

**PLANNING AND ZONING**  
**Special Meeting - October 14, 2008**

A Special Meeting of the Planning and Zoning Commission of the Town of Trumbull was held in the Courtroom of the Trumbull Town Hall on Tuesday, October 14, 2008.

Members Present: Timothy M. Herbst, Chairman  
Gary Bean; Anthony Chory; Christopher Costa; Arlyne Fox and  
alternate Don Scinto

Also Present: Richard S. Eigen, Acting Planning and Zoning Administrator and  
James Cordone, Town Attorney

The following is a brief summary of the meeting.

A quorum being present the Chairman called the meeting to order at 5:40 p.m.

The purpose of this meeting was to review and act on the 8-24 Municipal Referral for the purchase of a property known as St. John's Woods by the Town of Trumbull.

The Chairman advised the public that the purview of this Commission was only advisory and that any recommendation made would be from a planning perspective. The final decision as to whether the property should be purchased will be made by the Town Council.

A challenge was issued from Michael Stavish of 21 Woodridge Circle that the meeting was a Public Hearing and had not been properly noticed.

The Chairman called for a motion to hold a short recess to research the State Statutes.

MOTION MADE (Fox), seconded (Bean) and unanimously carried (Herbst, Bean, Chory, Costa, Fox) to hold a short recess.

Meeting recessed at 5:45 p.m.

MOTION MADE (Fox), seconded (Costa) and unanimously carried (Herbst, Bean, Chory, Costa, Fox) to reconvene the Special Meeting.

Meeting resumed at 5:51 p.m.

The Town Attorney advised that State Statutes are clear that an 8-24 Referral does not require a Public Hearing and therefore the meeting could proceed.

First Selectman Baldwin appeared and highlighted the terms of the acquisition. The differences between the original plan, which received an unfavorable recommendation from this Board on August 20, 2008 were detailed.

A basic fact sheet prepared by Attorney Kevin Gumper, representative for St. John's LLC, was submitted.

All conditions from the previous proposal would remain in place with the exception of improvements to the ballfield, which the developer has indicated he is no longer willing to provide.

The Church will obtain access to their property through Cemetery Drive but the road would be closed to the general public from dusk to dawn. The rectory, originally not included in the first proposal, would be made part of the present proposal (Proposal 2). The plan will call for the Town of Trumbull owning the rectory and leasing it back to St. John's Church. St. John's Church will assume all responsibility relating to the maintenance of this building.

The parcel of land consists of 17.317 acres. The 10.62 acres belong to Daniel Skuret is no longer included as part of the acquisition. St. John's Church will retain 4.38 acres, which the Town will have right of first refusal. The negotiated purchase price was \$3,850,000.00 which was \$1,100,000.00 less than the previous proposal. The Land Acquisition Committee has given their unanimous approval. The purchase will need to come before the Board of Finance, as adequate monies are not available through the Land Acquisition Fund.

A letter from Peter A. Vimini, who conducted the initial appraisal, was submitted. Mr. Vimini indicated that the proposed purchase price of \$3,850,000.00 was fair and reasonable. A new appraisal of the property was not performed.

Attorney Joel Green, representative for the Nichols Fire Dept. the Nichols Burial Ground Association and Save Nichols, presented a list of conditions (copy attached) relative to the acquisition.

He spoke to the Commission's traffic and public safety concerns regarding Cemetery Drive. He noted that Cemetery Drive would provide a direct route to the Church but that this access would be limited to St. John's Church parishioners only. Access to this property would revert back to St. John's Drive once the site is no longer occupied by St. John's Church.

Commissioner Chory questioned as to how you would be able to deny access through Cemetery Drive, if the property was being utilized by a different church. Attorney Green responded that this would be accomplished through a restricted covenant contained in the deed, which would run with the land.

A discussion followed as to the Planning and Zoning Commission's scope of authority relative to Municipal Referrals. Attorney Green informed that he has conducted a detailed search of the legislative history, as well as reported Connecticut cases, concerning Connecticut General Statutes, 8-24. His research revealed that of 44 reported

cases in Connecticut pertaining to 8-24 municipal improvement referrals, not one case demonstrated that a commission may examine economic or financial conditions as a basis for either approving or denying a referral under the statute. Attorney Green further commented that the Commission's authority derived from Connecticut General Statutes 8-24 is based upon the Commission's planning authority under the statutes. Based on this, Attorney Green argued that the proposal's monetary value, as well as economic and financial considerations, was a matter for the Board of Finance and the Trumbull Town Council.

Chairman Herbst inquired as to what other options were being considered for this property, if the acquisition does not receive Town Council approval. Attorney Gumpfer responded that the possibilities included development of a residential 18 lot subdivision or construction of 32 age restricted cluster housing units.

A discussion then ensued between Chairman Herbst and Attorney Gumpfer concerning Connecticut General Statutes, 8-30(g), the Affordable Housing Land Use Appeals Procedure. Chairman Herbst indicated he had the opportunity to review the statute earlier in the day. Chairman Herbst indicated and Attorney Gumpfer concurred that there was a provision in the statute that would exempt the Town of Trumbull from their moratorium, if an applicant filed an affordable housing application under the statute of 40 units or less. Attorney Gumpfer further testified that he and his client had conferred with a leading affordable housing attorney in Connecticut who believes Trumbull's moratorium may have already expired.

At this point, Commissioner Fox asked for clarification as to why Commissioner Bean had not recused himself from discussion on this proposal, as he had a personal interest in this property.

Commissioner Bean responded that this Commission, at this point, was only acting in an advisory capacity. Commissioner Bean also noted that he had recused himself from the subdivision application. Commissioner Bean pointed out that he had sat for the previous 8-24 referral, which was denied by the Commission and at that time Commissioner Fox raised no objections. Commissioner Bean questioned why Commissioner Fox was raising this point now, in the middle of a meeting, instead of at the beginning of the process. For reasons outlined, Commissioner Bean indicated that he would remain seated.

Protection of the existing wetlands was also brought up as an issue of concern. Several comments were made that establishment of a park or open space area would be the most effective way of protecting the environment.

## Public Comment

Judy Angel, 354 Shelton Road, submitted a copy of her letter of support that was published in the Connecticut Post.

Michael Stavish, 21 Woodridge Circle was in favor but had cost concerns. He questioned the Town's right to restrict the use of Cemetery Drive. Mr. Stavich requested that it be made certain that the rectory was free of any encumbrances. He added that twelve percent of the Town is already dedicated to park area and questioned how far we wanted to go with this.

Daniel Kryzanski, Chairman of the Land Acquisition Committee called the proposed purchase a great opportunity for the Town.

Rick Perachio, 53 Evelyn St. and Commissioner of the Nichols Fire Department spoke in favor.

Ken Martin, 1676 Huntington Turnpike, indicated that the acquisition of this property would be beneficial not only to Nichols but the entire community.

Mark Smith, 8 Kitcher Court and a member of the Board of Finance was opposed only from a financial standpoint and felt the purchase was not prudent at this point in time.

Bill Crooks, member of the Board of Finance informed that a cost analysis revealed that the payback on this transaction would be about 125 years. He indicated that educational costs from the development of this property would not be significant, if you factor in the additional tax revenue that would be brought in.

Meeting recessed at 7:38 p.m. and resumed again at 7:43 p.m.

Action was then taken on the subject 8-24 Municipal Referral as follows.

MOTION MADE (Fox), seconded (Costa) to recommend to the Town Council, in an advisory capacity and from a planning perspective, that the land known as St. John's Woods contiguous with St. John's Byzantine Church, 100 St. John's Drive be acquired by the Town of Trumbull.

MOTION MADE (Bean), seconded (Costa) and unanimously carried (Herbst, Bean, Chory, Costa, Fox), to amend the previous motion to recommend to the Town Council that the following condition be included.

1. That the following document be included as a condition of approval of the purchase and sale agreement:

- "Proposed Conditions for Approval of Proposed Acquisition" as submitted by Attorney Joel Green at the October 14, 2008 Special Meeting.

MOTION MADE (Bean) seconded (Costa) and unanimously carried (Herbst, Bean, Chory, Costa, Fox) that the following condition be added as a condition of approval of the purchase and sale agreement.

2. Rectory shall be subject to an inspection by an independent licensed inspector and that a report be issued to the Town attesting to the building's structural suitability.

The Church shall have an obligation to maintain the property while it leases it from the Town. Language to be inserted into the agreement protecting the Town in the event the property is not properly maintained on an ongoing basis.

MOTION MADE (Bean), seconded (Costa) and unanimously carried (Herbst, Bean, Chory, Costa, Fox) that the following statement be also added.

3. The proposed acquisition meets the goals and objectives of open space acquisition as defined by our Master Plan of Conservation and Development.

Vote - Original Motion as Amended: In Favor: (3) Herbst, Costa, Bean – Opposed: (2) Chory, Fox. MOTION CARRIES

There being no further business to discuss a motion was made by Commissioner Fox and seconded by Commissioner Costa to adjourn. The October 14, 2008 Special Meeting of the Planning and Zoning Commission adjourned at 8:10 p.m. with unanimous consent.

Respectfully submitted,

Helen Granskog  
Clerk of the Commission

