

see why he can't be on the next hearing if he can meet the deadlines.

SALVATORE DEBARI:

Suppose I decide to keep this a---

GEORGE REIF:

You must show it and make sure that you're not leaving a fragment of land that is less than the required size for a building lot. You know no one is forcing to subdivide your land but if you're going to do it you have to---

SALVATORE DEBARI:

As long as I show this piece of property I can still---

GEORGE REIF:

No, you are putting words into---out of context. You got to show at least a full building lot left.

SALVATORE DEBARI:

In other words, I keep 10ft., or 20 ft.

GEORGE REIF:

That is correct, you can not.

CHM. BUTTON:

If you've got less than a building lot you'll have to throw it in with one of these. Now you make your decision. I don't want to be---to twisting your arm.

SALVATORE DEBARI:

Oh, no, that's alright---I've got you now.

CHM. BUTTON:

So what are you doing.

SALVATORE DEBARI:

Well, I'll reapply next---saying withdrawing.

CHM. BUTTON:

Saying withdrawn?

SALVATORE DEBARI:

Withdrawn Mr. Button.

CHM. BUTTON:

So the item is closed for the time being with no prejudice. Back to #1. We still will not have a quorum for this action. A safe quorum and I would recommend that the application since it's the Commissions fault, the Commission will put this on the hearing for December.

UNIDENTIFIED SPEAKER:

Thank you, if I may Commissioner point out that

they're several people tonight who have come down here to speak in favor of Mr. Calosso's application.

CHM. BUTTON:

I'm sorry but it is one way or the other that there is not a safe quorum here. It will be only three men that would act on it out of five. This is not fair to the City nor fair to the applicant. Therefore I'm suggesting that the Commission itself foot the bill for the next advertisement for the next hearing, in December. Therefore we'll just tap the item over as we do not have a sufficient quorum and in the best interest to the City or the applicant. O.K. Fine.

SEC'Y. MYLCHREEST:

Item 4. Consider a proposed Text Amendment to the Zoning Code as it concerns the removal of Natural Resources, including: Topsoil, peat, sand, gravel, clay, stone, ore, metal and minerals and the reclamation of the land after extraction.

PROPOSED TEXT AMENDMENT FOR REMOVAL OF NATURAL RESOURCES

The text of Section 41 of the Code as it is currently written is proposed to be deleted and replaced by a twelve item regulation which: Requires a public hearing, establishes criteria during extraction, criteria for reclamation, requires compliance assurance, establishes basis for approval or denial of an application, establishes approval time period and the application fee. A complete copy of the proposed text amendment is on file in the office of the Town Clerk.

SECTION 61 of the Code text is proposed to be clarified so as to correct the current listings of prohibited uses, which are in fact permitted by other sections of the Code.

CHM. BUTTON:

Alright, Mr. Reif, will you read in detail this entire text of that, clearly and distinctly.

GEORGE REIF:

First of all the proposal is to delete Section 41.

CHM. BUTTON:

Excuse me we've got a feed back from Midstate.

GEORGE REIF:

A regional report, after all if you want this read, they would come after.

CHM. BUTTON:

Alright. O.K.

SEC'Y. MYLCHREEST:

Mr. Chairman, I move that the Commission read--- that we would do away from the reading of this. It has been on file for those who would want to read. Anybody can read it here. Could we move on a little more quickly.

CHM. BUTTON:

Alright, wait a minute, is there anyone present who would insist on the entire thing be read? Is there anyone present here would insist that the entire thing be read. It's your right if you so desire. Alright then describe it George, a little bit more-a little bit more than what it was in the advertisement.

GEORGE REIF:

The proposal is to establish a purpose for the regulations which has two parts that this is of some importance you've got to know why you have regulations. you don't have.

It's to provide for the safety and orderly surface extraction of natural resources and then secondly and possibly the most concerned Planning Commission is reclaiming the land after these natural resources have been approved. It establishes a fact that approval be acquired. It states that certain exceptions to the regulations which as a removal of certain materials for legitimate constructions and landscaping operations. It deals with extractions already legally underway. Establishes a requirement that these be brought in conformance with the proposed regulations. It establishes procedure which includes a notification of a abutting land owners by certified mail, of a public hearing which must be held. It establishes the frame work of the application form. Establishes a number of identical copies that must be available and the various materials that can be included and in some cases must be included. Setforth criteria during extraction in some detail as far as the distances and different activities can be conducted within residential uses. It set forth criteria for the reclamation. Just the requirements that certain natural lot phenomenon might occur and it establishes requirement that the reclamation be continuous carried out in an orderly manner until the completion of both the extraction and reclamation activities. It has provision for compliance assurance so that if the operator for one reason or another does not complete his reclamation that there be some financial assurance. That the cost of the City carrying out the reclamation will be covered. It provides a basis for approval or denial of the application by the Commission. It establishes an approval time period in at least two catagories. One for certain of the Natural Resources two (2) year period for removing topsoil, peat, sand and gravel and that type of thing. A longer period of time for ore, metals or minerals and similar items. It provides a method of modification by the petitioner to extend time periods and finally it establishes an application fee based on a number of years of the permit applied for.

CHM. BUTTON:
What is that on?

GEORGE REIF:
\$100.00 multiplied by the number of years on
permit time applied for.

CHM. BUTTON:
Now there is one other---

GEORGE REIF:
Well so much for Section 41 and that substitutes
for 41. There are other sections of the Code that this
would apply have to be remedied.

CHM. BUTTON:
Then this would mean that we delete the present 41
and substitute this in its place. This also means that
any consistency in the Code that would conflict with this
will have to be removed.

GEORGE REIF:
Correct and that of course is the proposal. The only
section in the Code that now specifically makes any refer-
ence to any actual resources extractions is Section 61,
which prohibits the use of rock crushers and certain other
action met, is really---frankly already permitted by
Section 41. The only thing that might be done---

CHM. BUTTON:
Where is it---if it is permitted, or is---or are
rock crushers permitted.

GEORGE REIF:
In Section 41 of the current Code.

CHM. BUTTON:
In what zone is---

GEORGE REIF:
In the Industrial Zone, however in Section 61, which
deals with business and industrial zones in a sketch---all
type of phrases says you can't carry on with that. So
that's right next to the current in consistency of the Code.

CHM. BUTTON:
So those---that are inconsistency will have to be
removed.

GEORGE REIF:
That's why Section 61 is proposed to be changed.

CHM. BUTTON:
One other thing does the State in the draft in this
ordinance that those who are in operation have a time
period, now have to apply for a permit?

GEORGE REIF:

Yes.

CHM. BUTTON:

I just want to verify it publicly. How long a period do they have to apply. One year?

GEORGE REIF:

Yes sir, one year.

CHM. BUTTON:

Do we have any---

SEC'Y. MYLCHREEST:

It has to be approved.

CHM. BUTTON:

Do we have any correspondence related to the advertising of this or this ordinance?

GEORGE REIF:

You are now referring to the Regional Planning Agency or any other. There is one piece of correspondence recommended, that the basic concept, that all land is used should be reflected in the appropriate sections which would be Section 60 and 61 as tabled. Section 60, they show how all land may be used in the Residential Zones and tabled. In Section 61 tells how all land can be used in business and industrial zones. The suggestion is the Extraction of Natural Resources be reflected in Sections 60 and 61, which of course is only a suggestion.

CHM. BUTTON:

What letter was this?

GEORGE REIF:

This is a letter from Atty. Orth.

CHM. BUTTON:

Alright, Mr. Orth is here we will let him speak for himself. He can read his letter if he so desires. What other letters do we have? How about our City Departments and Midstate Regional.

GEORGE REIF:

The City Departments did no make comment.

CHM. BUTTON:

They did not make comment? They were invited to make comment, were they not? They have not made them.

GEORGE REIF:

Right

CHM. BUTTON:

They have not made comments.

GEORGE REIF:

The Regional Agency which of course are required or at least required to be given the opportunity, have and we have those letters here.

CHM. BUTTON:

Alright, will you please read them, please.

GEORGE REIF:

Commission on the City Plan and Zoning

Dear Mr. Reif:

Concerning the proposed amendments to the Middletown Zoning Regulations relating to Mineral Extractions, the Central Connecticut Regional Planning Agency has reviewed the proposed amendment and finds no conflict of regional significance specifically, as relates to impact to the Town of Berlin. The proposed amendments are consistent with the Regional Plan of Development in its present state of review.

Sincerely,

Arnold L. Beizer, Assistant Director

Midstate Regional Planning Agency

November 10, 1971

George Reif

City Planning Office

LETTER FROM
CENTRAL CONN. REG.
PLN'ING AGENCY

LETTER FROM
MIDSTATE REGIONAL
PLN'ING AGENCY

Dear Mr. Reif:

Thank you for notifying the Midstate Regional Planning Agency of the proposed revision of Section 41 (Natural Resources Removal) of the Middletown Zoning Code. The staff has reviewed the proposed revision in accordance with Section 8-3(b) of the General Statutes of Connecticut and has the following findings/Recommendations:

1. The proposed amendment is not in conflict with the adopted zoning of the abutting municipalities in the Midstate Region.
2. In instances where major excavations will take place within 500 ft. of town boundary, it is recommended that the application for resource extraction be referred to the Planning Commission of the affected municipality for comment and/or to the Regional Agency.

Sincerely yours,

Geoffrey L. Colegrove, Director

CHM. BUTTON:

Thank you, any other correspondence. Alright, we will now open for comments, suggestions and discussion in general. Anyone wish to speak about this particular ordinance? Yes, Mr. Allen.

ATTY. ALLEN:

Gentlemen, my name is Sam Allen. I am here as Atty. for the Feldspar Corp. which is probably one of the largest excavators in this area both in terms of area effective and duration of time and we feel that this ordinance reflects a realization on

the part of the Commission. Minerals has to be mined where they are and that it effects what we think is an entirely reasonable balance of the interest of the owners of minerals, of the public that needs the minerals that are to be extracted or if they're abutting property owners.

We feel that they---the ordinance eminently fair and we think it's eminently fair not only to the extractors of minerals but also to the public and to the owners who abutt the areas where the extractions are taking place. It's an ordinance that comes as close to making certain that anything can be certain that land effected by excavation will be restored and we think that it might very well will become a model. We wish we could extract all of our mineral in the middle of the Zowie Desert where it would not effect no one and that we would have no regulation by anybody but that's no the way it is in the real world and we think it's an excellant ordinance and should be enacted as it is.

CHM. BUTTON:

Thank you-Mr. Orth.

ATTY. ORTH:

Mr. Chairman, gentlemen, my name is Paul W. Orth, Atty., from Hartford, representing Loretto T. Morrissey and Arthur Levine who are the owners and leasee respectfully of certain property in where a road and also mineral rights in the Bow Lane, Cedar Lane area. I fully concur in Mr. Allens comments. I believe a fair balance has been struck here in particularly a balance. It is if anything tough-want extractors and it's going to be fully protected of the interest of the public and I would urge the adoption of Section 41. I would like to point out to the Commission that is, in my opinion as I indicated in a letter if new Section 41 is adopted there are some---there should be changes made in the remainder of the Code for the sake of clear in term of consistency, and that the most appropriate way to do this would be by another legal notice indicating if it is in your pleasure and at the next hearing or perhaps the one after that there be adopted amendments to regulations which would make these regulations in full consistence with new Section 41. Now there is specific amendments I would suggest to be along the following lines. That there be an addition to Section 60 Extraction of Natural Resources in accordance with the provisions of Section 41 and also addition to Section 61, with the same wording because new Section 41 is in effect a Special Use section even though it is not in Section 44, because is dealt with a specific type of problem. I also think once again this may be a matter of opinion but seeking utmost clarity. If it please you that Section 61.05 should be amended to delete reference to the following uses that are currently prohibited in those are: rock crushers, stone mill or quarry. I would particularly emphatic about quarry. Thank you.

CHM. BUTTON:

Thank you. Do any of the Commissioners have questions on this? Do the Commissioners understand what Mr. Orth is proposing. That should we adopt Section 41 at a subsequent hearing. We should put on the agenda the three (3) points. I just want I understood.

ATTY. ORTH:

Mr. Chairman, I don't think the current ad fully covered the point. This could be debatable, that I think that my suggestion would remove any uncertainty.

CHM. BUTTON:

Well I think the Commission will agree that we don't want to do anything that is debatable. Alright the last item. Item 5. Read the call.

SEC'Y. MYLCHREEST:

No. 5. Consider a Text Amendment to the Zoning Code as it concerns the Flood Plain Land Regulations. As related to the current text of the Code the proposed changes are as follows:

Section 12 Supplementary Provisions-Delete Item 12.07 Titled Building in Flood Plain

Section 46 Flood Plain Land Regulations - Delete current text in Item 46.01 Titled Boundary and substitute:

The Flood Plain shall be all land adjacent to the Connecticut River, Mattabesset and Coginchaug Rivers which fall below elevation of twenty-two feet as measured from datum established by the U.S. Coastal and Geodetic Survey.

TEXT AMENDMENT TO
ZONING CODE
FLOOD PLAIN LAND
REGULATIONS

CHM. BUTTON:

Excuse me Dave, I would like to interject here that there's a question in my mind that the water---we have a sufficient quorum to hear this item, be fair to the City and fair to all of the Commissioners and I therefore suggest that this be readvertised at the next meeting---hearing date. Any objections.

SEC'Y. MYLCHREEST:

I object, Mr. Chairman, on the basis, I think it's been put off long enough and because people here are waiting to give a presentation. I don't see no other way to me.

CHM. BUTTON:

It was brought to my attention that Mr. Mylchreest--- I didn't want to have to do this but this hearing was brought about at there request of the Redevelopment Agency and it effects a parcel of the Redevelopment Agency in which you own some property and if effects part of the Redevelopment Agency where Mr. Shaw is renting some property. Now I don't want to jepordize the suddenness of this hearing and I rather prefer to see the Commission readvertise for

the next hearing date and mean while in the intrum we'll get this cleared up, at whether or not there is a potential conflict or not. Otherwise I think we're working under a cloud and I don't think we can afford to do it. So I strongly urge and recommend it this item be put off.

SEC'Y MYLCHREEST:

You're suggesting that in conflict of interest because I own land in which Mr. Shaw rents land in a Redevelopment or area that is considered for redevelopment.

CHM. BUTTON:

That will be effected by the Flood Plain elevation.

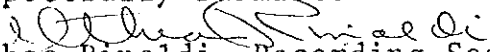
SEC'Y. MYLCHREEST:

Are we prepared to say that tonight or this effective by---

CHM. BUTTON:

I don't know I'm just saying. I'm not sure and therefore since we are not sure I don't think that we should jepordize the item at all or the substance of it and I think that also Mr. Reif has more information from the floor which should be discussed in the Executive Session and therefore---so as Chairman I'll take it on my parrogative to rule that this item cannot be heard fairly and that we'll put it off and be readvertised for the next hearing date and with this I'll close this hearing.

Respectfully submitted


Althea Rinaldi, Recording Secretary

Edward F. Button, Chairman
Commission on the City Plan
and Zoning