

**COVENTRY PLANNING AND ZONING COMMISSION
MEETING MINUTES
REGULAR MEETING OF MONDAY, APRIL 28, 2025**

1. CALL TO ORDER

By: Pollansky

Time: 7:04 p.m.

Place: Annex & Zoom

		PRESENT	ABSENT
REGULAR MEMBERS:	Bill Jobbagy, Chairperson	X	
	Brian Murray	X	
	Darby Pollansky, Vice Chairperson	X	
	Carol Polsky, Secretary	X	
	Eric Thomas	X	
ALTERNATE MEMBERS:	Steve Reviczky		X
	Mindy Gosselin	X	
	VACANT		
STAFF:	Jana Roberson, AICP, Director of Planning & Development	X	
	Heidi Leech, Land Use Administrative Assistant	X	
	Natalia Yeschick, Recording Secretary	X	

2. ROLL CALL/SEATING OF ALTERNATES

3. AUDIENCE OF CITIZENS - None

4. PUBLIC HEARINGS

a. PZC-25-2 – Proposed modification of the Zoning Map in the vicinity of 1409 Main

Street to reclassify the entire 2.05-acre parcel as Village Gateway Zone.

Attorney Timothy Herbst is present via Zoom.

Herbst would like to inquire for the record whether the commission has received and reviewed Friday's correspondence to the commission. Pollansky responded we do have the correspondence. Herbst offered to highlight the correspondence. The commission agreed.

Herbst began explaining that the letter they sent Friday was in response to the comments that were received in the staff report and the dialogue in the last meeting. One of the concerns with the proposal is leaving the small tail of the property entering onto Woodland Road as residential. Herbst spoke with the Town Attorney to voice those concerns regarding the potential legal implications. Figure 2. in the report that was provided to the commission shows the current zoning for the property which is approximately a 50/50 split between village gateway. Figure 3. in the report shows the proposal. Figure 4. shows the proposed modification contained in the report. It became apparent that the genesis of the modified recommendations came from the concerns raised of the ingress/egress onto Woodland Road. Herbst goes on to say they feel the recommendation in the report to retain a small piece of the property as residential is counterintuitive and believe it would render the remainder of the parcel unbuildable and unusable. The entire application is predicated upon the elimination of what we believe to be a dysfunctional lot that contains two different zoning classifications which has created a conflict of zones. Under the proposed modification, the portion of the property that would remain residential would become a non-compliant remnant of the original parcel. Herbst believes if this were to be ratified by the commission the remainder of the property still zoned residential would be useless. The property owner would not be able to develop the remainder of the property that is zoned residential as residential.

Herbst has additional concerns and wanted to discuss why the zone change should be approved as offered in the application. If it were to be modified in the manner suggested they believe it creates an arbitrary and capricious zoning result. Leaving the small undeveloped area zoned residential does not serve a legitimate public purpose. Additionally, it can open the Town up to legal challenges such as inverse condemnation or regulatory taking. They also believe it frustrates the highest and best use of the property. Not allowing feasible residential development it can be argued that it will devalue the property and frustrates coherent land use planning. It could present a host of issues that would require corrective action down the road. Split zoning without a functional purpose they believe creates unnecessary nonconformities, confusion, administrative burdens for the owner, future buyers, and the town zoning enforcement. Arguably it could complicate tax assessments and lead to zoning appeals or create the need for future corrective actions. Herbst stated testimony was received from Roberson that she spoke with the fire marshal whether that section of the parcel would be needed for ingress/egress. The fire marshal replied that it would depend upon what was being proposed. Herbst stated we cannot speculate on what is going to be proposed and this would come up with any type of special permit application. Herbst stated they believe it undermines

the comprehensive plan and the POCD. According to Herbst CT law requires zoning conditions to be consistent with the Town's POCD. Additionally, if the POCD recommends and emphasizes consistent zoning and measured growth as the Town's POCD does. Inherent in that goal is to avoid spot or split zoning and that potential modification could conflict with those goals. Herbst explained while they understand the concerns that some have concerning ingress/egress onto Woodland Road on the last meeting it was noted there is precedent a predecessor commission has rezoned properties with ingress/egress onto Woodland Road and an application for a large office building with access onto Woodland Road was approved in 2004/2005. They believe that concern is going to be vetted by the commission when a future special permit application comes before the board which will vest in common law authority to oppose reasonable conditions that you believe are necessary to promote and protect public health safety and general welfare. We believe that is the venue for having a debate about access ingress/egress onto Woodland Road though that is not the intention. We cannot predict what permitting departments may require with respect to emergency access. We believe the zone change initiates the process to allow the commission to engage in thoughtful deliberation about future land use planning for the site.

Pollansky asked Roberson if we can put the map up of what existed prior to this request. Roberson brought up a map as well as the staff guidance document from the April 14 meeting which includes her analysis and some of the options of the commission. Reviewing the diagrams the subject parcels after the lot split in October of 2024. Roberson mentioned the contours of those parcels and the parcel boundaries that Herbst and his client pursued prior to proposing a zone change application. There is 215 feet of frontage on State Route 31 also known as Main street. It has a driveway and an existing curb cut onto Main Street that has always served as the driveway. Roberson also showed the zoning overlay with zone boundaries. These were the zone boundaries when the parcel was acquired by the applicant. Roberson then showed the proposal which would be to extend the gateway zoning along the portion of the parcel that is currently zoned lake residential. Roberson also shows an alternative proposal with the tail not included in the village gateway zone. Roberson stated the language she used was a possible modification to remove the accessway to Woodland Road because Woodland Road narrows and transitions to a residential neighborhood in this area. Roberson defers to the commission to make the right choice as far as they see the proposal being applicable to the POCD. Something that is important to Roberson is that the commission understands their authority and are not misled by an applicant. Roberson has had to correct Herbst on the record. When he initially came to the commission he stated do not worry about the accessway out to Woodland that can be a condition of approval. Roberson made it clear that there are no conditions of approval zones of approval for a zone boundary application. At the second hearing of the application Herbst encouraged the commission to think the zone boundary change is not a proposal for development and at some point in the future you would have the opportunity to condition a development proposal to either use or not use that accessway out to Woodland Road. Roberson stated then on the record that if it came in as a site plan review application it cannot be conditioned.

Roberson read the list of uses permitted without a special permit in the gateway zone from

sections 6.10.1 A & B of zoning regulations for the Gateway zone. The first list read are zoning permit only. The second list read was uses requiring site plan review by the commission that are permitted in the gateway zone. To clear up any misinformation entered onto the record all of the uses that were listed by Roberson you cannot condition those applications regarding the accessway to Woodland Road. You might be able to with special permit uses but those were not listed. Roberson wants to make it clear to the commission what their authority would actually be if this zone change is approved.

Roberson brought up the lot split map.

Pollansky asked if it is prohibited to use the other tail off of village gateway onto Main Street? Roberson responded that residential use is a permitted use in the gateway zone as long as it met the criteria of a residential apartment not on primary street level.

Roberson has a question for Herbst because he is saying by modifying the zone boundary proposal we are prohibiting the ability to use the accessway for residential purposes. Roberson asked Herbst when the applicant was considering the free split what was the reasoning for including the tails on both of the parcels? Herbst responded that he was not involved in the free split at the time it was done. He spoke with his client and stated it is significant to point out that these types of lots and how they are laid out are done by professional engineers and those who assess lots and topography and make educated based recommendations on how those lots are to be split. The report was prepared by a qualified third party who made the assessment that the lot should be split in that manor. Roberson requested for the applicant to answer the question as it does not sound like that is a reason. Herbst stated the applicant does not have the capacity to respond.

Roberson asked the applicant that they have owned the property for over a decade knowing that it was a split zone parcel. Was there any consideration for splitting the parcel along the existing zone boundary? Herbst responded that he cannot speak for consideration ten years ago. What he can speak for is the application in front of the commission and the application that was filed. Herbst goes on to say the application that was filed is consistent with the POCD and your report recommends that this property is prime for village gateway redesignation. The issue is the tail. Both Herbst and Roberson agree it is a decision of the commission on what they feel is most appropriate.

Roberson stated that by creating the lot split you have created a situation where lot B which is the 2.91 acre parcel on the lot split plan has a self created tail on this parcel is now also split zoned. Are you going to at some point in the future tell us we are not allowing you to use that tail for gateway uses? Herbst responded that the application in front of the commission for its consideration for purposes of establishing the administrative record is lot A. Our application and comments and your staff report was based upon lot A. Herbst stated he will not speculate about lot B. Roberson responded would like to take a moment to read from the letter Herbst

wrote. Roberson read from page two of Herbst's letter which states "If the commission were to ratify the recommendation contained in your report the remainder of the property still zoned residential would be completely useless depriving the application of his property rights. If my client were to attempt to develop the remaining residential parcel he would not be able to do so." Roberson looked at the accessway on the plans and asked what residential use could be pursued on the accessway? Herbst explained it was based on the recommendation made and the map redrawing that you did. Herbst wanted to emphasize to the commission that if that tail were to remain residential and there was a commercial use that did not require any use of that remaining residential parcel for whatever reason because we do not know what is going to be proposed. That remaining residential parcel would not be able to be used for any residential purpose. Roberson asked if a house would fit on that parcel? Herbst responded you would have issues with setbacks and topography. Roberson asked if the commission were to approve the modified application what would the square footage of the accessway be? Herbst declined to answer. Roberson explained it is about 9,000 square feet which is below the minimum lot size for the zone. With the ledge and the contours on that property it is reasonable to expect you could not site a house on it. Without any information to the contrary it is not fair for Herbst to claim that he is robbing you of the right to use that accessway for residential purposes if he cannot also prove that it could be used for residential purposes. There is a difference between a legal right to develop and a physical ability to do so. The accessway could not serve a residence. Pollansky added that it was not essential to have included the tail in this slot of the village gateway proposal. There is access off of Woodland or Main Street for the residential lot. Pollansky asked about Herbst's statement of this being spot zoning is what part? Herbst corrected that he used the term split zoning and believes it raises a host of issues from valuation and tax assessment purposes and perhaps the need down the road to take corrective action based upon the nature of the application you receive. The acknowledgment by Roberson that the fire marshall could not opine about whether that would be needed as emergency ingress/egress. Herbst not only represents applicants before commissions, but he represents commissions throughout the State of CT. Herbst would not be making a recommendation to a commission on behalf of an applicant and would not be taking a position where he thought perhaps a recommendation being made to you is not what it should be but for the fact that he does represent commissions and provides this type of advice to commissions on a daily basis and from a comprehensive zoning, and uniformity standpoint consistent with the language in the POCD Herbst believes this proposal as modified constitutes split zoning and does not think there is a justifiable basis for it given the fact there are two other parcels on Woodland Road that are Zoned Village Gateway. Herbst goes on to state that when you look at the picture he does not see how anyone could say keeping the remainder looks like a consistent zoning plan given what is already zoned village gateway.

Pollansky asked if we were to approve this application with a modification to eliminate the tail onto Woodland Road what is the difference between that being split zoning and what you created on the Main Street section on the village gateway splitting it off and not including that little piece of village gateway? Herbst responded he did not create anything. Pollansky asked if that is split zoning why is the other not split zoning? Herbst responded there is a process in the

Town that allows for free splits. The free split was made. It went through the normal protocol and was approved. Herbst explained they then filed an application to change the zone boundaries consistent with the POCD. Lot B is not in front of the commission at this time, lot A is. There might be a determination by this commission that lot B should be entirely residential or entirely village district. That is not before the commission tonight. The lot split went through the appropriate process to be split. It was approved and consistent with the requirements of Coventry. The application before you tonight is our request to reclassify the zone boundaries consistent with the POCD. The planner's report acknowledges the arguments made regarding the zoning designation to VZG are consistent with the language in the POCD. The only disagreement is with respect to the tail. Herbst believes this is entirely different from lot B because lot B is not in front of you for a zone change. A much bigger portion of lot B is zoned residential than that of lot A. Herbst believes it is not fair to compare the two based on the items that were just raised.

Polsky asked regarding the last meeting if Woodland Road is private or owned by the Town. Roberson responded that a few items are being added to the record. There is an easement for highway purposes that is 25 feet in width running from Lake Street to a point on the curve in front of Mariana properties is an easement for highway purposes for the Town.

Gosselin asked if the Town's use ends in front of the Mariana properties and does not extend to where the tail is located? Roberson responded no. However there is something else she would like to go over. Roberson mentioned coming in from the other direction we have documentation from the Town Clerk's office of Woodland Road being an accepted Town Road for a distance of .6 miles from the intersection with Springdale Avenue. A distance of 2,175 feet East of Springdale Avenue. Roberson has also included a map showing the intersections. This brings us to a point in front of Mariana Properties vacant lot. We can confirm this portion is an accepted Town Road. The remaining portion out to Lake Street is subject to a public highway easement which would allow that use. Roberson explained we have debated the status of the road and was asked for land uses in the vicinity. Roberson showed the land uses in the area from the Tax Assessors database which vary from residential to mixed use as well as commercial and vacant properties. Lot A on the lot split plan is residential and lot B is currently vacant. Roberson added there is no specific reference to this property in the POCD. There is general language about the general neighborhood. There was reference to the office park that was approved and has since expired. That was for the property next door to this property. You cannot be compelled to change the zoning map in a manner that you do not find to be appropriate and consistent with the POCD. You are the only ones with the authority to interpret what that plan means. It is interesting there was a commercial development approved next door but every commercial zone has an edge. The applicant is suggesting you push that edge out further into an area that is very steep that once had wetlands on it. Roberson mentioned Herbst introduced into the record a previously approved site plan for the office building. Roberson pointed out it shows wetlands where this accessway is intended to be. At one point in time there were wetlands out there and contours show it to be incredibly steep. The property next door on Lake Street is more flat and has been cleared. It has been prepped for

development and this other parcel has significant limitations for development. Roberson stated we are not denying anyone the right to utilize these properties. 1409 Main Street has frontage on a State Route and has an existing driveway. Roberson showed the extreme topography regarding this property and shows the driveway continues and goes onto Mariana Properties parcel. Additionally from Herbst there is an easement providing access through the subject parcel 1409 Main Street. There are good ways in and out of this parcel however the area of the accessway is incredibly steep and at one point in time had delineated wetlands on it.

Gosselin pointed out the lot split site plan from June 2024 references there was no easement of record found on the Mariana Properties parcel even though we did get this one that said there was and wants to confirm if she is interpreting that correctly? Roberson responded she could not find it but there are other deed documents that say it has been recorded. It is upon the applicant to do that kind of research. Roberson stated there is an existing gravel driveway through that area.

Gosselin asked about jurisdiction in regards to development. If this parcel were to be fully village gateway and there was a proposed accessway on that tail from a standpoint of potentially having to blast that ledge and from a site line standpoint is that the zoning officer that does the review? Roberson responded if it is a zoning permit it would not come to the commission at all. If it were a site plan review it would come to the commission but you would not be able to condition it.

Pollansky has a concern why this survey says that no easement of record was found yet we have an easement of record? Roberson responded that the purpose of bringing it up is that she is making a point of where the driveway is now. It comes out onto Main Street and is a usable driveway. Roberson asked that if the tail is so important to the redevelopment of this parcel why has the applicant not made a compelling case for it? At the first meeting the applicant stated it was not important and it can be a condition of a zone change. They came in a second time stating that it can be a condition of approval which is also not allowed. If you can freely use the parcel with frontage on Main Street what is a compelling need for an extension of zone onto Woodland Road if not for a driveway?

Thomas asked about entertaining a petition for a zone change and what we can look at. One of the concerns with lot A is the relatively extreme topography changes from Main Street down to Woodland Road. The fact that if the zone change as petitioned currently is approved the zoning for future development proposals allows up to 80% maximum lot coverage. It would be helpful if the applicant would offer a sense of what they might do for this parcel. Because they have not offered an idea of their plan it raises a concern that the significant drainage that will go to Coventry Lake on the other side of Woodland Road. We have a significant plan of detail and concerns in the POCD. Thomas is wondering when we look at a zone change petition can we look at site conditions? Roberson has mentioned on some level that we can. One of the

concerns Thomas has is not hearing enough information on what could happen with a proposal if the zone change was granted as requested. Thomas sees the list of ideas and understands we can look at a site plan later on if a development proposal comes in. At some point if the zone change is granted any kind of development can have up to 80% lot coverage and has a concern about that. Thomas does not have that concern when looking at other village gateway zones that are in proximity because they have flatter topography and drainage connections available. There are concerns that have not been answered yet. Thomas would like to know if he is allowed to think about the potential issue with significant runoff issues impacts with a highly developed lot for lot coverage with the amount of topography and gradient change which as far as Thomas can tell will be discharging into the lake. Pollansky responded that we can absolutely look at that. When someone makes a zone change request we have to think of all of the contributions of that zone change to what it can do to the surrounding property and concerns with the lake. All of that is part of our review. That is the impact and what you determine to be part of the POCD or not. It could be consistent with the POCD or it could not because of the philosophy of where you wanted to stop it. There is a boundary for a reason.

Polsky asked Jobbagy if when he did the POCD and the commission did the village gateway were there any thoughts to raising it up the road? Roberson responded that if you look at the zoning map the frontage along the highway is village gateway zone it does go up the road. The frontage along the highway is gateway zone. However it does not go all the way up the hill. Jobbagy asked about the split section on the parcel. Roberson responded and showed the lot split and zone boundary to Jobbagy. Roberson mentioned she spoke with Herbst about the lot split plan to advise him on the process. That was a few months before the zone change application was submitted.

Jobbagy stated we have to figure out a way to make the parcel one zone.

Leo Papa of 50 Lake Street wants to know what the plan is.

Thomas asked if under a village gateway zone do development proposals need to comply and be consistent with the design guidelines? Roberson responded the village design guidelines would apply. Thomas mentioned the only part of lot A that is required to look at the guidelines is the lot portion that is closest to Main Street that is currently zoned gateway.

Polsky asked how the commission feels about the tail as this seems to be the sticking point? Gosselin responded that if they were to use the tail as a driveway would it be taken into consideration by whomever's jurisdiction it is and that would take care of that problem? Pollansky responded that is why Roberson read the uses. The opportunity to address it would be now.

Herbst stated that rather than taking his word or the Town Planner's to speak with the Town Attorney if site plans can be conditioned. Herbst goes on to say that there is case law that stands for the proposition that you can condition site plans in addition to special permits. Pollansky responded if we were to request an extension would Herbst and his client be ok with that? Herbst responded they do not want any further extensions.

No extensions have been granted.

Murray asked if this was approved tonight and gave the tail as gateway, who would approve the roadcut? Would that go to the Town Engineer or would that just get approved? Roberson responded there is a procedure applying to a new driveway that does not come to this commission. It is a driveway zoning permit and our engineering department is involved in that. Roberson discussed with the Town Attorney and the commission has the option to deny the application if you are concerned about modifying it based on feedback received from Herbst on behalf of his client. You can find that it does not comply with the Comprehensive Plan of Zoning and it is your call whether you think it is appropriate to change the zoning of this parcel at all. Roberson defers to the commission's authority. Her job is to make the commission understand what their authority is.

Pollansky stated the hearing can be closed and the commission has 65 days to make a decision. No further input can be received.

Jobbagy suggested sitting on the decision and letting things settle. Questions have been answered but so much is going on that we may want to re-read the minutes and understand everything.

Pollansky closed the public hearing at 8:21 PM. A decision will not be made tonight.

5. OLD BUSINESS

a. PZC-25-2 – Proposed modification of the Zoning Map in the vicinity of 1409 Main Street to reclassify the entire 2.05-acre parcel as Village Gateway Zone.

The hearing was closed and the commission has 65 days to make a decision. No further input can be received.

6. NEW BUSINESS - None

7. ADOPTION OF MINUTES

a. Minutes of 4/14/25

Thomas read the majority of the minutes, but did not get a chance to review the last few pages. He has a few comments.

These will be deferred to the next meeting.

Our next meeting is May 12. Thomas will not be here for that meeting. Gosselin will not be here for the May 27 meeting.

8. COMMUNICATIONS

Roberson has a letter from Aldrich Construction Company. They have met with the commission a couple of times. They would like to attend the next meeting. Aldrich Construction Company is representing Brittany Banning and Elan Armstrong who are veterinarians and they intend to buy the property at 2208 Boston Turnpike. They are doing their due diligence to purchase the property. They would like to attend the May 12 meeting for a pre-application discussion. In advance of that they are interested in seeking a site plan waiver. We have provisions for that in the zoning regulations although depending on how you read it they do not meet the criteria stated for the waiver. Roberson read section 7.03.04. Roberson stated we granted this waiver recently. The troublesome language is "alteration, enlargement or modification of a principal building." Roberson explained the property has a wraparound porch in the front with a full foundation underneath. They intend on bringing the interior space around that porch and enclosing it. That is the only site plan change.

Thomas asked a general question about veterinary services or hospitals. Do we group all kinds of veterinary hospitals or do we specify if they are large or small animals? Roberson responded it is not defined but it does say veterinary hospital. It is more of a normal vet office and not an emergency vet. It is Roberson's understanding they are doing household pets.

9. MEMBER REPORTS

Thomas asked regarding the minutes whether we can get draft minutes on a more timely basis. Do we have a timeframe for draft minutes to be available? Roberson responded the timeframe is seven days. Motions or any actions of the commission are due in 48 hours.

Thomas appreciates the resolution that Roberson dug up about the roads. Does someone in town have a current list of roads? Roberson responded that there should be a record in the Town Clerk's office. They have a file and they would not consider them to have a master list. The information Roberson found is the most recent found for new Town roads. Pollansky

suggests that the Town Council requests an office list be put together of roads. Thomas suggested we look to updating the next round of our POCD we add in the roads. Roberson mentioned it would be nice to have a master list of the roads.

Leech is signed up for her CAZEO class for May 12. She will be out the entire week taking the class and is testing on that Friday.

10. ENFORCEMENT

11. ACKNOWLEDGMENTS

12. ADJOURNMENT

Meeting adjourned by Pollansky at 8:59 PM.

Respectfully Submitted,

Natalia Yeschick

Natalia Yeschick, Recording Secretary

PLEASE NOTE: These minutes are not official until approved by the Planning and Zoning Commission at the next Commission meeting. Please see the next Commission meeting minutes for approval or changes.