PLANNING & ZONING COMMISSION/ TOWN OF EAST HADDAM LAND USE OFFICE REGULAR MEETING MINUTES

February 8, 2011 (Not yet approved by the Commission)

1. CALL TO ORDER: Mr. Brownell called the meeting to order at 7:15 p.m. at the Town Grange.

2. ATTENDANCE:

COMMISSIONERS PRESENT: Crary Brownell – Chairman (regular member), James Curtin (regular member), Bernard Gillis (regular member), John Matthew (regular member), Kevin Matthews (regular member), Louis Salicrup (Alternate) (arrived 7:21 p.m.), Elizabeth Lunt (alternate member), Harvey Thomas (regular member)

COMMISSIONERS ABSENT: Anthony Saraco (regular member)

OTHERS PRESENT: James Ventres and approximately 5 townspeople were present.

Mr. Brownell appointed Ms. Lunt to vote in place of Mr. Saraco this evening.

3. MINUTES:

The minutes of the January 11, 2011 meeting were tabled.

The minutes of the January 25, 2011 meeting were filed with the following amendments:

- Page 3, last sentence: Add "for both rural character and economic development." To the end of the sentence
- Page 6, last sentence: Strike "the opportunity"
- Page 9, 6th paragraph, 1st sentence: Add "colonial" after "two-story"
- Page 10, Outdoor wood burning furnaces, 4th paragraph, last sentence: Replace "would" with "may not"

4. BILLS

<u>Vendor</u>	<u>Invoice</u>	Amount
Hartford Courant (legal notices)	2384	\$ 902.40

Motion by Mr. Curtin, seconded by Mr. Thomas to pay the bill as presented. Motion carried by unanimous vote.

5. ACKNOWLEDGEMENTS AND SET HEARING DATES

None

Motion by Mr. Thomas, seconded by Mr. Curtin, and passed unanimously to change the order of the agenda.

7. DISCUSSION

A) Signage

Mr. Brownell stated he had spoken with Mr. Saraco, and Mr. Saraco would like an opportunity to talk about this with Mr. Gillis before it is sent to a public hearing.

Mr. Curtin noted that Moodus has flashing, internally lit signage. Mr. Ventres stated that is not allowed.

Mr. Brownell asked Mr. Ventres to talk with the restaurant regarding their lighting.

8. ZEO REPORT

Mr. Ventres stated that Mr. Brownell had received a complaint regarding Public Act 490 and 10 mill properties. The letter was signed by "A Concerned Citizen". Mr. Ventres stated this letter also was addressed to the Board of Selectmen, Open Space Committee, Assessor, etc. A brief discussion ensued. This could make a large difference in the amount of taxes assessed.

Mr. Ventres stated at the next public hearing the Commission is scheduled to review the Plan of Conservation and Development. He emailed the chairpersons of each board/commission to remind them of the upcoming meeting.

Mr. Ventres stated that next week, the IWWC is holding a public hearing on their regulations. The major change is accepting the Massachusetts and DEP guidelines, which are already being followed. Mr. Ventres commented that he has had no comments from the public on this issue.

Mr. Ventres stated that Attorney Branse has agreed to hold a meeting on March 29. Pizza, salad, soda, and coffee will be served. The seminar would be held at 6:00 p.m. Mr. Brownell suggested that Mr. Ventres contact the schools to see if any students may be interested in attending.

Mr. Matthew questioned the new rates for Attorney Branse. The consensus of the commission was that they had a reasonable rate.

Mr. Ventres stated that a Town Meeting would be held on March 1, 2011 on the open space purchases for the Dean, Harris and Bogan properties. March 10, 2011 will be the referendum date.

Mr. Ventres distributed copies of a letter from the Nature Conservancy dated January 21, 2011 to Mr. Walter regarding the Salmon River Watershed partnership. Mr. Brownell noted that this fee would come from the Selectmen's budget.

Mr. Ventres stated that Mr. Puska is still surveying year-round residences for non-compliance.

Mr. Ventres presented an envelope he received from the Postmaster. The letter distributed at the last meeting addressed to Mr. George Corbeil was damaged at the Post Office, and apparently never made it to him. Mr. Ventres noted that the deadline given to Mr. Corbeil was February 1, 2011. Mr. Curtin suggested the Commission go into executive session at the end of tonight's meeting to discuss this.

Mr. Matthew stated they have received some letters from the Boardman House. Mr. Ventres stated the Historic District Commission cannot regulate people changing their light bulbs. The complaint was against the package store. He noted that the fixtures have not changed. Mr. Curtin asked if the lights are left on all night. Mr. Ventres believed they were left on all night.

Motion by Mr. Gillis, seconded by Mr. Matthews to take a brief recess at 7:59 p.m. Motion passed unanimously. The meeting reconvened at 8:04 p.m.

Noting the time was now 8:00 p.m., the public hearing began.

3. PUBLIC HEARING

Mr. Matthews read the call for the following public hearings:

A) Proposed Amendments to the East Haddam Zoning Regulations

- 1) Interior Lots New Section 10.1.h. creation of interior lots
- 2) Requirement for filling of test pits. Section 14.A.3.G.
- 3) Special Exception Review for 2,3, and 4 family dwellings instead of Site Plan Review Section 5 Definitions, Section 9 Permitted Uses
- 4) Redefine accessory units consider allowing accessory unit/in-law unit with less acreage with Special Exception Review Section 10.2 Accessory Units.
- 5) Revision to the Building Height language in the Conservation and Lake Districts Section 5 Definitions and Section 10.1.4 Building Height.
- 6) Seasonal Use Language and extension of time Section 5 Definitions, Section 7 General requirements.
- 7) Merger of lots separated by street New Section 8.1.5
- 8) New Section 21 for the Regulation of Outdoor wood burning furnaces
- 9) Campgrounds and Recreational Camps Section 5 Definitions, Section 7 General Requirements, Section 15 Campgrounds

Proposed amendments to the East Haddam Subdivision Regulations:

- 1) Requirement for filling of test pits. Section 4.04
- 2) Buffers for Rural, Residential, and Agricultural Areas Section 4.18

Mr. Brownell noted that at the last meeting, they had stopped at #9. The consensus of the Commission was to begin where they left off, and then review each of the regulations again.

1) Requirement for filling of test pits. Section 4.04

Mr. Ventres briefly reviewed the proposed change. He noted this was just to require people to fill in the test pits when they were done with them.

Mr. Todd Gelston, Bogel Road stated this was a great thing to do, and that it should have been done long ago. He thanked the Commission for this change.

2) Buffers for Rural, Residential, and Agricultural Areas – Section 4.18

Mr. Ventres briefly reviewed the draft change. He stated the buffer language was reversed to begin with the larger buffer first. He reviewed the language in the proposed change. There is also a new section to this regulation, which is 4.18(04) for buffers on a new road.

TAPE CHANGE (1B)

Mr. Ventres gave an example of the new regulation. For instance, if a development went in on Joe Williams Road, the Commission would not require as much of a buffer. However, if a dense development went in across from a very rural area, they would require a buffer.

Mr. Gillis asked if they have already required a minimum buffer of 25-feet. Mr. Ventres stated there were two buffers. There is a minimum buffer around a subdivision. Additionally, there is also a minimum 25-foot buffer for interior lots. This would alleviate people looking into each other's back yard. Mr. Salicrup asked if the 50-foot buffer applied to only new roads. Mr. Ventres stated if there was a new road, if the housing style and pattern was not consistent with the surrounding area, they would have to have additional buffer. Mr. Curtin stated the classic example is Petticoat Lane. The idea was to have a better buffer so it did not impact the whole neighborhood. Responsive to inquiry by Mr. Salicrup, Mr. Ventres gave examples of distances. He noted that the buffer would start at 100-feet.

Mr. Matthew read into the record his comments on buffering. He recommended enhancing the regulation to buffer at 150 feet, with a minimum buffer of 50 feet.

Mr. Brownell opened the hearing to the public.

Mrs. Charlotte Gelston agreed with Mr. Matthew's comments and recommendations. She did not believe 25-feet was enough of a buffer. She believed more needed to be done with enforcement of the buffers. She referred to the development on Taylor Lane. She stated the bushes were not adequate. Mr. Ventres stated at the time the Taylor Lane development went in, there were not as many requirements as there are now. He

stated the plantings were minimal. Mrs. Gelston suggested making the minimum height for plantings at 6-feet.

Mr. Brownell asked what the minimum height for plantings currently is. Mr. Ventres reviewed the current regulation and stated that the minimum height is $2\frac{1}{2}$ - 3 inch caliper for street trees. He commented that he did not believe this regulation was in effect at the time of the Taylor Lane subdivision.

Mrs. Melissa Ziobron stated she and her neighbors fought very hard against the Petticoat Landing development on Petticoat Lane, because of the buffering. She believed because of this development, these regulations came about. She stated on Acorn Drive, which is an open space subdivision, there have been two foreclosures within the last six months, and other for sale signs. She stated this development is transient, and have lowered her property values. She stated as Mrs. Gelston just stated, the minimum buffers really have to be enforced. Mrs. Ziobron concluded that buffers are critical in residential neighborhoods.

Mr. Ventres suggested copying the planting requirement in the Special Exception regulations.

Mr. Todd Gelston stated Mr. Matthew's comments were excellent. He stated that nothing has the power of distance, and 25-feet is not enough. He fully supported a minimum of 50-feet. He also supported filling that buffer with plantings. He stated it was important to consider sight lines as well. He referred to Taylor Lane. He stated as cars drive down this road, the lights shine directly into the first house on Taylor Lane. He believed if the house was angled properly, they would not see headlights from the cars. With the few bushes planted, the close proximity to the road, he likened this to staying in a motel. He believed the first house on Taylor Lane was like being on the Berlin Turnpike. He fully encouraged the Commission to give further thought to buffers. He stated this commission gives consideration to roads, etc., and they should consider buffers.

Mr. Brownell questioned how the Commission came down to 25-feet for a minimum. Mr. Curtin stated there are times when no buffer is really needed. Mr. Matthew believed the Commission is protected for applications where no buffer is needed, because the regulations state if a buffer is not required, the Commission can waive it. Mr. Matthew stated there are times when 150-foot buffer might be needed. Mr. Curtin asked for an example, and he noted that 150-feet on both sides would be 300-feet, which is a lot of area. Mr. Matthew commented that the people on Petticoat Lane would probably have liked a bigger buffer. Mr. Ventres stated there could be different situations for each side of a parcel, which might require various buffers.

Mrs. Charlotte Gelston stated the starting number is now 100-feet, but the Commission can go down to 25-feet. She stated it was human nature to try to get the minimum. She stated there is a waiver, so in extenuating circumstances, it can go down to the minimum. A lengthy discussion ensued regarding subdivisions. Mrs. Gelston stated there may be occasions where 150-feet may be needed.

Mr. Thomas believed 150-feet may be excessive. He stated if the regulations demand too much, the Commission would end up granting much less on many applications, which would become the "norm". Mr. Thomas stated he could support moving the minimum up, but not the maximum. Mr. Ventres noted that the Commission has the right to look for up to 15% to set aside. He stated if the Commission believed it was

important enough, they could incorporate that language into the open space area. Mr. Brownell asked if that language could be referenced within this regulation so that it did not get lost. Mr. Ventres stated he could. Mr. Curtin commented that may be a possible tradeoff.

Mr. Gelston suggested developing a checklist of the function of the buffer. It could be noise, traffic lights, etc. He understood the need to be flexible, but he urged the Commission to think about the attributes of what the buffer should be. The Commission could then come up with a more reasonable solution that would be acceptable to the Commission, to the developer, and to the future homeowner.

Mr. Gillis questioned agricultural buffers. He gave an example of a farm, which needs a greater buffer. Mr. Gillis asked if a parcel went from farm to industrial use, what the buffer would be. Mr. Ventres and Mr. Curtin stated it would be on the industrial side. Mr. Ventres referred to the New Inn Kennels when they applied. They required more buffering for noise.

TAPE CHANGE (2A)

Mr. Brownell asked how the Commission felt about buffers. Mr. Matthews stated the Commission has discussed this at length, and they felt the minimum should be 25-feet. Mr. Matthew asked who would be harmed by a 150-foot buffer. Mr. Curtin stated the landowners who could not use their land would be harmed. Mr. Gillis stated when a developer came in on a preliminary basis; they could get an idea of what the Commission would like to see. Discussion ensued. Mr. Ventres cautioned the Commission to be careful about "constitutional taking". He stated that this proposed regulation does give the Commission flexibility.

Mr. Curtin stated a zoning board would not agree to a 25-foot buffer if there was any impact to the neighborhood. Mr. Salicrup asked if Mr. Matthew would feel better with some number between 25-feet and 50-feet. Mr. Matthew disagreed with Mr. Curtin. He did not believe the Commission would require a 100-foot buffer around an entire parcel. Mr. Matthew also did not believe that the 100-foot buffer area was a lot of property.

Mrs. Gelston stated the whole point of the zoning board is to try to protect the rural environment of our town. She stated East Haddam would end up looking like Meriden. She referred to the Taylor Lane subdivision. Mr. Curtin stated they wanted to protect rural character, but they needed to try to be fair to everyone. Mr. Curtin stated if interior lots were not banned, Taylor Lane would not be like this.

Mrs. Ziobron stated there has to be balance. She stated if a large buffer was required, people may fight for money to be taken off their taxes. She believed property owners' love their property, but there needs to be balance.

Mr. Brownell stated he liked Mr. Gelston's idea about paying attention to the details of the buffer. Mr. Ventres suggested they look for planting plans, etc.

Mr. Gelston stated he wanted to emphasize that buffering is very powerful. No matter how many houses there are, if buffering is done well, the property values would at least be maintained. He stated they need to think about the function of the buffers.

Mr. Thomas recalled that Mr. Matthew suggested tacking this language onto every type of review. Mr. Ventres stated that would be a substantive change, so he suggested that should be added onto the next set of regulation changes.

<u>Interior Lots – New Section 10.1.h. - creation of interior lots</u>

Mr. Brownell stated that Mr. Casner had some suggestions to this language. Mr. Ventres reviewed Item 3, and he agreed that "practical, reasonable" be stricken. Mr. Brownell asked if this had been reviewed by Attorney Branse yet, to which Mr. Ventres confirmed it had.

Mr. Thomas asked if the Commission could close each section of the public hearing as they completed the discussion on each one. Mr. Ventres stated they could.

Mr. Ventres read into the record a comment from Attorney Scott Jezek on language in section 7.d. "Town" was changed to "Commission."

Mr. Salicrup referred to Item 9.b. Mr. Curtin stated if there was a wooded site, there would be nothing to buffer. Mr. Thomas stated if the area was already wooded, an applicant wouldn't have to plant any additional trees, etc., but they just simply couldn't do anything with it. The Commission reviewed Item 9.a. Mr. Curtin stated when they drafted this regulation, he did not anticipate the entire lot would be wrapped in the buffer. Mr. Ventres stated right now, the proposed regulation language is "shall". He suggested it could be changed to read "shall be required for the lot to the front, and may be required for potential occupants of adjoining properties.

Requirements for filling of test pits – Section 14.A.3.G.

The Commission will just make sure the language is the same on this and the subdivision language.

Mr. Brownell opened the hearing to the public. No public comments were offered.

Motion by Mr. Gillis, seconded by Mr. Matthews, to close the public hearing for Requirements for filling of test pits – Section 14.A.3.G.

and

to close the public hearing for the proposed amendment to the East Haddam Subdivision Regulation for (I) Requirement for filling of test pits. Section 4.04. Motion carried by unanimous vote.

Motion by Mr. Thomas, seconded by Mr. Curtin, and passed by unanimous vote to approve Requirements for filling of test pits – Section 14.A.3.G. and the proposed amendment to the East Haddam Subdivision Regulation for (1) Requirement for filling of test pits. Section 4.04.

<u>Special Exception Review for 2, 3, and 4 family dwellings instead of Site Plan Review – Section 5 Definitions, Section 9 Permitted Uses</u>

Mr. Ventres stated this language had been reviewed by Attorney Branse.

Mr. Brownell opened the hearing to the public. No comments were offered.

Motion to close this public hearing by Mr. Thomas, seconded by Mr. Gillis, and carried by unanimous vote.

Motion by Mr. Thomas, to approve Special Exception Review for 2, 3, and 4 family dwellings instead of Site Plan Review – Section 5 Definitions, Section 9 Permitted Uses. Motion seconded by Mr. Matthews, and passed by unanimous vote.

Redefine Accessory Units – consider allowing accessory unit/in-law unit with less acreage with Special Exception review – Section 10.2 Accessory Units

Mr. Brownell opened the hearing to the public. No comments were offered.

Motion to close this public hearing by Mr. Thomas, seconded by Mr. Matthews, and carried by unanimous vote.

Motion by Mr. Curtin to approve the proposed regulation to Redefine Accessory Units – consider allowing accessory unit/in-law unit with less acreage with Special Exception review – Section 10.2 Accessory Units, finding that it is in compliance with the Plan of Conservation and Development. Motion seconded by Mr. Gillis, and passed by unanimous vote.

<u>Revision to the Building Height language in the Conservation and Lake Districts – Section</u> 5 Definitions and Section 10.1.4 Building Height

Mr. Ventres distributed a letter dated February 1, 2011 from the Gateway Commission. Mr. Ventres stated since that letter, he had a discussion with Mr. Torrance Downes. Mr. Ventres distributed an email from Torrance Downes dated January 26, 2011.

Mr. Brownell asked how the Commission would like to proceed with this issue. Mr. Matthew suggested approving the procedure that has been suggested. Mr. Curtin stated he would not be opposed to going before the Gateway Commission, perhaps with Bob Thomas, to give some examples.

Mr. Thomas stated the way they measure height was the average. Mr. Ventres clarified that they measure from the existing grade. Mr. Thomas noted that the Gateway's intent was to prohibit "reverse platforming". He did not believe this would be much of an issue in East Haddam along the river. He stated they could just not do anything with this regulation at this time.

Mr. Brownell asked what the Commission thought of this. Mr. Curtin stated this extended to the lakes as well. He stated that there are some 32-foot houses on the lake.

TAPE CHANGE (2B)

Mr. Curtin stated when there are restrictive heights, people change their roof heights to accommodate their houses.

The consensus of the commission was to leave the regulation with the old language.

Motion by Mr. Gillis, seconded by Mr. Matthews, and passed by unanimous vote to close this public hearing.

Motion by Mr. Curtin to deny the proposed amendment to the East Haddam Zoning Regulation for (5) revision to the Building Height language in the Conservation and Lake Districts – Section 5 Definitions and Section 10.1.4 Building Height. Motion seconded by Mr. Matthews, and carried by unanimous vote.

Motion by Mr. Gillis, seconded by Mr. Matthews to change the order of business to discuss outdoor wood burning furnaces and campgrounds out of order. Motion passed by unanimous vote.

(8) New Section 21 for the Regulation of Outdoor wood burning furnaces

Mr. Ventres stated he has received many responses to this proposed regulation. He distributed emails from Staehly Tree Farm & Gardens, Rod Gervais, and Attorney Branse. The Commission had discussed the time restriction for existing units. Attorney Branse responded that there would be "grandfathering" of units that were previously approved. Zoning does not allow for the enforcement of changes on something that was previously approved. An ordinance does, but a zoning regulation does not.

Mr. Brownell opened the hearing to the public.

Mr. Bob Smith stated he could not attend the last hearing, but he submitted information to Mr. Ventres. He stated he did not want to be regulated with wood burning at all. He stated he has an outdoor wood burner. He stated some of the photos he submitted were taken at 7:00 a.m. He stated by 9:00 a.m., there is very little smoke. He stated these units are very efficient. He stated he does not burn very much wood per month with his unit. He stated he may consider adding a Jacuzzi at a future date, and he did not want to be restricted. He did not believe these units would smoke more than anyone else's house. He hoped the Commission would not restrict the time on these units. He stated wood was the most economical way for him to heat his home. He stated he has a 30-foot chimney.

Mr. Curtin recalled that people on Mott Lane had issues with the unit near them. He stated he drove down Eli Chapman Road, but could not find the house with the unit. Mr. Salicrup stated he too had gone down Eli Chapman Road, and could not see any smoke.

Mr. Gillis asked if Mr. Smith had a permit, to which Mr. Ventres stated he did.

Mrs. Ziobron stated at the last meeting, she gave Mr. Ventres manufacturer's guidelines, which were almost identical to the proposed regulations. She believed the person installing the unit would have to install the unit per the manufacturer's guidelines. In addition, she asked if it would be the responsibility of the Building Inspector to review this. Mr. Matthews stated that the building official would look at the specifications. Mr. Ventres agreed.

Mrs. Ziobron stated she felt badly for the people who testified at the last hearing, but it was unfortunate that a couple people who burned improper things could ruin it for those, like Mr. Smith, who burned proper things in their units.

Mr. Brownell asked how the commissioners felt about the time limits. Mr. Curtin stated he felt badly for the people on Mott Lane, but during these economic times, he was concerned about restricting the time limit. He stated this was the wood burning capital of Middlesex County. Mr. Gillis suggested moving the May 15 date to April 15. Mrs. Ziobron commented that it snowed in April last year.

Motion by Mr. Thomas, seconded by Mr. Matthew, and passed by unanimous vote to close this public hearing.

Motion by Mr. Matthews to approve the proposed amendment to the East Haddam Zoning Regulations for outdoor wood burning furnaces. Motion seconded by Mr. Matthew, and carried by unanimous vote.

(9) Campgrounds and Recreational Camps – Section 5 Definitions, Section 7 General Requirements, Section 15 Campgrounds

Mr. Ventres stated he incorporated all of Mr. Gustine's suggestions. Mr. Gustine stated these were taken from the Public Health Code. He thanked the Commission for its work on this regulation. Mr. Brownell thanked Mr. Gustine.

Mr. Gillis asked if the 11:00 p.m. time was for Friday, Saturday, and Sundays. Mr. Gustine stated it would be Fridays, Saturdays, and holidays. The Fourth of July was the big holiday for them.

Mr. Brownell asked if the Commission would like to hold off on closing this public hearing until the next public hearing, so they could review the changes that have been made.

Mr. Ventres noted that conferences were added to the special exception review. He noted that the Mansfield Drive-in has a flea market during the Fall. Mrs. Ziobron inquired if, for the couple of tag sales Wolf's Den holds, they would not be required to do anything additional. Mr. Ventres stated they would not need to, as this was part of their normal operation.

Mr. Gustine appreciated the extension of the season. Mrs. Ziobron stated most of the changes were

clarifications and definitions. She believed the most significant change was to allow people in to shovel off their roofs pick up items, etc.

Motion by Mr. Gillis, seconded by Mr. Matthews, and passed unanimously to continue the public hearing for Campgrounds and Recreational Camps – Section 5 Definitions, Section 7 General Requirements, Section 15 Campgrounds until the next meeting on February 22, 2011, 8:00 p.m. at the Town Grange.

<u>Seasonal Use Language and extension of time – Section 5 Definitions, Section 7 General</u> Requirements

Mr. Brownell opened the hearing to the public. No comments were offered.

Motion by Mr. Gillis, seconded by Mr. Curtin to close this public hearing. Motion carried by unanimous vote.

Motion by Mr. Thomas to accept the proposed amendment to the East Haddam Zoning Regulation for (6) Seasonal Use Language and extension of time – Section 5 Definitions, Section 7, General Requirements, finding it consistent with the Plan of Conservation and Development. Motion seconded by Mr. Matthew, and carried by unanimous vote.

Merger of lots separated by street – New Section 8.1.5.

Mr. Brownell opened the hearing to the public. No comments were offered.

Motion by Mr. Thomas, seconded by Mr. Matthews to close this public hearing. Motion carried by unanimous vote.

Motion by Mr. Curtin to accept the proposed amendment to the East Haddam Zoning Regulation for (7), Merger of lots separated by street – New Section 8.1.5, finding it consistent with the Plan of Conservation and Development. Motion seconded by Mr. Thomas, and carried by unanimous vote.

Motion by Mr. Thomas to continue the public hearings for

- (1) Interior lots
- (9) Campgrounds and recreational camps
- Proposed amendments to the East Haddam Subdivision Regulations for (2) Buffers for rural, residential, and agricultural areas
 Until the next regular meeting on February 22, 2011, 8:00 p.m. at the Town Grange.
 Motion seconded by Mr. Matthew, and carried by unanimous vote.

Mr. Ventres reviewed the list of outstanding regulations to be addressed.

9. ADJOURNMENT

Motion by Mr. Matthew, seconded by Mr. Matthews to adjourn at 10:31 p.m. Motion carried by unanimous vote.

Respectfully submitted,

Holly Pattavina