

Subject to Approval

MADISON PLANNING AND ZONING COMMISSION MEETING MINUTES February 16, 2023

The Regular Meeting of the Madison Planning and Zoning Commission was conducted Thursday, February 16, 2023, at 7 p.m., remotely, using Zoom Videoconferencing. The public was invited to participate remotely by joining the meeting through a Zoom webinar link password, telephone call-in number, and a webinar identification number. Log-in and call-in details were posted to the Town of Madison website (<https://www.madisonct.org/>), prior to the meeting.

MEMBERS PRESENT

Carol Snow, Elliot Hitchcock, John Dusza, Robert O'Connor, Robert Reinhart, John Morgan and Janet Peckinpaugh

ALTERNATE PRESENT

Michael Bugda

OTHERS PRESENT

Town Planner Erin Mannix

The Meeting of the Madison Planning and Zoning Commission was called to order at approximately 7:03 p.m. by Chairman Carol Snow.

Chairman Snow read her introduction / public hearing procedure statement and seated Michael Bugda to fill a vacancy.

The legal notice was read as published.

PUBLIC HEARING(S)

23-04. 885 Boston Post Rd. Map 39, Lot 20, D-District; Downtown Village District Major Alteration and Special Exception Permit Application per Section 6.2.2.2, 6.15.9, and 6.2.4 to demolish existing mixed-use building and construct a new two story 5,900 sq.ft. mixed use building with restaurant on first floor and two residential units on second floor, on-site parking and associated site improvements. *(Open and continue hearing to 3/16/23 meeting)*

Commissioner Peckinpaugh recused herself from this application.

Commissioner O'Connor made a motion to open Public Hearing 23.04. 885 Boston Post Road. Seconded by Commissioner Bugda.

IN FAVOR: Carol Snow, Elliot Hitchcock, John Dusza, Robert O'Connor, Robert Reinhart, Michael Bugda and John Morgan

OPPOSED: None

ABSTAINED: None

Mrs. Mannix states the applicant has requested to open and immediately continue the public hearing in order to provide an opportunity for further notifications of abutters as required by the zoning regulations.

Commissioner Morgan made the motion to continue the hearing to 3.16.23. Seconded by Commissioner Bugda and unanimously approved.

22-31. 155 New Rd. Map 60, Lots 9, 10, 11, RU-2 Zone; Petitioner: Hammonasset Commons, LLC, Property Owner: 155 New Road Madison LLC; Petition for Zone Boundary Change, Planned Development District per Section 32 to construct forty-five dwelling units and associated site improvements in a two-phase development

Commissioner Dusza made the motion to open public hearing 22.31. Seconded by Commissioner Bugda and unanimously approved.

Present for the hearing –Marjorie Shansky, David Sullivan, Michael Harkin, Ron DeGennaro and Kenny Horton. Attorney Shansky states this is an implementation of the 2013 plan of conservation and development which specifically identified properties as development opportunity zones. In 2022, the Commission approved the Plan Development District across the road on the south side of New Road for a medical building development, and this application is the residential component on the north side. Should the Commission approve the master plan they will return to ACCA and the commission with a detailed site plan review which will include all landscaping and other site amenities. Attorney Shansky further states this submitted petition provides all of the necessary information required under Section 32 of the Madison Zoning regulations governing Plan Development Districts. Additionally, the policy to diversify Madison's housing portfolio is advanced through this plan development district, she states her clients are committed to making 10% of the units in this development deed affordable units. The 10% breakout will ensure that Madison does not fall any further behind in the State's goal of affordability in towns all across the State. Lastly, the parcel meets all of the eligibility criteria of section 32.3.2

Mr. Harkin, professional engineer reviewed the site outline with the commission. He states the parcel is broken into 3 distinct parcels and their hope is to reconfigure the parcel and the property lines into 2 distinct parcels. The entire site is approximately 8.69 acres – a combination of all 3 parcels. He further states, on the residential aspect of the property, there are two distinct parcels; parcel A, which is phase one to include 23 residential units, with one amenity building and parcel B, which is phase 2 will have 22 residential units for a total of 45 units combined in both parcels. The entire project will be serviced by municipal water, as well as natural gas, electricity will be provided by Eversource and all units will be served by onsite septic systems. ACCA has also provided a favorable letter for this application.

David Sullivan from SLR Consulting reviewed the traffic study. He states the impacts were looked at previously with the medical building and nothing significantly has changed since then. The evaluation assumed all of the traffic would come and go from New Road, and there would be a second driveway directly out to Duck Hole- it was suggested to leave that as emergency access, and in the future, it could be evaluated to see if it should be for all vehicles. He further states some of their recommendations from the last meeting has already been implemented such as line striping.

Chairman Snow asked if the 23 units on the residential side is phase one of that development, and if the remaining 22 houses are the second phase of that master plan. Therefore, two master plans. Attorney Shansky states yes, the master plan for the medical building has already started and they are waiting on approval of this aspect of the residential phase, and will return to the commission with both plans.

Commissioner Bugda asked if school buses are expected to be on property anytime. Mr. Harkin states he is not sure, but the turning radius can give access to a school bus.

VC Hitchcock states in regards to the affordability aspect, how many units are planned for the first and second phase? Attorney Shansky states that conversation has not been had, but it would be 10% based on 45 units.

Commissioner Reinhart asked if the modifications of the roadways are part of this plan. Mr. Sullivan states because of safety issues they came up with an improvement plan and that plan should be implemented in whole as their recommendation to improve safety.

Commissioner Morgan asked how do we make affordable housing better in Madison. Attorney Shansky states there are things the town can do to make it better such as adopting an inclusionary zoning regulation. Mrs. Mannix further states as far as options for increasing affordable housing, some of those concepts are discussed in further details in the town's affordable housing plan that was adopted earlier in 2022, and inclusionary zoning is one of those tools that the Commission and the Affordable Housing Committee can discuss.

Commissioner Dusza asked with affordable housing for 5 units, what would the monthly rent be. Attorney Shansky states she does not have an answer but can certainly get the current numbers from the department of housing about what the Ami is in the geographic area.

Mrs. Mannix then read her staff report dated 2.16.23 into the record and the hearing was then opened for public questions by the Chairman Snow.

Jim Carson – 94 Duck Hole Rd – ask what is the plan for septic removal as this condo complex sits above the aquifer that produces well water. Mr. Harkin states he has met with CT Water and with regards to the aquifer, if this was not a residential development then there would be concerns with chemicals or potential spill with chemicals into the groundwater. Mr. Carson also asked if there would be a tree line buffer installed and he also has concerns with vehicle headlights shining directly into his home. Mr. Harkin states he is happy to stop by and review landscaping details.

Donald Greene – 80 Randi Drive – asked if any of the homes will be three-bedroom units. Mr. Harkin states all units are 2 bedrooms units.

Jerry C – 135 Duck Hole Rd – is concerned with the northern border and their quality of life and privacy. He asked if there are any plans to have a vegetative buffer. Mr. Harkin states he is happy to stop by and review landscaping details.

Fran Brady – 108 Genesee Ln – asked Mrs. Mannix if there are any remaining PDD areas that have the same potential to improve the Towns affordable housing percentage. Mrs. Mannix states no. Currently section 32 of the zoning regulations applies to both the north and south corners of New Road at the intersection of Duck Hole. Mrs. Mannix further states the Board of Selectmen has appointed an affordable housing committee and an AD hoc affordable housing committee to begin implementing the goals of the Affordable Housing plan that was adopted last year. Mr. Brady also asked about the potential for public transportation for service. Mr. Harkin states he does not know if there's a stop in that area currently. Mrs. Mannix added that currently there are existing lines through the 9 Town Transit and Connecticut CT Transit and most of those come down the Boston

Post Road and focus in the downtown area. However, the town is looking to partner with the estuary transit district, who runs 9 town transit to look at opportunities to expand public transportation. Also, there is currently a survey out amongst residents about public transportation.

Denice McGregor – 35 Scotland Ave asks if the units are for sale or rent and what is the projected timeline. Mr. Harkin states the units are for sale with condo association and as for a timeline, as soon as the master plan is approved.

The hearing was opened for any comments for or against the application.

Donald Greene – states this is a well thought out project / plan.

Commissioner Morgan made the motion to close the public hearing and move into deliberations. Seconded by Commissioner Dusza and unanimously approved.

After discussions, the following motion was made:

Commissioner Peckinpaugh made the motion to approve application #22-31. 155 New Rd. Map 60, Lots 9, 10, 11, RU-2 Zone; Petitioner: Hammonasset Commons, LLC, Property Owner: 155 New Road Madison LLC; Petition for Zone Boundary Change, Planned Development District per Section 32 to construct forty-five dwelling units and associated site improvements in a two-phase development based upon the following findings:

- 1. The applicant has successfully demonstrated that the proposal is consistent with Section 32.2.1 of the Zoning Regulations as the location, uses, and layout of the proposed PDD are in conformance with the intent of, and the goals and objectives contained in, the Plan of Conservation and Development. The proposed PDD is in harmony with the surrounding neighborhoods and land uses and its proximity to major roads, including I-95 will help provide convenient access to the site while minimizing impacts to local residential streets. The applicant has provided a conceptual plan to help alleviate safety and operational issues at the intersection of Route 450 at New Road/Duck Hole Road. The applicant has further agreed to pursue discussions with the Town and CTDOT regarding these proposed improvements. Furthermore, no natural or historic resources are present on the site that require protection.**
- 2. The petition demonstrates consistency with Section 32.3.2 of the Zoning Regulations as the subject parcel meets the characteristics required for eligibility for PDD designation such as minimum district size, parcel location, and minimum lot frontage.**
- 3. The Commission has considered Section 32.3.3 of the Zoning Regulations in making this decision and determined that the proposed forty-five residential units are an appropriate development of these parcels located in an identified “opportunity area” in the Plan of Conservation and Development. This project will further the goals of the 2013 POCD by providing diversified housing opportunities which will help accommodate the needs of the community.**

4. **The applicant has proposed to deed restrict 10% of the residential development, or five (5) units at eighty percent (80%) area median income (AMI) as defined by the Department of Housing and Urban Development for a minimum of twenty (20) years.**

Seconded by VC Hitchcock.

IN FAVOR: Carol Snow, Elliot Hitchcock, John Dusza, Robert O'Connor, Janet Peckinpaugh, Robert Reinhart, Michael Bugda and John Morgan

OPPOSED: None

ABSTAINED: None

22-33. Applicant: Frasher Lulaj, Petition for Regulation Amendment to Madison Zoning Regulations Section 32 Planned Development District. *(Public hearing continued from 1/19/23)*

Commissioner O'Connor made the motion to continue public hearing 22-33. Seconded by Commissioner Reinhart and unanimously approved.

Present for the application – Attorney Jeff Beatty and applicant Frasher Lulaj. Attorney Beatty states this is our application to amend the planning regulations to expand the number properties eligible for consideration as a plan development District. Since the last meeting, he has met with Mrs. Mannix to reduce the number of lots that would be eligible for consideration as a plan development district. That was reduced to the Winter Club site and Barberry Hill Farm. The reason for this is that there's a requirement within applicable zoning law, and designating just one property for a specific use, violates the uniformity of zoning concept. So, they've expanded the area that would be considered for eligible lots. If the planning and zoning commission amended the regulations then those 2 properties would be eligible to present to the Commission a master plan and the Commission would decide whether or not the proposed use is a good idea for that parcel.

Mrs. Mannix briefly reviewed a staff report dated 2.16.23. She also states the methodology that was proposed at the last meeting to essentially circle around one property to become eligible for the PDD application is not legally sustainable, nor is it consistent with the plan of conservation and development. She then outlined the proposed changed under Section 32.3.2 Eligibility.

32.3.2. Eligibility. The following characteristics are required for a site to be eligible for the PDD designation:

(a) Minimum District Size: 2 acres (parcel or combination of parcels including contiguous lots and lots across a road).

(b) If within the "Coastal Zone" proposed PDD's must be found consistent with Madison's Municipal Coastal Program and shall be subject to minimum setbacks set forth in Section 2.17.

(c) The proposed PDD must have a minimum frontage of 200 feet on a Town or State Road.

(d) Parcel Location: The Lot(s) eligible for a PDD shall be

(i) located in the following zoning districts: R, RU, and

(ii) must further be located within an area specifically designated as a future development opportunity in the 2013 POCD or a successor document; or

(iii) must further be located within an area bounded to the west by the Commercial 'C' District or Transition 'T' District along the centerline of Mungertown Road; bounded to the north by the Transition 'T' District or Light Industrial 'LI' District; bounded to the east by the centerline of Stony Lane; and bounded to the south by the centerline of Boston Post Road

Mrs. Mannix shared a close-up area of the specific region of the town so that commissioners can see the parcels that would essentially be included within the bound.

VC Hitchcock, states there's only two properties that are going for the PDD, but the overall map shows a few other properties with this text amendment, and about 40 or 50 properties would fall within the zone.

Mrs. Mannix, states that's true that they are within the zone but a lot of those have already been developed with single family houses and only two would qualify. Furthermore, the likelihood of development given that most of the properties are already developed with single family homes, is relatively small. VC Hitchcock further states that this was seen with the General's Residence properties that were combined to make them qualify for cluster development.

After further discussions, the public hearing was opened to the public for questions.

Lauragene Lyons – 125 River Edge Farms Rd - wondered why is Barberry Hill Farm included in this proposal. Attorney Beatty states this is an amendment to the text of the zoning regulations that will allow the planning and zoning permission to consider applications for PDDs at the properties identified and then the commission has to make a determination on a property or an application by allocation basis whether or not to grant PDD Designation to those properties.

James Nordgren – 387 Boston Post Rd – asked what changed since the last meeting, and what became more challengeable. He further states the properties in the PDD could be combined in various ways to satisfy eligibility, and once a property is in the PDD it's much harder to deny it. The applicant just needs to meet the minimal requirements of a site plan instead of the more rigorous requirements of a subdivision application. Mr. Nordgren states one of his recommendations would be to keep this meeting open, so that neighbors can be informed about this zoning change. He then asked if property owners were notified. Mrs. Mannix states a process for a text amendment to the zoning regulations requires legal notice in the newspaper and a public hearing process.

Julie Ovian – 317 Boston Post Rd – asked what is a transition district and how does it apply in this scenario. Mrs. Mannix states a transition zone does not allow for restaurant use. Ms. Ovian then asked what if we were to extend the commercial zone to those 2 properties. Mrs. Mannix states there are no guarantees that when a particular property is rezoned, that you will be guaranteed a specific use that property.

Mary Kate Gonleck – 318 Boston post Rd – asks what is the validity for concern of appeal. Attorney Beatty states when planning and zoning commissions add a regulation that targets just one property, that its typically not a legal way of conducting or adopting zoning regulations.

Frank Angelino – 42 Stony Ln – states why not a direct amendment since using the PDD on such a great expansion throughout the area is not the way to do a zoning amendment for one specific property as others have noted. He further asks what is the relationship for including Barberry Hill farm into this proposal. Attorney Beatty states there is no relationship and they are simply creating a text amendment that will not be appealed.

Julie Ovian – 317 Boston Post Road – Co-owner Kevin states there was a letter that was submitted by Mr. Katz and would it be possible to read that letter in this meeting. Mrs. Mannix states typically when letters are received from the from the public, they're added to the record which gives Commission and the public an opportunity to read them ahead of time.

Mary Kate Gonleck – 318 Boston Post Road – states at what point is there a decision to reschedule this hearing as this is too important to rush tonight.

Tom Cherry – 936 Boston Post Road – asks the commission why do they feel they do not have the authority to decide singly for the restaurant with the actual interests of the community as a whole.

Alex Province – 917 Boston Post Rd – asks if a restaurant is approved, what safeguards does the P&Z have to make sure that the beauty of Boston Post Road is preserved. Attorney Beatty states his client will prepare a master plan and an application as seen in the prior hearing. It would be a detailed proposal of what is to be constructed. After that a site development plan is presented showing the use of the property.

Carolyn Mazure – 934 Boston Post Road – asked what is the notification process of a text amendment. Mrs. Mannix states a legal notice is an advertisement which ran ahead of the opening of the public hearing in January. The public hearing was opened on January 19th, so the notice ran on Jan 5th and Jan 12th as required by the statues, and for tonight there was no requirement that it be ran again.

Jim Nordgren – 387 Boston Post Rd – states he reviewed the minutes of 2020 and in order for a property to be a designated opportunity area, the Commission outlined 5 steps that had to be taken. He further asked if those steps were taken to officially designate these opportunity areas. Chairman Snow states the suggestions that came up at that meeting were not followed up. However, in the regulations, the floating zones from 2006, 2010, and the Plan Development District from 2019 and the support of the 2013 plan of conservation innovation lead them in this direction and believes this supports the application to at least to be considered.

The hearing was opened up for those speaking in opposition or in favor of the application.

Jim Nordgren – states this means there's a risk of the town being sued by not following the 5 steps that the Commission outlined to designate these opportunity areas by just going ahead with these 2 properties. He further asks how did Barberry Farm get on the opportunity area list.

Donald Greene – 80 Randi Dr – states this is just a meeting to allow a PDD application to occur in the future, which he's in favor of.

7 - Madison Planning and Zoning Commission, Regular Meeting, February 16, 2023

Mary Kate Gonleck – 318 Boston Post road opposes this application.

Jeff O'Connor – 324 Boston Post Road opposes the methodology that is being used but not the restaurant.

Carolyn Mazure – 943 Boston Post Road – opposes application.

Homeowners of 315, 313 & 317 Boston Post Road – opposes the application but not the idea of a restaurant. Kevin Ovian opposes the overall plan and is in favor of the restaurant being approved.

Adam Greenberg - owner of a portion of 353 Boston Post Road, states the existing regulations offer limited options for residential development, and it truly is inconsistent for the town to refer repeatedly in the plan of conservation and development about diversifying the housing portfolio and the PDD. He is in favor of giving the Commission and property owners the opportunity to bring forth an application as was brought at the beginning of this hearing, and hopes the text amendment approved.

Marty Triola – 10 Middle Beach Road- president of the Madison Winter Club states there's a broad support for the restaurant based on many comments made by the public, and approves the passage of this text amendment.

Benna Leher – 321 Boston Post Road – opposes a vote to be taken.

Attorney Marjorie Shansky spoke in favor of the application, she states without the Plan Development District, developers are left with only one option, and that is the 8-30 option.

Goddard – Kingsley – 353 Boston Post Road – concurred with Attorney Shansky.

Frank Angelina – 42 Stony Lane - thinks that the restaurant is a good use, and questions why in order to do a restaurant and a relatively small site does everything need to be included, why not do it individually.

Commissioner O' Connor made the motion to close the public hearing and move into deliberations. Seconded by Commissioner Peckinpaugh and unanimously approved.

Commissioner Bugda left the hearing prior to deliberations. After deliberations, the following motion was made.

Commissioner O'Connor made the motion to approve application #22-33. Applicant: Frasher Lulaj, Petition for Regulation Amendment to Madison Zoning Regulations Section 32 Planned Development District based upon the following findings:

- 1. The applicant has successfully demonstrated that the proposal is consistent with the intent of, and the goals and objectives contained in, the Plan of Conservation and Development including encouraging economic development, diversifying Madison's housing portfolio, and encouraging open space development patterns that preserve natural resources and reduce infrastructure and service-related costs.**

8 - Madison Planning and Zoning Commission, Regular Meeting, February 16, 2023

- 2. The petition demonstrates consistency with the intent of Section 32 of the Zoning Regulations, Planned Development District by providing the legislative framework to sensitively develop highly visible undeveloped or underdeveloped lots as well as adaptive reuse opportunities in the Town of Madison.**

Seconded by Commissioner Peckinpaugh.

IN FAVOR: Carol Snow, Elliot Hitchcock, John Dusza, Robert O'Connor, Janet Peckinpaugh, Robert Reinhart, and John Morgan

OPPOSED: None

ABSTAINED: None

PENDING

23-03+CSP. 9 Neck Rd. Map 24, Lot 41, R-3 Zone, Applicant: Mady Devel III LLC, Owner: Watrous Realty LLC, Three (3) lot subdivision; application includes coastal site plan. ***(Request action)***

Per Mrs. Mannix the applicant is requesting to table this application pending Health Department approval. **Meeting tabled to 3.16.23.**

23-05. 14 New Rd. Map 49, Lot 26, LI – Light Industrial Zone, Owner/Applicant: Precision X-ray, Inc., application for Site Plan modification to construct a 4,170 sq.ft. addition to existing manufacturing building with associated site improvements. ***(Table to 3/16/23 meeting)***

23-06. Stone Rd. Map 12 Lot 103-1, R-4 Zone, Owners: Andrew Corwin and Pamela D'Arc; Applicant: Kelly Giuliano, Esq.; Application for Lot Line Revision. ***(Request action)***

Mrs. Mannix states this is a lot line revision from an approved subdivision and there's no reduction in any lot areas. One of the property owners is acquiring about 1,600 square feet from an adjacent property owner, from a piece that was not included in the subdivision. She further states there are no ramifications to this and this is brought to the commission because the current subdivision regulations require full commission approval for any lot line revision in a subdivision. The map has been reviewed by staff and is compliant with zoning regulations, and was also approved by the Inland Wetlands Agency as well for an easement.

Commissioner Morgan made the motion to approve application 23-06. Stone Rd. Seconded by Commissioner Reinhart and unanimously approved.

RECEIPTS

23-07. Applicant: David Klein; Petition for Regulation Amendment to Madison Zoning Regulations Special Exception Section 4.1.35. ***(Schedule Public Hearing for 3/16/23 meeting)***

Chairman Snow made the motion to schedule the public hearing for 3.16.23. Seconded by Commissioner Peckinpaugh and unanimously approved.

APPROVAL OF MINUTES: February 2, 2023

VC Hitchcock made the motion to approve the minutes of February 2, 2023 as submitted. Seconded by Commissioner Dusza and unanimously approved.

REMARKS: Commission Chair - None
Town Planner - None

ADJOURNMENT

Commissioner Reinhart made the motion to adjourn at 11:31p.m.; seconded by Commissioner Morgan and unanimously approved.

Respectfully submitted,
Racquel Stubbs