



Town of Beacon Falls
Planning and Zoning Commission
Public Hearing Minutes
March 21, 2024
C/O Town Clerk
10 Maple Avenue Beacon Falls, CT 06403
(Subject to Revision)

Members Present: Michael Pratt (**MP**), John-Paul Dorais (**JPD**), Marc Bronn (**MB**), Jack Burns (**JB**), Jonathan Conte (**JC**), Steven Orloski (**SO**), William Fredericks (**WF**)

Members Absent: Michael Rupsis (**MR**)

Others Present: Community Planner Molly Johnson (**MJ**), Town Planner Keith Rosenfeld (**KR**), Town Attorney Vin Marino (**VM**), Attorney Stephen Bellis (**SB**) representing Hopp Brook Estates, Engineer Manny Silva (**MS**) representing Hopp Brook Estates, 38 members of the public, 5 members of the public via TEAMS and 1 member of the media.

1. **Call to Order/Pledge to the Flag:**

MP called the meeting to order at 6:00 PM.

2. **Public Hearing regarding the proposed item below:**

- a. PZC-01182024-SE: Hopp Brook Estates: Special Exception and Zone Change Application for the construction of 94 single family homes off Oakwood Drive and Miller Road (Bethany) – SB Good evening, I am Attorney Stephen Bellis representing Hopp Brook – I also have with me tonight our engineer Manny Silva. Let me start by saying we currently have a court approval of 109 single family homes, in a condominium style, with 30% of them being affordable units, under the Connecticut Statute 8-30g. That's what we currently have approval for, that also had an access road to Miller Road which dumps out into Bethany. What we would like to do is come in with a new application, under the text amendment which has already been approved, that text amendment allows for up to 130 homes. What we're asking the commission to do is say OK we know you have the approval under the court system, we are asking to change the zone to the PROD, but we are only asking for 94 units, not 109. We are also eliminating the access road to Miller Road in Bethany, and we pushed the homes closest to Oakwood Drive further away. I believe we already have a zone change approval, but Attorney Marino and I spoke and just so that there is no misunderstanding I also filed an application to change the zone to the PROD which you've already approved. The more important thing is we already have the zone – it was a clerical error made by the (previous) clerk. We went to court and the judge said there is a correcting statute and if no one took an appeal within a year it's as though the error never happened. But just for clarification I agreed with Attorney Marino that I would be upfront and tell everyone. So, here we are changing the zone and asking you to approve what we call a special exception. A special exception is nothing more than a site plan that has some hoops for us to jump through so that you're satisfied that this plan works well for the community. I filed the special exception and statement of uses and in that exhibit, I simply state we are going to have 94 homes, all condominium style development meaning all



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the roads are private – nothing is getting turned over to the town. There will be a pool on the property for the community that will be maintained by the Homeowners Association, there are retention ponds, also maintained by the Homeowners Association, and all the areas that are not underneath the foundation of the houses will be maintained by the Homeowners Association. So that's what I mean by a "condominium style development." The houses themselves will be owned by the homeowners, maybe some land around it too, I don't know yet. But any large areas will be considered the Homeowners Association. In this project we are donating to the town over 40 acres of open space so that will be a part of the special exception. I'm not going to bore you with all the things in my exhibit, if you have a question just ask and I or Manny will answer it. So, the first thing is Wetlands Approval – we already have Wetlands Approval in place, but I went back to Wetlands and put into the record – they sent me a letter stating that none of the proposed construction or activities are going to effect the regulated the areas which is not only the Wetlands but also the 100-foot buffer around it. Therefore, there are no Wetlands issues with this development.

The next question is do you have water? Aquarion has repeatedly stated over the years that there is water, but they requested that we build a tank – the tank sits on the ground, it's like a big swimming pool, it's not like an elevated tower. It gives enough flow and pressure that will help not only this group of homes but will also help those on Oakwood and Blackberry – that's what I am told. We gave a fill report stating we are moving some fill. The architect elevation and floor plans, as I said before if you looked at these you wouldn't know they are condominiums, they look like single family homes. They look very much like Chatfield's project where they are individual units, the people own the units, but they are a part of a Homeowners Association. As you know this whole land was called Chatfield II because that was the whole idea to have a continuation of Chatfield I. We provided a traffic impact study – that basically says we hired a traffic engineer who looks at the amount of cars and said (he looked at it when we had 109 homes and now there's less) he didn't think it would have a negative impact and thought there was adequate sight line distances. We talked a little about property values, what we determined is if you eliminate the affordable units these will all be market rate, when I say market rate, I mean whatever the market is currently going for - these homes are all going to be market rate. I don't know what the market rate will be at that time but that's what they will sell for. The homes are approximately 2,000 – 2,400 square foot homes with 3 bedrooms.

Another thing, the septic systems – These homes will have community septic systems. DEEP has allowed for connecting the houses in a pipe in the road and that will go to a community septic. We divided this project into 7 phases so 16 homes around a cul-de-sac – all the 16 houses will go to a community septic



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system. The next 16 homes will have their own community septic system and so on.

Watershed – we aren't in any watershed; I have maps that demonstrate we are not in the West River Watershed. The map makes it perfectly clear where that is, and this project is outside of it.

Fire Access – The building code says if you have 100 houses in a project then you need 2 fire accesses, we are under 100, being at 94 houses, therefore we do not need 2 accesses. But, if the commission wanted to, on Beacon Heights property there is already paved driveway that allows fire apparatus to go around on their property and the engineer said, we found a point where if we want to, we could build an emergency access to that gate so if the fire department ever needed to go in there, they could. That is up to you guys. I'm saying we will do it if you would like us to. I will have Manny go over a little more in depth.

Manny Silva (MS) Rose Tiso & Co, Civil Engineer for Hopp Brook Estates – MS As Attorney Bellis stated, the project is similar to the application you've seen previously except some changes I will highlight.

Points out areas on presentation board We had 2 loop roads here; we have eliminated the loop there – we slid these phases to the south to get a little more distance to the adjacent property owners. This is the land down here that we will designate as Open Space to the Town of Beacon Falls. This is the part the application is pertaining to up here. We are 175 feet from the nearest property line and the nearest house is another 25-30 feet away from that. We have an amenity space here with the pool. We reduced the number of parking spaces here because we were asked to reduce the amount of parking away from the units.

The units themselves all have a 2-car garage. We have 2 different unit types – Ranch and Colonial/Farmhouse style. We have our 7 phases, Phase 1 will include the retention pond here, then we have Phases 2-4, then once we build those, we will have to build the southern retention pond which will control the water coming from the south and so on.

The water tower with Aquarion is proposed here. We worked with Aquarion water company to come up with calculation as to the size of the actual tank.

The reason it is here is because this is one of the highest points. So, we would build a tank which has some steel walls that come up and it has a cover.

They're usually green or aqua blue to kind of blend in. We will have pressure valves and pumps. These dotted squares are our septic areas that we've done testing on and have good soil. As you come through all units are Type A (Ranch style), only the corner units are Type B (Colonial/Farmhouse).

For Sediment and Erosion controls, each phase has a silt fence perimeter with



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a haybale behind it. We have anti-tracking pads, then we have a soil stockpile surrounded by a silt fence so none of it washes out during a rainstorm. We will have silt sacks in every catch basin we build so once we are established, we pull those out of there and it's all clean for day one. The roads will be 26-feet wide with a 5-foot sidewalk on one side and all units will have a minimum separation of 30 feet in groups of 5 or 6.

MS shows other various details on presentation such as lighting examples, plantings, mailbox location, etc.

MP Are there any questions?

John Harmonay (JH) 5 Twin Oaks Trail: **JH** Regarding the water tower – it will be a tank? What are the dimensions, how tall is it? Where is the water source for the tank and how noisy are the pumps? How far from Chatfield Farms is the tank going to be?

MS The design of the water tank has not been completed yet because we don't have an approved project yet but the indications, we have is that it's somewhere around a 20–25-foot tank. It's like a big swimming pool set on a slab. As far as the waterline, it will come off Oakwood. The pumps are underground, you won't hear them. They are basically in the middle of the woods. Chatfield's property line is right here, it's about 500-600 feet away in a wooded area.

SB All this (points to wooded area on presentation board) is not being disturbed and nothing is being disturbed on this lot. This lot is 80 acres and not being disturbed other than this little peninsula.

John Porpora (JP) 48 Twin Oaks Trail: **JP** How far from the Chatfield property line is it? Can you locate where Chatfield farms is on the diagram? You're talking about doing a lot of landscaping... will any trees be removed that borders our development and if yes will you add more to seclude it?

MS As for tree removal on the Chatfield line – there won't be any. The only trees being removed are adjacent to the dump site and even then, there will be a section that's 480 feet long that won't have any trees removed.

JP I know in many meetings I've been to you've compared this development to Chatfield Farms. In terms of services from Beacon Falls, we don't receive garbage, we don't send children to the school system, we don't have snow removal. Will this community be similar? **SB** Very similar – all the things you mentioned are the same but It's not a 55+ community so we don't know about the school system.



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Chris Jurzynski (CJ) - 42A Fairfield Place: **CJ** Where is the entrance for this? **MP** Oakwood. **CJ** Is the tank sealed? **MP** Yes. **CJ** Are these houses following the same setbacks and lot size requirements as other developments? **MP** No because it is a development.

MS The design of the tank has not been completed yet because we don't have an approved project yet. Oakwood has a watermain that was extended from Blackberry, they have a pump and that will extend out. The pumps are underground, they are in the woods. It is about 500-600 feet away.

Joann Delenick (JD)- 243 Bethany Road: **JD** How do you envision access to the open space area? **SB** I will work with the town on that.

Michael Krenesky (MK) – 22 Maple Avenue: **MK** I heard you say there's about 40 acres of open space and a total of 80 acres in a lot to the South. Will that additional acreage, which does border Chatfield Farms, at some point in the future be developed? **SB** Anything is possible.

James Carroll (JC) - 67 Fieldstone Lane: **JC** Where is the natural gas line going to connect? **MS** Once we removed the Miller Road extension the gas line is out. There is no gas – we will have propane.

KR We want to verify with our attorney what this application is for. We mentioned the PROD – is this an application for the PROD Zone? **SB** Yes. **KR** So the application is to create a new zone that is not there today. **SB** The text amendment was approved and is a part of your zoning regulations. **KR** When was that approved? Because I believe it was denied. **SB** 2017. **KR** But it was not advertised properly so the judge threw it out. **SB** The judge said in 2021 you already had an approval you don't have to do it again. **VM** What the judge said was the second application was not the correct way of fixing the failure of notice. The defect was that there was an approval with no notice. Historically, under 8-8r, if there is a failure of notice instead of a 15-day statute of limitations for an appeal it's 1 year. What historically would happen is the legislature would pass validating acts that would say we are going to make things valid that would otherwise be invalid because of, for example, failures of notice. So, when the commission adopted the PROD Text Amendment there was a "defect" because of the failure of notice of that approval. A result of the failing of notice instead of there being a 15-day appeal period it goes to 1 year appeal period. So, the court said the second application filed by this applicant is not a way to correct the notice under 8-8r. So, the text amendment was affective it was just if anyone wanted to appeal, they had a year. So, what he (**SB**) is doing today is filing an application under the text



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amendment that was approved in 2017. **KR** So the amendment is valid? **VM** Yes. **KR** So, we are here for a zone change of this property to a PROD? **VM** Zone change and site plan (Special Exception). **KR** So this property is zoned R1 right now. **VM** Yes, it's currently zoned R1, its up to this commission to decide whether they want to change it to the PROD then, assuming they change it to the PROD, unless there's public health, safety and welfare issues they chose to modify the site plan and if the site plan conforms to the text, then they are obliged to approve it. **KR** In the history of this property at some point in 2022 Mr. Bellis went and applied for a PROD which turned into an 8-30g called the Hopp Brook Village District (HBVD) which was then approved – that piece of land is not R1, it's HBVD. **SB** The judge approved that. **KR** So it needs to go from a HBVD to PROD? **SB** We are requesting this commission to adopt this special exception under the text amendment that's already there called the PROD and if that is the case it is the expectation that the developer will use that to develop the property not the court decision.

MP to NP (Clerk) can you please read Paul's (Town Engineer) comments into the record.

NP/Clerk Reads commentary from Town Engineer.

SB I just have two brief comments, but this engineer is probably not aware we already have a storm drainage permit from the Town and all the other stuff I'm not sure if the engineer understands these are not individual lots – it's a condominium style project so there is not going to be lot lines in between these homes. Lastly, I would say the judge approved decision has the same layout.

MS In addition to that, he said he didn't receive a drainage report because this commission is not the commission to approve drainage – that's your wetlands commission. He stated we have narrow streets, that's because we want slower vehicle speeds. There are not town roads that have 25 mph speed limits, we will be posting them 10-15 mph. We want it to be uncomfortable to be fast to go in here.

SB We can close it, I don't think we have to respond. I cannot get a building permit without having the health department or approval for community septic systems but those are not applicable for zoning. The zoning is the special exception. I am not going to stand here and tell you I can go get a building permit if you approve this special exception – I cannot. I do not have the Health Department or DEEP Approval for Septic Systems. **MS** When we go for a building permit we are going to need sign offs from Naugatuck Valley, we will need the full design from Aquarion Water Company for the fire suppression.



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We will need the fire marshal to give us hydrant locations then work with Aquarion to where they want those. Even when we file for the building permit the engineer will have comments. We can't get the community septic design until it's approved.

VM As long as the record reflects you were given the opportunity to respond.

SB It's construction stuff – it's not zoning. Let's just close it.

3. **Adjournment:** Motion made to close the public hearing at 7:00 p.m. by **MB/JC**. All ayes. Motion carried. Meeting adjourned at 7:00 p.m.

Respectfully submitted,

Nicole Pastor

Clerk, Planning & Zoning