



Land Use-Urban Redevelopment Committee – Board of Representatives

Harry Day, Chair

Committee Report

Date: Wednesday, July 5, 2017

Time: 7:00 p.m.

Place: Democratic Caucus Room, 4th Floor, Government Center

The Land Use-Urban Redevelopment Committee met as indicated above. In attendance were Chair Day and Committee Member Reps. Heaphy, Hoch, McGarry, Miller, Okun, Patterson and Summerville. Absent or excused was Committee Member Rep. Ryan. Also present were Reps. de la Cruz, Di Costanzo, Figueroa, McMullen, Nabel, Savage and Zelinsky; Mayor Martin; Kathy Emmett, Corporation Counsel; Ralph Blessing, Land Use Bureau Chief; Michael Pollard, Chief of Staff; Jay Klein, Carmody Torrance Sandak & Hennessey and approximately 20 members of the public.

Chair Day called the meeting to order at 7:08 p.m.

Item No.	Description	Committee Action
1. LU29.083	RESOLUTION <u>and public hearing</u> ; Approval of Director of Administration's Final Report Dated April 6, 2017 Concerning the Discontinuance of a Portion of Stanley Court and Directing that Such Discontinuance be Carried Out to Facilitate a Deeply Affordable Housing Project. 04/06/17 – Submitted by Mayor Martin 04/25/17 – Approved by Planning Board 05/11/17 – Approved by Board of Finance 05/31/17 – Approved by Committee for publication	Approved 8-0-0

Chair Day opened the public hearing. There being no members of the public wishing to speak, the public hearing was closed. A motion to approve this resolution was made seconded and approved by a vote of 8-0-0 (Reps. Day, Heaphy, Hoch, McGarry, Miller, Okun, Patterson and Summerville in favor).

The Committee next took up Item Number 5:

15. LU29.080 REVIEW; Use of Property by Servidio Construction Company at Cove Road and Health and Safety Effects on Surrounding Neighborhood. **Held 8-0-0**
03/07/17 – Submitted by Reps. Figueroa and Savage
04/24/17 – Held in Committee
05/31/17 – Held in Committee

Representative Savage read the following statement into the record:

My name is Mary Savage. I represent District 4, Cove/East Side. We ask the Committee to review the use of property at 790 Cove Road, owned by Mr. & Mrs. John Servidio, because zoning regulations have been violated for over a decade at the peril of the health and safety of our neighborhood.

This property is zoned C-N Neighborhood Business District. In Appendix A - Table II, page A-7, number 87, permitted uses in Commercial and Industrial Districts, Contractor's Material & Equipment Storage Yard & Building are not allowed.

Since November 26, 2006 the Cove Neighborhood Association (CNA) has repeatedly reported (see attachments) this violation to the City. Over the years, three Cease & Desist orders have been issued, 2008, 2009 & 2014. With each C&D order, the owner complies for a short period of time and then continues the illegal use by returning contractor equipment and materials. No fines have ever been paid and the property has continued to be used in violation of zoning regulations. Each year CNA reports the violation, zoning enforcement investigates, and the pattern of notification, temporary compliance and repeat violation begins again.

Neighborhood petitions (December 2007/February 2017), photographs (2006 to present), and emails have been submitted/sent to the Zoning Enforcement Officer from CNA and District Representatives.

On October 3, 2007, the property owner made Application to the Zoning Board of Appeals for a Variance and was denied (see attached).

Most recently beginning in November 2016 a CNA representative began meetings with Mr. Lunney, Zoning Enforcement Officer. By February 2017, the property owner had not complied and CNA referred the problem to District Representatives Savage and Figueroa who submitted the item for review to this Committee.

The neighborhood wants justice to be served by having this property owner taken to court. No neighborhood should be held hostage by a property owner and a zoning enforcement process that fails to stop a chronic illegal use of property. Constituents feel that people of privilege, and you can define privilege in many

¹ Video Time Stamp Pt. 1 00:03:20

ways, do not have to abide by the law. Basically, anyone who can retain a lawyer gets a pass.

Committee members expressed great frustration about the continued failure of Mr. Lunney to attend meetings on this item.

Committee Members and Board members discussed this item with Mr. Blessing and Ms. Emmett as follows:

- The City shares the frustration over this process:
- This has been a yoyo, in which complaints are fixed temporarily and then the problem resumes
- Part of the problem is the process under State statute and the unwillingness of the courts to award fines
- The City is reviewing measures which will allow the City to impose fines of \$150/day for continuing violations through the civil citation process
- If the violator cleans up prior to going to court, there is no remedy available
- 20% of the violators consume 95% of the time
- The Cease & Desist process in Connecticut is slow and only a judge may impose fines. The City requests fines, but fines are generally imposed only for extreme environmental violations; a citation process may be less cumbersome and more effective
- The Zoning Enforcement Officer has special roles and qualifications under the State statute and is the only one able to issue violations; Jim Lunney is also a building inspector and conducts building inspections
- The question was raised as to whether this could be viewed as a public health/safety issue, and the health department could act
- The statutes don't address this type of repeat offender situation. Once the situation is cleaned up, there is no enforcement action available.

Mr. Pollard stated that Mr. Lunney had prepared a timeline of the Cease & Desist process in 2015, which he will have him update and provide to the committee. He has spoken to Sen. Leone about this issue in the past. One of the concerns is that some municipalities have used the process as a punitive tool. Mayor Martin noted that case law has made it difficult to use the Cease & Desist process, since municipalities have used it punitively. He noted that they are evaluating the citation process but don't want to burden the 80% who do comply

Ms. Emmett offered to return to the Committee with Jim Minor of her office to discuss enforcement issues generally and this situation. She noted that concerns about the process should probably be addressed to the State and Mr. Leone should attend the meeting as well.

A motion to hold this item was made, seconded and approved by a vote of 8-0-0 (Reps. Day, Heaphy, Hoch, McGarry, Miller, Okun, Patterson and Summerville in favor).

- ²2. [LU29.088](#) APPROVAL; Extension of Deed Restrictions on the Holly Mansion Property at Cove Island Park for Soundwaters Inc., Boat Shed Grant Application (Hurricane Sandy Disaster Relief). **Approved 7-0-0**
06/05/17 – Submitted by Mayor Martin
06/27/17 – Approved by [Planning Board](#)
06/29/17 – Approved by Board of Finance

A motion to approve this item was made, seconded and approved by a vote of 7-0-0 (Reps. Day, Heaphy, Hoch, Miller, Okun, Patterson and Summerville in favor).

3. [LU29.085](#) ORDINANCE for publication; Amendment of the Demolition Ordinance, [Chapter 88](#). **Held**
04/26/17 – Submitted by Rep. Day
05/31/17 – Held in Committee

Chair Day noted that Carmody Torrence and HPAC had requested that this item be held. It was held without objection.

- ³4. [LU29.089](#) RESOLUTION REVIEW; Prescribing The Engagement Of Consultants And Experts By The Zoning Board. **Held 6-0-1**
06/07/17 – Submitted by Reps. De La Cruz, Mitchell, Caterbone, Franzetti, Hoch, Jacobson, Kolenberg, Nabel, Pratt, Okun, Ryan and Zelinsky

Mr. de la Cruz explained that he introduced this item based upon his observation of meetings of the Land Use boards and the perception that the Zoning Board is outgunned by experts hired by the applicants, resulting in an erosion of public trust in the Land Use Boards. This resolution is based upon processes in Bethel, Brookfield, Darien, New Canaan and Westport.

Chair Day asked Ms. Emmett whether the Board of Representatives has the authority to enact this type of requirement.

Ms. Emmett noted that:

- Under CGS 8-1c, municipalities have the authority to establish fees for land use applications and a fee as part of an application to cover consultant costs has been upheld by the courts. If the Land Use Boards felt they needed a consultant, they could charge a fee of 150% of the estimated cost, and return any funds not spent
- Other aspects of the proposal are not within the Board's authority:
 - The requirement that the Zoning Board only rely on consultants it selects and engages would prohibit them from considering any other experts advice as credible, including experts hired by the applicants or by opponents; this might also violate due process

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