

Regular Meeting

The 1413th meeting of the Town of Stonington's Planning and Zoning Commission was held on Tuesday, January 19, 2010 at Mystic Middle School, 204 Mistuxet Ave., Mystic. The meeting was called to order at 7:00 p.m. by Chairman John Swenarton. Present were Commissioners Lynda Trebisacci, Ben Tamsky, and Bob Mercer; Alternates Rob Marseglia and Gardner Young; Town Planner Keith Brynes, and Director of Planning Bill Haase. Member Paul Holland and Alternate Chris Regan were absent.

Seated for the administrative section of the meeting were John Swenarton, Lynda Trebisacci, Ben Tamsky, Bob Mercer, and Gardner Young.

Minutes:

Mrs. Trebisacci made a motion to approve the January 5, 2010 minutes. Mr. Mercer seconded. The minutes were unanimously approved, 5-0.

Administrative Review:

PZ0928SD Richard C. Panciera Charitable Remainder Trust II – Application for a 5-lot subdivision of a 58.36± acre parcel. Proposed project consists of 4 lots for single family residences, and a 5th lot reserved for future development. Property located on Mary Hall & Greenhaven Rds., Pawcatuck. Assessor's Map 7 Block 1 Lot 44. Zones RA-20, RM-20 & RR-80. Request for a 90-day extension to file final SD mylars.

Mr. Tamsky made a motion to grant the ninety-day extension request. Mrs. Trebisacci seconded. The motion was unanimously approved, 5-0.

PZ0482SPA & PZ0714ZC MIRG Mystic Harbour, LLC - Applications for Site Plan Approval to demolish existing two-story Mystic Color Lab property and build 47 attached residential dwelling units, 2,000 square feet of community space, and 144 parking spaces, & Zoning Map Amendment to increase the number of housing units from 47 to 55, as per ZR 7.19.6.3.2. Property located at 2 Harry Austin Drive, Mystic, CT. Assessor's Map 160 Block 4 Lot 8. Zone IHRD-2. Request for a 5-year extension of the site plan approval.

Attorney Ladwig spoke on behalf of the new owners, Edgewood Mac, LLC, who are requesting a 5-year extension of the previously approved site plans. Mr. Tamsky asked for clarification of the previous applications. It was explained that the original Master Plan approval was granted 11/16/04 and the original Site Plan Approval granted 2/16/05. The revised Master Plan was granted in 4/11/07. This approval changed the number of dwelling units from 47 to 55 units by making dwelling units smaller with no changes to the building footprint, gross floor area or parking. A new Site Plan Application was not required due to the lack of changes to the site. Public Act 09-181 which amended CT General Statutes Section 8-3 to give an extra year to Site Plan Approvals, does not apply for approvals granted prior to 7/1/06.

Mr. Marseglia asked what would happen if the extension was not approved and whether granting a shorter extension was a possibility, and what the results of such would be. Staff elaborated on possible application scenarios and the control the Commission would have. The first 5-year period is up in February 2010. Attorney Ladwig asserted that the longer the extension is granted for, the better outcome for developing the property.

Mrs. Trebisacci made a motion to approve the five-year extension. Mr. Mercer seconded. The motion was unanimously approved, 5-0.

PZ0830SPM Zheng Investments - Site Plan Modification & Coastal Area Management Review for the construction of a 798 sq. ft. addition to existing structure. Proposal includes associated parking & landscaping. Request approval for changes to previously approved application.

Patrick Cochrane spoke on behalf of the applicant explaining that, due to potential runoff during heavy storm water events, paving the four parking spaces at the rear of the building with crushed stone would not be the best option. Mr. Brynes read comments from Town Engineer Larry Sullivan indicating he had no issue with the four parking spaces being paved rather than a stone pervious surface as previously approved.

Changes to the applicant's previously approved signage also required the Commission's review. Mr. Mercer was displeased with the owner's change to the previous approval, stating that the altered signage erodes the fabric of

the Route 27 neighborhood, a main tourist corridor. Mr. Cochrane explained that the previously gabled sign was constructed and installed on site but wind issues made the owner reject it, replacing it with one of a different design. Mr. Haase stressed that the Architectural Design Review Board has clear guidelines for signage and urged the Commission to require the sign remain as originally approved.

Mr. Mercer made a motion to approve the impervious paving of the four parking spaces, deny the signage modification, and permit the ZEO to grant zoning compliance for the May 1st deadline. Mr. Tamsky seconded. The motion was unanimously approved, 5-0.

Public Hearing:

PZ0934RA Lattizori Development, LLC - Zoning Regulation (ZR) Amendment to add a Highway Transition Design District (HTDD) to create a mixed use zone for retail, commercial, office, and residential uses. Continued from 1/5/10.

Seated for the hearing were Mr. Tamsky, Mr. Mercer, Mr. Swenarton, Mrs. Trebisacci, and Mr. Marseglia.

Attorney Ladwig objected to the Staff's acceptance of two pieces of correspondence, a 4-page letter dated 1/19/10 from Attorney Mark Branse to Chairman Swenarton, and a Memo dated 1/14/10, from Robert J. Sitkowski to Attorney Branse. His objection was based on the fact that the Public Comment portion of the Public Hearing had been concluded at the 1/5/10 meeting, and this correspondence constituted submitting new information that he has not had time to review.

Mr. Brynes stated that since the conclusion of the 1/5/10 meeting, approximately 14 letters from the public have been received into the application.

Attorney Ladwig continued his objections, stating that the public hearing could go on forever as long as new public comment/input was allowed.

Mr. Tamsky and Mr. Marseglia stated that they agreed with Attorney Ladwig that the Hearing had to end and the continued submission of public comments could prevent that from occurring. Mrs. Trebisacci also agreed, stating that since the Commission had only just received the same information, they, too had not had a chance to digest it. Mr. Marseglia suggested that any correspondence received since the conclusion of the public comment section of the public hearing on 1/5/10 not be considered.

Mr., Haase read from CT Land Use Law & Practice (Robert Fuller), Section 21.5: Evidence that the Agency Can Consider. It was determined that it is at the discretion of the Commission to decide what to allow for consideration.

Gardner Young felt that there had been ample time for the public to comment, that it was time to close the public hearing and move the process along as there are other applications pending. Commission members concurred and after some discussion it was determined that Attorney Branse would be allowed to speak, but only in reference to why he had submitted his summary at the meeting, not to the application itself.

Mr. Branse said that he believed the Public Comment portion of the hearing was closed but that didn't prohibit submitting public documents. He indicated he had offered to submit his summary at a prior time via email, but Staff had told him that was not the correct process. Hence, he did the copying himself and submitted to the Commission at the start of the meeting.

Staff clarified that they followed their standard procedure which, up to this application, had been satisfactory. Mrs. Trebisacci asked if the Commission was obligated to consider the information since Staff had acknowledged that the correspondence would be accepted. Mr. Swenarton though they needed to cut off the information and asked for a vote on the decision.

Mr. Tamsky made a motion to not accept any further public comment communications received after Public Comment had been closed on 1/5/10, and to proceed to the Staff Comment portion of the Hearing. Mr. Mercer

seconded. The motion was unanimously approved, 5-0. The Chairman asked that the Commission members return the memos to Staff.

Mr. Haase read a letter from the absent Mr. Holland requesting Staff and the applicant to clarify the differences between Plan of Conservation and Development and the Comprehensive Plan.

Mr. Haase summarized Lattizori application staff report.

Applicant Rebuttal: Attorney Ladwig started his rebuttal with page 11 of the Staff report and usage ratios. He continued reviewing many details of the application.

Stanton Simm, Chairman of the Conservation Commission made a point of regarding double counting of the proposed open space. Chairman Swenarton did not think this introduced any new information.

Mr. Tamsky queried Attorney Ladwig regarding usage of the open space. He responded that the open space would be used to preserve the rural character of Jerry Browne Road.

Mr. Tamsky made a motion to close the Public Hearing. Mr. Mercer seconded. The motion was unanimously approved, 5-0. The public hearing was closed at 10:14 p.m.

Chairman Swenarton stated that his preference was to delay the decision vote until the February 16th meeting, allowing the Commission time for further deliberation. Commission members all said they were prepared to vote.

Mr. Tamsky made a **motion to deny** the application. Mr. Mercer seconded.

Mr. Tamsky felt that although the plan was well-thought out and well-presented, but the Town of Stonington does not want it; that it does not conform with the POCD on a number of points, nor does it conform to the Comprehensive Plan due to the strictly residential nature of Stoneridge and the rest of the parcels in that area. He was concerned about the lack of public support for the project.

Mr. Marseglia reminded the Commission of the Liberty Crossing development application (Route 2 in Pawcatuck) where, despite objections from neighbors largely from the abutting neighborhood, the Commission felt the resulting tax benefits for the entire population of the town outweighed the objections of the relative few. A similar situation was in place as most dissenters of the Lattizori application are residents of Stoneridge. He stated that his nearly six years experience on the PZC showed that rarely does the public come out in support of applications, only against.

Mr. Mercer agreed with Mr. Tamsky's opinion that there was no one speaking in support of the project. He felt strongly that commercial development (shopping) would be detrimental to existing shopping area in Mystic and the Borough, and that the POCD did not call for retail development there.

Mrs. Trebisacci agreed with Mr. Marseglia that those in support of the project had not come forward. She felt the timing for text amendments of this sort was good because the slow economy allows for time to tweak the application, and since the commission would have strict control over the actual development. With the exception of the retail portion, she liked the proposal.

Alternate Gardner Young agreed with Ms. Trebisacci's comments and felt the application should be revisited in a more detailed manner. The issue was raised and subsequently clarified that an alternate is not permitted to speak during deliberations when there is a motion on the table.

Chairman Swenarton was concerned that a Master Plan submitted at a future date may not be as tightly restricted given that there may well be a completely different PZC having oversight and too much discretion. It is his opinion that the POCD does not recommend the proposed type of development, making the proposal inconsistent. He feels that the true test to allow deviating from the POCD and the Comprehensive Plan is a high level of broad-based community support, which he did not see. He felt an impact statement providing significant data would have been helpful in clarifying issues. Mr. Swenarton referred to the text amendment as "speculation zoning" and

suggested a transitional zone district which could apply to more than one parcel. He cited specifics of the proposed amendment, including hotel height, maximum commercial square footage, building footprint, and open space used for buffer requirements or storm water management, that he took issue with.

Mr. Haase suggested to the Commission that the motion to deny should be restated to include some reference to the POCD.

Mr. Tamsky amended the **motion to deny** to include the reason for denial as the application is not consistent with the POCD or the Comprehensive Plan.

Mr. Mercer seconded.

The **motion to deny** the application was voted upon with the following responses:

Roll Call: Marseglia – approve, Trebisacci – approve, Swenarton - deny, Mercer – deny, Tamsky – deny

The suggestion was made to make and vote on the motion in the affirmative.

Mr. Tamsky stated that he voted to deny the application.

Mr. Mercer stated that he voted to deny the application.

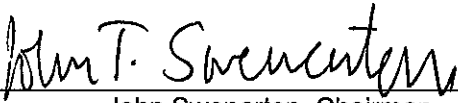
Mr. Swenarton stated that he voted to deny the application.

Ms. Trebisacci stated that she voted to approve the application.

Mr. Marseglia stated that he voted to approve the application.

The application was denied 3-2.

Mr. Tamsky made a motion to adjourn. Mr. Mercer seconded. Mr. Swenarton adjourned the meeting at 10:58 p.m.



John Swenarton, Chairman