

**Regular Meeting**

The 1439<sup>th</sup> meeting of the Town of Stonington's Planning and Zoning Commission was held on Tuesday, March 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 Rob Marseglia, Bob Mercer, Ben Tamsky, and John Prue (arrived @7:08 P.M.); Alternates Frances Hoffman, Gardner Young, and Curtis Lynch; Zoning Official Joe Larkin, and Acting Director of Planning / Town Planner Keith Brynes.

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

**Minutes:**

Mr. Marseglia made a motion to approve the March 1, 2011 minutes. Mr. Tamsky seconded. The minutes were unanimously approved, 5-0.

**Reports:**

Staff / ZEO - Zoning Enforcement & Violations:

ZEO Joseph Larkin presented his Zoning Enforcement report. He also submitted an archival document regarding Planning & Zoning Commission policies that might be relevant information at the combined land Use Commission meeting scheduled for 3/24/11. Mr. Prue requested that the address, property owner, and a short violation history be included in the Zoning Enforcement report. There was discussion of developing a different format for the Enforcement Report.

**Administrative Review:**

**PZ0582SUP & GPP Amera-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 provided background information previously requested by the Commission.

Attorney Thomas Simones spoke on behalf of the applicant's request, noting that the five-year delay was related to the proposed Liberty Crossing development and the slow economy. Clint Brown of DiCesare-Bentley Engineers answered questions regarding the drive-thru and potential tenants.

Mr. Marseglia made a motion to renew the site plan for five years. Mr. Mercer seconded. The motion was unanimously approved, 5-0.

**PZ0923SUP & GPP (CNU) Hendel's, Inc.** – Request modification to previously approved Change of Non-Conforming Use application for retail store and fuel pumping facility. Proposed modifications are based on acquisition of adjacent property. Property located at 466 Liberty St., Pawcatuck, CT. Assessor's Map 20 Block 3 Lots 2 & 1. Zone HI-60.

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Engineer Paul Biscuti of DiCesare Bentley Engineers, presented the request to extend the parking lot pavement to a portion of the neighboring property, allowing for relocation of the dumpster and greater traffic maneuvering. Property owner John Hendel answered Commission questions about some illegal signage on the light poles the existing non-conforming uses, the existing billboard on the adjacent lot, and relocation of one parking space. Mr. Prue felt the request was an expansion of the non-conforming use. Mr. Hendel disagreed, stating that it was nothing more than paving a driveway-sized piece of land, not an expansion or intensification of the non conforming use. Mr. Biscuti said one non-conformity, the garage, had been replaced with a conforming retail market. Parking will not be increased and the dumpsters will be moved.

Chairman Swenarton thought the Commission had to decide whether or not it is a minor modification to be handled under Administrative Review. Some Commissioners felt that the non-conforming uses and public opinion against the previous approval warranted the applicant returning to the commission with an application requiring a public hearing.

Mr. Tamsky made a motion to deny the request for modification approval through Administrative Review. Mr. Mercer seconded. The motion to deny was approved, 3-1-1. Roll Call: Tamsky - approve, Swenarton - approve, Marseglia - deny, Mercer - approve, Hoffman - abstain

**Old Business:**

**PZ1019RA Town of Stonington - Zoning Regulations (Signage) Text Amendments to Article I: 1.2 Definitions; Article II: 2.13 Performance Standards, 2.15 Architectural Design Review; Article III: 3.3 Residential RM-20, RM-15, RH-10 Zones; Article IV: 4.1 Development Area (DB-5), 4.2 Convenience Shopping (CS-5), 4.3 Local Shopping (LS-5), 4.4 General Commercial (GC-60), 4.5 Tourist Commercial (TC-80), 4.6 Marine Commercial (MC-80), 4.7 Manufacturing (M-1), 4.9 Highway Interchange Zone (HI-60); Article V: 5.2.2 Bulk & Use Table; Article VI: 6.6.5 Special Use Permit – Drive-in Window; Article VII: 7.12 Sign Regulations: 7.21 Neighborhood Development District (NDD); Article VIII:8.4 Site Plan Requirements. *PH Closed 2/15/11.***

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

As Mr. Prue had not been seated, Mr. Tamsky corrected with a new motion to table the application. Mr. Marseglia seconded. The motion was unanimously approved, 5-0.

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

**PZ1101SUP Pacako, LLC (Pita Spot) - Special Use Permit application to reduce parking requirements and allow shared parking to permit outdoor seating for existing restaurant. Property located at 45 Williams Ave., Mystic, CT. Assessor's Map 161, Block 14, Lot 5. Zone LS-5.**

Seated were Mr. Swenarton, Mr. Marseglia, Mr. Mercer, Mr. Prue, and Mr. Tamsky.

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Clint Brown of DiCesare Bentley presented the application to reduce parking requirements (27 to 23), and allow shared parking based on hours of operation of the other two businesses at the site in order to permit outdoor seating for existing restaurant. The applicant proposes to use the outside area to the east of the building to accommodate the outdoor dining, and convert an area to two new parking spaces on Hatch Street. Using a 1999 site plan, he illustrated how the 23 parking spaces would be achieved. There was discussion of the property owner and/or applicant completing site work (dumpster screening, landscaping, curbing), required as stipulated in the 1995 SUP and 1999 SPA approvals.

Public Comment in Favor: Lynn Young read letters from Anne & Frank Rochette, Nancy d'Estang, and neighboring businesses and residents. Robert Delnickas, Peter Glankoff, Paul Holland, Jr., Gary Bennett, Anne Rochette, Frank Rochette, Peter Lacy, Henie Kurzman, Andrew Feinstein, Bin Ricci, Cathy Marco, Frank Marco,

Public Comment Against: Debbie Smith, Kate Nicholson, Arlene Carson, Joyce Ferendo, Kelly McMahon, Bill Ricci. Issues included insufficient parking blocking nearby streets and driveways, residents' safety, liquor consumed on site, limits on operation hours, trash discarded on residents' property, negative impact to the neighborhood, and actual number of permitted seats and employees.

Staff: Mr. Brynes reviewed the approvals for the 1995 Special Use Permit for the initial restaurant at the site, Diamond Deli. He agreed that Pita Spot grew the number of indoor seats without approval, expressed concern that there may not be room to accomplish the required landscaping, and clarified that the parking reduction percentage requested was 37%. Mr. Tamsky observed that there was significant trash and debris at the rear of the building and questioned what avenues there were to address the issue. Mr. Brynes answered Commissioners' questions regarding numbers of parking spaces, seats, and employees.

Rebuttal: Restaurant owner Vivian Torregrossa responded to the parking, noise, and seating issues raised by the public, countering some of their claims and noting that she has tried to address their concerns. Ms. Torregrossa stated that she would not be able to keep the restaurant open without the outdoor seating. She answered questions from the Commission regarding hours of operation, number of employees, and unfinished site work. Clint Brown explained the previously approved site plan requirements. There was discussion of possible alternate areas and modifications for the outdoor seating.

Public Rebuttal: Kelly McMahon discussed the noise issue and questioned the claimed number of employees.

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

Mr. Marseglia made a motion to approve. Mr. Mercer seconded. Mr. Prue and Mr. Tamsky wanted to digest the information prior to making a decision. Mr. Marseglia moved to table the

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deliberations to the April 5<sup>th</sup> meeting. Mr. Tamsky seconded. The motion was unanimously approved, 5-0.

Mr. Prue left the meeting at 10:37 P.M. Chairman Swenarton seated Mr. Young for the Public Hearing.

**PZ1103SUP & CAM Jean B. Coogan** - Special Use Permit application & Coastal Area Management Review for approval of a Child Day Care Center in a one-story building to be constructed in two phases (8035 total square footage), a 24' x 24' (shown as 18' x 18' on site plans) outbuilding, and associated parking, signage, utilities, landscaping & lighting. Property located at 168 Greenmanville Ave., Mystic, CT. Assessor's Map 172, Block 2, Lot 4. Zones RA-40 & RM-15.

Project Engineer Ed Wenke presented the application. The proposal includes demolition of the existing single family residence and construction of a new building. The childcare facility will be constructed in two phases: Phase 1 structure will accommodate 80 children and Phase 2 addition will accommodate 40 additional children. He noted that the Fire Marshal has requested the driveway island be shortened and a gravel path to the south side of the building be provided in order to accommodate fire apparatus egress, stating that these requests would be met. He responded to the comments received from the Department of Transportation and the Architectural Design Review Board.

Nick Fomenko, PTOE, PE, of Milone and MacBroom presented the traffic study and concluded minimal impact should be realized on Rt. 27 with adjustments for seasonal increases.

Dan Russ, general contractor for the project, described the building materials that would be used.

Public Comment in Favor: Heather Panciera was concerned about potential noise, lighting issues, traffic safety, and additional natural screening due to the close proximity of the proposed development to her parcel.

Public General Comment: Roger Panciera expressed hope that the residential character of the location would be preserved and effective screening for the adjacent residential property would be addressed.

Staff: Mr. Brynes discussed comments from the Department of Environmental Protection, Old Mystic Fire Marshal, and Department of Transportation. He explained parking requirements and proposed stipulations, requested waivers, and CAM approval.

Mr. Marseglia asked about proposed signage and lighting requirements.

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Rebuttal: Mr. Wenke stated that the applicant will work with the neighbor on screening, lighting will be full-cut off and low-intensity designed primarily for security, and they will cut back the slopes to address the driveway sight line issue.

Ms. Hoffman suggested that the applicants review the lighting plan with the neighbors.

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

Mr. Tamsky made a motion to approve the CAM application. Mr. Marseglia seconded. The motion was unanimously approved, 5-0.

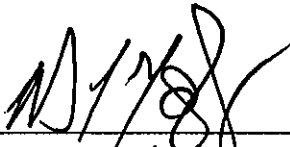
Mr. Marseglia made a motion to approve the requested waivers. Mr. Tamsky seconded. The motion was unanimously approved, 5-0.

Mr. Marseglia made a motion to approve the application with five stipulations. Mr. Tamsky seconded. The motion was unanimously approved, 5-0.

## Stipulations:

1. Final plans shall be reviewed by the Architectural Design Review Board prior to the issuance of any Zoning Permits to address the issues noted during their 3/2/11 review.
2. Final plans shall be reviewed to the satisfaction of the Old Mystic Fire Marshal and show requested change to the center island in the parking lot and provide a gravel packed area on the south side of the building to provide fire apparatus access.
3. Drainage easement shall be recorded prior to the issuance of any Zoning Permits.
4. Storm drains shall be provided near the driveway entrance to Rt. 27.
5. Final plans shall show additional evergreen screening on the north and south property lines of the parcel to adequately obstruct view of the building from adjoining residential properties.

Mr. Tamsky made a motion to adjourn. Mr. Mercer seconded. The motion was unanimously approved, 5-0. Chairman Swenarton adjourned the meeting at 11:40 P.M.

 4/19/11  
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Robert Marseglia, Secretary