and fishing may be uses allowed by DEEP, he was not inclined to allow just anyone to fish in the Town's reservoir. Mr. Rollins noted that it is opened for only one day per year for the ice fishing derby, an event that raises money for the water system to fund a paid internship and a scholarship. He noted that a decision on hunting will be made based on the forest stewardship program. Mr. Rollins explained that there are a lot of beech trees that were growing because the deer were eating everything else so there may be some herd culling. Mr. Rollins did not anticipate mountain bikes being allowed on the trail.

The term *discrimination* in the proposed *Conservation Easement and Agreement* that was questioned at the last meeting was likely to bar any discrimination about who is allowed, not to be interpreted that certain areas cannot be established as off-limits.

Mr. Closson explained that this commission should review the proposal in general terms as the details remain to be worked out, but focus their consideration on the concept. Mr. Abbott explained that the key behind the easement language is to recognize that this property will continue as the town's public drinking water supply and will be managed for that. He suggested that questions such as in what ways is it appropriate for the public to experience this property must be measured against protecting the water quality, protecting the sensitive habitats, and not creating something that will impair the conservation values of the property.

Noting that dirt bikes and quads are already on these lands, Mr. Rollins was inclined to believe the amount of them would be reduced once people are out there.

Mr. Rollins shared a concern with the proposal on whether the value of this land might yield a higher price in the future. Mr. Abbott opined that there was more protection with the development rights of this property as federal funds were being utilized.

Mr. Closson polled the commission. Mr. Cooney noted his biggest concern was with the public access part. Mr. Sanden noted that his previous concern had been calmed on whether the State would be able to withdraw the protections. Mr. Platt questioned the use for the proceeds from the sale. Mr. Rollins reported that the agreement made with former Town Manager Bob Geiger was that they would be returned to the Water Sewer Commission for purposes of protecting the watershed, such as the dam project, routine and preventive maintenance, and forest stewardship plan. Mr. LaMere questioned the use for the proceeds from the timber harvest. Mr. Rollins indicated that historically those funds have been returned to the Water Sewer Commission.

Mr. Abbott confirmed that the easement allows for a forest management plan, requires protection of water quality, and requires the plan to recognize sensitive habitats. He reported the area having a federally recognized threatened species.

Mr. LaMere questioned whether the transfer still occurs if Mr. Abbott fails to raise the balance of the purchase price. Mr. Abbott explained that if there is not the full price of \$750K by January 21, 2024, the expiration date of the grant funds, then the deal would not occur. Ms. Perga suggested that there may be an opportunity to reconsider the purchase price if the fundraising efforts fall short however, Mr. Rollins indicated that the \$750K was the buy-in price of the Water and Sewer Commission. Mr. Abbott indicated the appraisal of the land would be recertified just prior to the closing, after the balance of the funds have been raised, and if prices have gone up, then he will have to seek the difference.

MOTION: Mr. Closson, Mr. Marchand second, that the Planning and Zoning Commission forward a positive referral in reference to a conservation easement on ±1200 acres of town-owned land, in accordance with Connecticut General Statutes §8-24 for various properties as contained on Exhibit A presented as part of application less the two properties noted (390 Winchester Road and State of Connecticut-owned Danbury Quarter Road 21.8 acre piece) and to include the four properties included on the map presented at this meeting; unanimously approved.

The properties includes on Exhibit A included the following:

	Address:	Map:	Block:	Lot:	Acreage
	Danbury Quarter Road	020	155	008D	88
237	Old Waterbury Turnpike	014	155	008B	42
	Danbury Quarter Road	020	155	008C	40
	Danbury Quarter Road	014	155	006A	27
	Danbury Quarter Road	014	155	006AA	40
	Rugg Brook Road	015	153	014B15	50
	Rugg Brook Road	021	153	016H	80
	Rattle Brook Road	021	153	010A	44.58
338	Winchester Road	026	153	002	244.96
	Rattle Valley Road	026	153A	217	112.71

	Rattle Valley Road	021	153	017	88.5
200	Old Waterbury Turnpike	020	153	016B	40
211	Old Waterbury Turnpike	025	156	002	133
208	Old Danbury Quarter Road	020	156	025	43
208	Old Waterbury Turnpike	025	156	120	34
	Preston Road	025	156	021	2
	Grantville Road	020	156	022	22
130.5	Danbury Quarter Road	014	155	005-1	4.89
	Danbury Quarter Road	014	155	00005B	4
131	Danbury Quarter Road	014	155	005B-1	1.51
135	Danbury Quarter Road	014	155	005B-2	.83

7. NEW BUSINESS:

None.

8. APPROVAL OF MINUTES: February 28, 2022

MOTION: Mr. Marchand, Mr. Sanden second, to approve the February 28, 2022 Minutes; unanimously approved.

9. COMMUNICATIONS:

Staff reported a meeting scheduled by Connecticut Association of Zoning Enforcement Officers (CAZEO) regarding retail cannabis via ZOOM on Wednesday, March 16th. Additionally, staff noted that CAZEO was sponsoring their training course for zoning enforcement officers at the end of this month.

10. STAFF REPORT:

Staff provided additional details regarding the enforcement of zoning violations within town. It was noted that the Danbury Quarter Road property appeared cleaned up. Staff noted that violations had been sent on 112 Standard Avenue, 257 Colebrook River Road, 308 East Wakefield Boulevard, 636 East Wakefield Boulevard, 193 Marshall Street, and 103-105 Elm Street. It was noted that a violation had been issued on 59 Grove Street in early 2021.

Staff reported that the back parcel behind 200 New Hartford Road (the Ledgebrook Plaza) is under contract with a planned national brand retail store going in there. The engineering was underway with the permitting being necessary before the transfer is completed, according to staff.

Staff reported the transfer of the former Wendy's building at 127 Main Street to a developer out of Foxboro, MA. He was currently seeking a tenant and had plans to spruce up the landscaping in that area. Both Building Official Marc Melanson and Fire Marshal Steve Williams had met with the developer and relayed to him what had been learned from a previous site meeting/field visit, according to staff.

Staff reported 496 Main Street likely being under contract by a local investor, with plans for it to remain a small diner. The sale of 898 Main Street and the current clean-up efforts at that site for the new bar, Tipi, was also noted by staff.

Finally, staff reported that the commission will likely soon be reviewing a text amendment application on the section of the Zoning Regulations related to steep slopes.

11. OTHER BUSINESS:

A. Discussion on Proposed Zoning Regulation Change: Marijuana Dispensary Facility – Adding Retail Cannabis.

Mr. Closson reported receipt of a response from the Board of Selectmen regarding adding retail cannabis as a zoning regulation change. He noted that the selectmen were generally in favor but for adding it as an approved use in the town center. He reminded the commission that while there had been discussion on sales, there ought to be due consideration on the growing and cultivation as a use, too.

It was noted that land use attorney Mark Branse could be consulted with for text for a regulation. Mr. Marchand noted that the State's website lists the 169 towns, reporting that most of them have not yet approved a retail cannabis use either because they have a moratorium or are pending with adopting it as a use. Mr. Marchand indicated Bridgeport, Hartford, East Hartford, Vernon, Windsor, and Suffield as having approved zoning regulations to add the use thus far. Mr. Closson reported that the Selectmen had requested a section of Main Street be excluded from allowing the use. Mr. Marchand noted that they had approved a motion to request regulations, with restrictions, in the established Main Street corridor extending from East End Park to Beardsley Library. Mr. Platt recalled the audio revealing their discussions including the section extending to the church. Mr. Closson noted that can be clarified.

Mr. Closson reminded the commission that the restrictions on the necessary distance from a facility to certain other uses was discussed. Mr. LaMere and Mr. Marchand recalled that distance being reduced to 200' from door to door. Additionally, the hours of operation were also discussed. Mr. Platt questioned whether processing was part of the growing. Mr. Marchand opined that the growing should be limited to indoor only so as to allow the means by which to control it. Mr. Platt shared his concern with greenhouses being installed on existing farmland and the utilization of hydroponics and what happens with the fertilized water and capturing the runoff. Mr. Marchand noted that if the use, growing/cultivation, is not added as allowed as a residential use, then that handles dresses that concern.

Mr. LaMere reported having learned that the legislation allowing retail cannabis had a sunset clause regarding the share of the revenue to the municipalities. Mr. LaMere shared his concerns with the limited uses of the revenue as well as the limited amount of time that the towns get to receive that revenue. The consensus of the commission was for staff to query Attorney Branse on the legislation.

12. ADJOURNMENT.

MOTION: Mr. Closson, Mr. Marchand second, to adjourn; unanimously approved. The Commission adjourned at 8:16PM.

**Respectfully submitted,
Pamela A. Colombie, Recording Clerk**