

## Regular Meeting

The 1437<sup>th</sup> meeting of the Town of Stonington's Planning and Zoning Commission was held on Tuesday, February 15, 2011 at Mystic Middle School, 204 Mistuxet Ave., Mystic, Connecticut. The meeting was called to order at 7:00 P.M. by Chairman John Swenarton. Present were Commissioners Bob Mercer, Ben Tamsky, and John Prue; Alternates Frances Hoffman, and Curtis Lynch; and Acting Director of Planning / Town Planner Keith Brynes. Alternate Gardner Young arrived at 7:30 P.M. Commissioner Rob Marseglia was absent.

Seated were Mr. Swenarton, Ms. Hoffman, Mr. Mercer, Mr. Prue, and Mr. Tamsky.

### Minutes:

Mr. Mercer made a motion to approve the January 18, 2011 minutes. Mr. Prue seconded. The minutes were approved 4-0-1.

**Roll Call:** Swenarton – approve, Mercer – approve, Prue – approve, Hoffman – approve, Tamsky - abstain

### Reports:

Joe Larkin's Zoning Official report was included in the Commissioners' packets.

### Correspondence:

ZEO Joe Larkin distributed Correspondence from FEMA regarding required changes to Stonington's Flood Hazard Overlay District Regulations.

### Reports:

**Staff:** The Staff Report provided a summary of the ZBA and IWWC responses to a draft Regulation Amendment removing the non-infringement area requirement from GBR-130 and RC-120 zoning districts. Mr. Brynes noted that both ZBA and IWWC were against the amendment. Commission members were interested in having more information on the subject, suggesting that ZBA and IWWC representatives attend a meeting or provide written comment explaining the rationale supporting their decision.

### ZEO - Pending Variances; A-2 survey waiver requests:

**ZBA #11-01 Joseph Burdick Sr.** – Seeking a variance from ZR 5.1.1 to reduce front yard setback from 50' to 45' and reduce side yard setback from 25' to 10' for construction of an addition. Property located at 86 Barnes Rd., Stonington. Assessor's Map 73 Block 2 Lot 3. Zone RR-80.

Mr. Larkin presented the request for the waiver of the A-2 survey.

Mr. Tamsky made a motion to approve the request. Mr. Prue seconded. The motion was unanimously approved, 5-0.

### Zoning Enforcement & Violations:

Mr. Larkin distributed copies of the ZEO Report.

### Administrative Review:

**1. Toll CT Limited Partnership** - Request for approval of new street names for approved Subdivision and Special Use Permit applications PZ0360SD&SUP Meehan Group, LLC - Forty-eight lot subdivision. Property located on Whitehall Ave., Jerry Browne Rd., & Pequot Trail, Old Mystic. Maps 165 & 148, Blocks 5 & 3, Lots 9 & 14, 1 & 3. Zones RA-40 & RR-80.

**Regular Meeting**

Mr. Brynes reviewed the request by the new developer to change the previously approved subdivision street names, noting that the Fire Marshal found no conflicts with the names Nautilus Way, Yellowfin Court, and Latitude Circle.

Mr. Tamsky made a motion to approve the request. Mr. Prue seconded. The motion was unanimously approved, 5-0.

**2. ZON11-014 Isle Rd., LLC / Frank Lionelli** – Request for change of use from medical to financial office, and associated interior modifications. Property located at 38 East Main Street, Mystic. Assessors Map 174 Block 18 Lot 13. Zone LS-5.

Mr. Brynes reviewed the request, noting that the change to office would reduce the parking demand.

Clinton Craig representing the applicants, Merrill Lynch, was available to answer questions.

Mr. Tamsky made a motion to approve the request. Mr. Prue seconded. The motion was unanimously approved, 5-0.

**3. PZ0939SUP Estate of Stephen E. Owens** – Request for revision to approved Special Use Permit application for exterior renovation related to residential egress. Property located at 21 East Main St., Mystic. Assessor's Map 174 Block 2 Lot 5. Zone DB-5.

Mr. Brynes reviewed the request to install a dormer over new interior stairway at rear of building in order to provide proper egress to the 2<sup>nd</sup> floor dwelling unit per Building and Fire codes. He reviewed the permitting history of the property, stating that he was of the opinion that it was not an expansion of the special use permit.

Architect John Patrick Walsh discussed the requirements for the second method of egress. Ms. Hoffman expressed concerns over the adequacy of the egress.

Mr. Prue made a motion to approve the request. Ms. Hoffman seconded. The motion was unanimously approved, 5-0.

**4. PZ0582SUP & GPP Amara-UZ, LLC** – Request renewal of site plan for previously approved Special Use Permit & Groundwater Protection Permit applications to construct a 4500 SF retail (convenience) store with drive-in window, a 6,000 SF retail (6 stores) building, 44 parking spaces, & related site improvements. Property located at 376, 380 & 384 Liberty St., Pawcatuck. Assessor's Map 18, Block 5, Lots 1-4. Zone CS-5.

Mr. Brynes reviewed the request for a 5-year renewal of the site plan.

Commissioners asked for more information regarding how any changes to the Regulations that have occurred since the original approval may affect the request. Mr. Prue made a motion to table the request to the March 1, 2011 meeting. Mr. Tamsky seconded. The motion was unanimously approved, 5-0.

## Regular Meeting

5. Discussion of application procedure for proposed temporary theater building at the Mystic Aquarium. Property located at 55 Coogan Boulevard, Mystic. Assessors Map 164, Block 3, Lot 2, Zone TC-80.

Mr. Brynes presented the proposal for a temporary "4-D" theater building, explaining that the structure would be in use for about 3 years until a permanent theater can be constructed. The Commission is being asked for a determination as to application procedure: Site Plan or Special Use Permit application.

Keith Sorensen, Vice President of Facilities for Mystic Aquarium, responded to questions concerning their seasonal time constraints to have the temporary theater constructed, describing the construction method and requirements.

Mr. Prue made a motion to instruct the Aquarium to apply for a Special Use Permit for their proposed temporary theater. Mr. Tamsky seconded. The motion was unanimously approved, 5-0.

### Old Business:

**PZ1029CAM Norwest Marine, Inc.** - Coastal Area Management Review for proposed replacement of previously existing underground gasoline storage tank with a 4,000 gallon above ground gasoline storage tank. Property located at 7 River Rd., Pawcatuck. Assessor's Map 5 Block 6 Lot 21: Zone MC-80.

The application was tabled at the 1/18/11 meeting awaiting responses from the DEP. Mr. Brynes read comments from Diane Ifkovic, DEP Flood Insurance Program Coordinator, and Carol Szymanski, DEP OLISP Environmental Analyst. Ms. Ifkovic noted that FEMA Publication 348 allows for the tank to be located below the base flood elevation if anchored, does not allow for the accumulation/infiltration of flood water, and is certified by an engineer.

Mr. Brynes stated that the above-ground tank did meet the proposed FEMA requirements.

Engineer Robert Coluccio spoke about the proposed placement of the tank in a safe, well-protected, convenient area on site, responding to Commissioners' questions regarding the tank's specifications and removal of the previous tank.

Mr. Prue made a motion to approve the CAM application with the three stipulations summarized in the Staff Report. Mr. Mercer seconded. The motion was unanimously approved, 5-0.

### Stipulations:

1. Proposed structures shall be a minimum of five feet from mean high tide per Section 5.2.1, Note 10, of the Zoning Regulations.
2. Prior to operation, an Elevation Certificate shall be provided to the Department of Planning verifying that the fill pipe is above the base flood elevation.
3. Prior to the issuance of a Zoning Permit, the application shall be reviewed to the satisfaction of the Pawcatuck Fire Department regarding the safety issues noted in their 1/18/11 comments.

**PZ1025RA Joseph H. Putnam** - Zoning Regulations Text Amendment to Section 3.4 Residential RA-20, RA-15 Zones: within RA-20 only, to permit Open Space Development in accordance with Section 6.6.22, and Section 5.1.2 Residential Zones: Permitted, Accessory & Special Uses.

The Public Hearing was closed at the 1/18/11 meeting.

**Regular Meeting**

Seated for deliberations were Mr. Swenarton, Mr. Mercer, Ms. Hoffman, Mr. Lynch, and Mr. Young. There was discussion as to the historical reasons for exclusion of RA-20 zone from the Cluster/OSD regulations, positive impacts of OSD, and the potential for "spot zoning."

Mr. Mercer made a motion to approve the application. Ms. Hoffman seconded. The motion was unanimously approved, 5-0.

Mr. Mercer made a motion to set the effective date of the amendment for March 7, 2011. Mr. Young seconded. The motion was unanimously approved, 5-0.

**Public Hearings: 7:30 p.m.**

**A. PZ1027RA Greater Mystic Chamber of Commerce, et al - Zoning Regulations Text Amendment to Section 7.12.7.7 Special Detached Banners. Public Hearing: 2/15/11 *Continued from 1/18/11.***

Chairman Swenarton seated Mr. Prue, Mr. Mercer, Mr. Lynch and Ms. Hoffman for this application.

Mr. Brynes reviewed comments from the Conservation Commission, SECOG, and DEP. He discussed a size restriction for the signs, limiting the banners to properties owned by non-profits, and the lack of impact on the existing Downtown Pawcatuck banner program.

Commission discussed the limitations of State law preventing control over signage content and uniformity of permitting, and requirements for acquisition of decorative lampposts in downtown Mystic. They questioned the definition of "pole," how the number and placement of banners would be regulated, and zoning jurisdiction in the State ROWs.

Mystic Chamber President Tricia Cunningham provided rebuttal information regarding number of poles, a maximum banner size of 25% of pole height (New London example: 6-foot banners on 24-foot poles), and number of banners of each pole. Brian Kent of Kent + Frost noted that all utility poles on Rt. 27 are on the east side of the road and they have proposed no banners on them. Mr. Prue questioned whether there was a formula used to relate the number of banners to parking spaces. Cassandra Meyer-Ogren discussed the banners proposed for Mystic Aquarium noting the number, size, and location. Lisa Konicki, Executive Director, Westerly-Pawcatuck Chamber of Commerce, noting that the proposed amendment would not affect the Downtown Pawcatuck banner program, and describing the process for their banner program.

Chairman Swenarton and the Commissioners felt that the applicants needed to do more work on the amendment in order to clarify the various issues.

Public Comment General: Ed Hart

Public Comment Against: Carlene Donnarummo

Mr. Prue made a motion to close the Public Hearing. Mr. Mercer seconded. The motion was unanimously approved, 5-0.

Mr. Prue made a motion to deny the application as presented. Mr. Mercer seconded. The motion to deny was unanimously approved, 5-0.

**Regular Meeting**

**PZ1030RA Charles C. Buffum, Jr. (Cottrell Brewing)** - Zoning Regulations Text Amendment to Section 1.2 Definitions, Section 4.7 Manufacturing Zone (M-1), & Section 5.2.2 Commercial/Industrial Zones: Summary of Permitted, Accessory & Special Uses to allow for both wholesale & retail sale of beer and related items and catered events.

Seated for the Public Hearing were John Swenarton, Bob Mercer, Ben Tamsky, John Prue, and Gardner Young.

Attorney Nick Kepple, representing Cottrell Brewing, presented the proposed text amendment seeking changes to allow for the sale of beer to participants of a brewery tour. He distributed copies of the State Statute allowing breweries to sell their products. He spoke of the recent legislation proposed for a "Brewery Trail." He submitted four letters of support from neighboring businesses.

Cottrell Brewing owner Charles Buffum named the other four breweries in Connecticut able to offer their products for sale, noting that doing the same would increase their product's visibility, promote the Town's tourism industry, and further enhance the productive reuse of a mill building.

Commissioners asked for clarification regarding catered events being held at the brewery.

**Public Comment in Favor:** Lisa Konicki, Carlene Donnarummo, Mark Kepple

Mr. Brynes read comments from the Police Commission.

Attorney Nick Kepple rebutted regarding the wording being consistent with State Statute.

Mr. Tamsky made a motion to close the Public Hearing. Mr. Young seconded. The motion was unanimously approved, 5-0.

Mr. Tamsky made a motion that the Commission has reviewed the application with regard to consistency with the POCD, to approve the application as presented, and to set an Effective Date of March 7, 2011. Mr. Mercer seconded. The motion was unanimously approved, 5-0.

**PZ1031SPA Whiterock Hospitality, LLC** – Site Plan application for modification of La Quinta Signage approval (PZ0720SUP & GPP Mukesh & Meena Patel). PZC action of 12/7/10 requires a Public Hearing be held for this application. Property located at 349 Liberty Street, Pawcatuck. Assessor's Map 17 Block 3 Lot 1, Zone HI-60.

Seated for the Public Hearing were John Swenarton, Bob Mercer, Ben Tamsky, John Prue, and Fran Hoffman.

Attorney Mark Kepple spoke on behalf of the applicant, noting that the proposed internal illumination of the signs is no more than 11.5%, and that is below the 15% maximum permitted by the Regulations. Mr. Kepple explained that street lights along Route 2 had been removed due to the expansion of the roadway, resulting in the area becoming a "black hole." Had his client been counseled as to the lack of roadway illumination, he would have addressed the issue in the original application. Mr. Tamsky asked for clarification as to which signs the applicant was requesting internal illumination, and Mr. Kepple stated that it was for only two of the three: the freestanding roadway sign and the sign on the building tower. There was discussion of the merits and esthetics of internal illumination.

## Regular Meeting

**Public Comment:** Don Sadowski stated he is opposed to an interior illuminated sign.

**Rebuttal:** Mr. Kepple clarified his previous statement regarding visibility of the tower sign and rebutted some of Mr. Sadowski's statements regarding area residents' dissatisfaction with the signage, noting that, other than Mr. Sadowski, no one came to the hearing to speak against the application.

Mr. Prue made a motion to close the Public Hearing. Mr. Tamsky seconded. The motion was unanimously approved, 5-0.

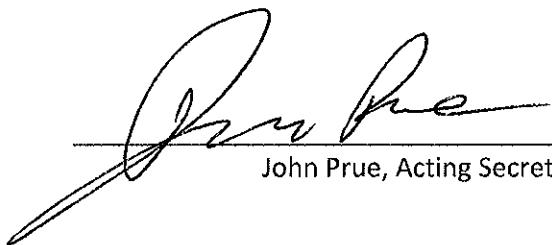
Mr. Prue made a motion to approve the application with three stipulations. Mr. Mercer seconded. The motion was approved, 3-2.

Roll Call: Hoffman - approve, Mercer - approve Prue – approve, Swenarton – deny, Mr. Tamsky – deny.

**Stipulations:**

1. No more than 11.5% internal illumination shall be permitted.
2. Current exterior illumination shall be removed.
3. All opaque areas shall be 100% opaque or it shall constitute a zoning violation.

Mr. Prue made a motion to adjourn the meeting. Mr. Tamsky seconded. The meeting was adjourned at 11:39 P.M.



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John Prue, Acting Secretary