

**MINUTES OF PUBLIC HEARING ON AN ORDINANCE AMENDING THE
STANDARDS APPLICABLE WITHIN THE CENTRAL BUSINESS DISTRICT-
HIGH INTENSIVE ZONE**

JULY 8, 2003

COUNCIL CHAMBERS

999

President Jonathan Harris called the hearing to order at 7:20 p.m.

Present were Councilors Rob Bouvier, Kevin Connors, Carl Donatelli, Jonathan Harris, Maureen Kelly McClay, Scott Slifka, Art Spada, Carolyn Thornberry and Al Turco.

President Harris: Mr. Slifka if you have some items to read into the record.

Vice President Slifka: As a matter of fact I do. Correspondence June 6th, 2003 from the Town Plan and Zoning Commission recommending approval of the subject application. It appears to be the only one.

President Harris: Thank you Mr. Slifka. Mr. Feldman can you explain this ordinance?

Mr. Feldman: Mr. Mayor very briefly and perhaps Mr. O'Brien or Mr. Alair would like to elaborate. This is an amendment to our zoning ordinance that establishes permits the Council to change the floor area ratio in a very specific zone that is limited only to the Center of West Hartford. No other zone has this flexibility that you are considering and what you are considering is to change the floor area ratio of essentially the density of the use of that land. You are changing it from its current basically .3 to a .4 and you can think of it as it is a ratio of essentially 1 to 3 versus 1 to 4 meaning that if you have 100,000 square foot land parcel the current standard would be that you could build a 30,000 square foot building, that is the .3. The amendment calls for a .4 meaning that same 100,000 square foot parcel of land you could actually intensify the development. Again it is limited to a very specific parcel or zone that is only in the Center of town.

President Harris: Mr. Feldman just to clarify on something you raised. If you have a 100,000 square foot parcel then under current law you could build a 300,000?

Mr. Feldman: No a 30,000 square foot building.

President Harris: It is 300,000 because it is three times that.

Mr. Alair: It is three times.

Mr. Feldman: I stand corrected, pardon me. I'm sorry and thank you for correcting me.

President Harris: And then under the proposed change then that would go to 4 so you could build that 400,000.

Mr. Feldman: Yes.

Mr. Alair: I should clarify and say that the standard in the zone, the maximum floor area ratio in the zone as it stands now is one point two five, in other words 125 percent of the total area of the parcel. You can go to 3 only with an SDD, only in the context of an SDD. This amendment would only change, again in the context of an SDD; the maximum from 3 to 4 so if you had that 100,000 square foot parcel you could by site plan have 125,000 square feet of floor area. With an SDD you could have 300,000. We are changing it to say you could have 400,000. In essence, think of it like one hundred percent of lot coverage, four stories high.

President Harris: Thank you Mr. Alair. So again to clarify you talk about it in the context of a special development district. This would not be something that would be as of right under site plan. It would be subject to Council approval to allow...

Mr. Alair: Absolutely.

President Harris: The expanded floor area.

Mr. Alair: Absolutely. There are also a couple of other changes that go along with this just to be sure that the Council is aware of them. Currently, and again all of these only apply in context of an SDD. They are not as of right. Only by SDD. The current ordinance permits by SDD a maximum of six stories and 65 feet. Given the current construction standards, given the fact that some of the land in this zone is on a slope the 65 foot height limitation is problematic. We talked about amending it to 70, 75 feet and we realized that whatever number we came up, with guaranteed you would get an application that required you to be two feet higher and it would be a problem so we eliminated the 65 foot portion but not the six story portion. Theoretically what that means is somebody could have six stories, 20 feet apiece, 120 feet. If they come to the Council and ask for an SDD at 120 feet I have a funny feeling you would all throw them out on their ear. You ultimately have the controls so we didn't feel it was necessary to have that foot-height cap when every application is going to have come to you for your approval anyway.

The maximum lot coverage as we said goes from 3.0 to 4.0, again only by SDD and if you look at the text it is funny. We crafted this ordinance and everybody who looked at it read it exactly the same way. One person came to me and said after we had drafted it and after it was actually in front of you and said you know, I was looking at this and it could be read in a different way. If you look at that language that is inserted there in Subsection, it is actually the first underlined language on that first page, where it says "the maximum lot coverage of all buildings may be increased to that area remaining after provisions for yard requirements and parking are met" and then there is a parenthetical "unless said parking and/or yard requirements are waived by the Town Council." The intent of the ordinance as we wrote it was that that parenthetical modifies the phrase immediately preceding, that being "after provisions for yard requirements and parking are met." In other words, "once you have met your parking requirements unless we waive them." Somebody read it and said well, if you related it back to the preceding clause you

would say the maximum lot coverage of all buildings may be increased unless the Council waives it in which case you couldn't and that was clearly not what we intended. That is not how we would interpret it. I just wanted to put that on the record in case there was somebody at the table who read it that way that no one else but one person read but we figured it was just better we clarify it now.

Again, we talked about the maximum floor area ratio. The only other change that we made is in Subsection 177-16.6(a). You will see at the very bottom of that first page much of subsection (a) is now being deleted. Currently you have to find that adequate parking exists to meet the requirements of this chapter, meaning the zoning chapter, in order to approve an SDD with these limitations. The problem with that is that in any other SDD anywhere in town you could waive parking. We believe it was always the intention when this ordinance was adopted that by SDD you could also waive parking here. Someone could argue the negative implication of that is that you not allow to waive parking here so what we did was we amended the subsection to clarify that you need to find that adequate parking exists to meet the needs of the development which gives you the ability to waive along the same lines as the standard you now employ in any other SDD: That you find that there is adequate parking for the project so it is just intended to not bind your hands in a way that doesn't apply anywhere else.

With that, I would just note that there is the actual schedule on the last page. For those of you who can't read very small type, the changes to the schedule are actually the insertion of a footnote which is in a really tiny type in the bottom row of the fifth column across the column headed "maximum lot coverage of all buildings." The bottom row is for the CDDH zone and we are inserting footnote 5 in that and then if you look down at footnote 5 you will see that the text indicates, consistent with what we have just discussed, that floor area ratio lot coverage maximum height and stories may be increased pursuant to the section we have been talking about 177-16.6. You will notice that there was a typo in that provision. Before it referred to 177-16. We just corrected the typo, when we realized it, to say 177-16.6, which is the correct section.

President Harris: Thank you Mr. Alair. Any questions for Mr. Alair or Mr. Feldman? Mr. Donatelli.

Councilor Donatelli: Thank you Mr. Mayor. As far as the height modification, would the Council, since it is an SDD even if that wasn't changed, be able to waive the 65 foot?

Mr. Alair: That was the concern is that we have always viewed it as, well, why wouldn't you be able to? The problem is that by virtue of the fact that the ordinance said by SDD up to six stories and/or 65 feet. The implication was there that by SDD you couldn't go to 66 and we wanted to take that out because it really binds your hands in a way, again, that is not applicable in any other zone and it just struck us as odd, particularly given the fact that the whole purpose of this zone from day one was intended to make this the high density zone. That is the name of it. Ironically, at the same time that language about the maximum lot coverage being one hundred percent of lot coverage after provisions are made for yards and parking, currently it is fifty percent lot coverage but the BC and BG

zones already have that language—one hundred percent of lot coverage less yards—so it was actually more restrictive in the high density zone than in the BG and BC zones which made no sense. We are assuming it was a typo, an error when the ordinance was adopted.

Mr. O'Brien: Essentially if I could just...

President Harris: Mr. O'Brien.

Mr. O'Brien: If I could just clarify, any height over 45 feet or over four stories requires an SDD application so it has to come before the Council for approval.

President Harris: Thank you Mr. O'Brien. Mr. Donatelli.

Councilor Donatelli: But the limit would still be the six story limit?

Mr. Alair: Correct.

Councilor Donatelli: If I may...

President Harris: Mr. Donatelli.

Councilor Donatelli: The TP&Z, and I don't have it with me, I think in their letter recommending approval also voiced a cautionary note.

Mr. Alair: They did.

Councilor Donatelli: Do you know what that was?

Mr. Alair: Their concern was that by not having any height limit that we were opening the door to something that would look like a pencil. You know, the 120 foot tall, six story building which really would have to look like a pencil because if you combine lot coverage, floor area ratio, and the number of stories, if you put all of those dimensional components together, you would really have to make something very tall and very thin to have it meet all of those requirements. But their concern was that you could potentially have something like that and given that this zone is located in an area on the east side of the Center west of Trout Brook, that the view towards the Center might be impaired and they expressed concern about that possibility and just wanted the Council to be sensitive to it if and when an application ever comes forward to implement that you really look at those site lines. You look at the views from Trout Brook from Trout Brook Drive; from east of the Center so that you are not damaging what is currently a relatively attractive view if you ignore the cell tower.

President Harris: Mr. Donatelli.

Councilor Donatelli: As far as the coverage and we are allowing basically a thirty three percent increase potential?

Mr. Alair: Twenty five percent, thirty three percent depending on how you do the math.

Councilor Donatelli: Okay and what exactly is covered by this zone?

Mr. Alair: The area of the zone is bounded by Memorial Road, really actually if you even used the Memorial Road extension that is not open yet, but built, Memorial Road including the extension on the south to I will call it the western shore of Trout Brook, which is actually underground north to Farmington Avenue, west along Farmington Avenue and then back south along a line which is really Isham Road and the extension of Isham Road so it is that whole area with the car dealerships, the veterinary center... Actually I always wonder why nobody ever uses this map. It really would be this area right in here.

Councilor Donatelli: So the currently developed Center is not, across the street?

Mr. Alair: Right.

Councilor Donatelli: Okay, thanks.

President Harris: Thank you Mr. Donatelli. Any further questions?

Councilor Thornberry: Mr. Mayor.

President Harris: Dr. Thornberry.

Councilor Thornberry: I would like to ask the Corporation Counsel a question about where the measurement of stories begin. Do they begin at street line and let me ask the question that you probably already know that I'm going to ask is could you have a situation where the total measurement of square footage actually begins on a slope before the street line begins?

Mr. Alair: Yes. We have this problem certainly all over town. We have it in houses up on the Mountain for example that are built on quite a steep slope and the Building and Planning staff use a standard, a fairly standard formula which I'm going to botch, but I will give you my best stab. If you were to look at the slope and take a plane at the highest point on the slope where the building begins and then go to the center of that plane relative to both ends and go down in the middle, we measure from there. We measure vertically from there so that if the building is 65 feet, in this case 65 feet from that centerline, the parts that are taller than it, at the bottom of the slope are okay. The parts that are shorter are okay. We measure in essence from that midpoint. That is my understanding of how they do it.

Councilor Thornberry: Again through you Mr. Mayor to the Corporation Counsel would, however, that area of square footage that falls below the midpoint of that slope, would that be included in the total, again, I'm going to ask you would that be included in the

total square footage required or would this, in a way, give them some additional square footage?

Mr. Alair: There are actually, there are three different measurements going on here. We measure in three dimensions. You have, the 65 foot is purely a height measurement. It is not a square foot measurement so in the case of a slope there is some leeway if you want to call it in terms of that height relative to if you looked at it from the lowest point on the slope and looked square on it would actually be taller than 65 feet. That does not change the maximum number of square of feet of floor space that you can have. That floor area ratio calculation is still 4.0, whatever the height and the maximum lot coverage doesn't change so you can still have a situation where yes, at its lowest point or highest point the building might be higher than 65 feet if you use that measurement but you would still have to meet the floor area ratio and the maximum floor area or maximum footprint lot coverage requirements and between all of those criteria you end up with an overall volume of space which you can bend and shape a whole bunch of different ways but the three of them really work together.

Councilor Thornberry: I understand and in a sense when you explained the calculations that you would have to do and in order to build up so many stories using the square footage you would end up with a building that looked like a pencil...

Mr. Alair: Exactly.

Councilor Thornberry: You could actually have some of that space that was below the street line and if you went up too many stories you would actually have several floors that were less than half of the original square footage of the base.

Mr. Alair: Exactly.

Councilor Thornberry: And you can only do that...

Mr. Alair: Unless you cut into the slope.

Councilor Thornberry: Yes unless you play into the slope. Thank you.

President Harris: Thank you Dr. Thornberry. Mr. Spada.

Councilor Spada: I appreciate the explanation. I'm not sure how much I grasp but the question that I would have is I'm not sure if you consulted at all with the Fire Chief but you mentioned the fact that there was no maximum. The Fire Chief and his staff must understand exactly how high they are capable of going so wouldn't that be in fact the maximum? Why would we ever consider approving something above our capacity to rescue people?

Mr. Alair: Well that is logical. Right now I believe the tallest building in town is Hampshire House which is I think eight stories so even if you went significantly above

the 65 feet, in essence another two stories by normal measurement standards, you would still be within our ability to achieve rescue coverage. Anything beyond that, according to today's equipment, that would be a very logical reason for you to say "no you have proposed something that is too high" and I would assume that the Fire Chief and the Fire Marshal at that point would say "we recommend against this" but the flip side of that, of course, is, and the Town Manager will have a heart attack when I say this, we could go out and buy a new fire engine tomorrow and we don't want to discount the possibility that we could have 110 foot ladder which is really what you need to get up.

President Harris: Again Mr. Alair just quickly to Mr. Spada's concerns by assuming that this is passed tonight and the ordinance is amended this is just changing some of the limits. Again, it would be subject to Council discretion on an application for a special development district so your hypothetical pencil building is not automatically allowed by passing this ordinance.

Mr. Alair: Absolutely not. The maximum that would be allowed without coming to the Council is unchanged and that is fifty percent of the lot covered by a building with a maximum floor area ratio of one hundred and twenty five percent of the lot area. In other words, your 100,000 foot lot, 125,000 foot building covering not more than fifty percent of the lot, dimensions not higher than four stories and not higher than 45 feet. Any violation of any of those would have to come to the Council.

President Harris: Thank you Mr. Alair a very good explanation. I'm just glad that when Dr. Thornberry asked you about the beginning of the story you didn't say it was once upon a time that's my level. Any further questions, comments? Is there a sign up sheet?

Mr. O'Brien: No one signed up.

President Harris: Any members of the public present who wish to comment on proposed amendments to the ordinance that we just discussed? There being none we will close the public hearing.

The hearing adjourned at 7:40 p.m.

Norma W. Cronin
Town Clerk/Council Clerk