

Regular Meeting

The 1462nd meeting of the Town of Stonington's Planning and Zoning Commission was held on Tuesday February 7, 2012 at Mystic Middle School, 204 Mistuxet Avenue, Mystic, Connecticut. The meeting was called to order by Chairman Rob Marseglia at 6:15 P.M. Present for the meeting were Commissioners John Prue, Frances Hoffman, and Ben Tamsky; Alternate Gardner Young, and Interim Director of Planning / Town Planner Keith Brynes. Alternate Curtis Lynch arrived at 6:57 P.M. Commissioner Bob Mercer was absent.

Seated were Mr. Marseglia, Mr. Tamsky, Mr. Prue, Ms. Hoffman, and Mr. Young.

Consideration of Stipulated Judgment Settlement Agreement for approved application **PZ1112SD & SUP Richard C. Panciera Remainder Trust II** – Eight-lot Resubdivision and Special Use Permit applications for the development of 68 attached-housing units and 7 single-family residences. Property located at Mary Hall & Greenhaven Roads, Pawcatuck, CT. Assessor's Map 7, Block 1, Lot 44. Zones RA-20, RM-20, & RR-80.

Mr. Brynes reviewed the proposed settlement with the Commission noting that it does comply with the Zoning Regulations. Some of the changes include: the number of townhouses has been reduced from 68 to 64, the amount of blasting required has been reduced, the site entrance has been shifted south, enhanced vegetative buffers, changes to the stormwater basin, a new area of open space, and restrictions on unit rentals. Mr. Prue asked Town Attorney Jeff Londregan to review the court's appeal process. Mr. Prue felt that proposed settlement is private zoning agreement between two private parties, not a Commission decision. Chairman Marseglia asked what the Commission's ability to act on the settlement would be. Attorney Londregan said it is within the Commission's authority to rule on the agreement as it meets the Zoning Regulations and reduces the Town's legal fees. Mr. Tamsky was concerned about neighboring property owners who were not a party to the appeal and whether they had been provided with enough information to be comfortable with the agreement. Ms. Hoffman asked what would happen should the Commission approve the settlement but the Superior Court does not. Atty. Londregan replied that the appeal to the Court would continue. Mr. Prue did not wish the monetary stipulations to be part of the PZC's approval. Mr. Londregan stated that the Commission could limit endorsement to their areas of jurisdiction. Mr. Marseglia questioned why a public hearing would not be held for the settlement agreement. Atty. Londregan replied that the Commission may hold one if they wish but it is not required. Mr. Young questioned whether the Court could approve the agreement even though the Commission did not. Atty. Londregan said that all parties had to be in agreement for it to be approved.

Mr. Brynes responded to Mr. Prue's question regarding the additional open space, noting that it was created as part of the special use requirements, not the initial subdivision. Atty. Londregan stated that it is specific to the agreement, not a change to the regulations. Attorney Tom Liguori, representing Cherenzia Associates, stated that the open space was approved by the Commission as noted in Stipulation #6. He further explained that the settlement was developed grounded in the Commission's decision and their expression of what wasn't acceptable.

Mark Kepple, the attorney representing the appellants, felt that, "the agreement was able to augment some of the immediate impact that the development presents to at least three or four of the immediate adjoining property owners..." He noted that the agreement was a better product and not an attempt to usurp the Commission's rights but an effort to establish an adequate buffering system for some of the immediate neighbors.

Mr. Tamsky was concerned with enforcement and legality of the conditions placed on rental agreements and occupancy limitations. Atty. Londregan stated that a homeowner's association would be responsible for these issues, not a concern of the Commission. Ms. Hoffman asked what the procedure would be to get comments from the public who are not part of the legal appeal. Mr. Marseglia suggested asking if there was anyone present who wished to speak. Mr. Young noted that all neighbors had the option to be included in the lawsuit and appeal the initial decision. Mr. Tamsky said that those neighbors have not had an opportunity to comment on this proposed agreement. Attorney Londregan explained that if the Commission approves this agreement, he will ask the Court to hold a hearing

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at 10:00 AM on March 8, 2012, Courtroom #5 at the Connecticut Superior Court, 70 Huntington St., New London, CT. He stated that anyone may attend and speak at that hearing.

Following further discussion of the monetary and Attorney Londregan confirmed that the Commission can just rule on those items in their jurisdiction.

Mr. Tamsky made a motion to approve the settlement agreement for **PZ1112SD & SUP Richard C. Panciera Remainder Trust II**, omitting item #4 and #9. Ms. Hoffman seconded. Mr. Tamsky amended his motion to include the stipulations from the original approval. Ms. Hoffman seconded. The proposed settlement was approved 4 - 1. Roll Call: Tamsky - approve, Prue - deny, Marseglia - approve, Ms. Hoffman - approve, Young - approve

Approval of Minutes:

#1460, January 3, 2012, approved, not signed; #1461, January 17, 2012

Ms. Hoffman made a motion to approve the 1/17/12 minutes. Mr. Tamsky seconded. The motion was approved, 4-0-1.

Roll Call: Marseglia - approve, Tamsky - approve, Prue - approve, Hoffman- approve, Young - abstain

ZEO - Pending Variances, A-2 survey waiver requests:

ZBA #11-22 Henry W.S. & Amie S. Han – Seeking a variance from ZR 2.8 Undersized Lots - adjacent & ZR 2.9 Undersized Lots - other to reinstate dissolved property line and allow construction of a single family residence. Property located at Ingersoll St., Pawcatuck Avenue, and Hawley St., Pawcatuck, CT 06379. Assessor's Map 26 Block 3 Lots 1, 7, 8, & 9. Zone RR-80.

Mr. Brynes explained that the lots were undersized and created prior to the current zoning regulations.

Chuck Canavan, the architect for the applicant, noted that they would be having an A-2 survey done if the ZBA approves their request to divide the lots.

Mr. Tamsky made a motion to approve. Mr. Prue seconded. Mr. Prue was concerned since there has been expensive litigation on similar requests to the ZBA.

The motion was unanimously approved, 5-0.

Administrative Review:

Noank Shipyard / Seaport Marine Marina – Request for Zoning Determination of Height Regulations applicability to proposed project site. Property located at 2-4 Washington St., Mystic. Assessor's Map 182 Block 1 Lot 16 Zone MC-80 TCORS Attorney Bill Sweeny, representing Noank Shipyard, discussed the site's zoning district and overlay requirements, noting the different height limitations of ZR 5.2.1 (MC-80 bulk requirements) and ZR 7.3.5 (Design Height Limitations in Coastal Areas), and the different manners of calculating roof height. Atty. Sweeney is of the opinion that ZR 7.3.5 is the more restrictive of the regulations and as such, should apply. Architect John Walsh discussed the building design requirements needed in order to meet the Flood Hazard Zone regulations and his interpretation of the height regulations, illustrating two different building rooflines and how they are measured. Mr. Tamsky felt that both ZR 7.3.5 and ZR 5.2.1 are to be applied, not one or the other. Chairman Marseglia thought the more restrictive one should apply, not both. Mr. Tamsky asked ZEO Joe Larkin for his interpretation of the height regulations. Mr. Larkin said both regulations need to be applied with the more restrictive one prevailing based upon specific building design submitted. Chairman asked to hear from people in the neighborhood. Engineer Sergio Cherenzia of Cherenzia Associates was present.

David Snediker spoke against the height. Blunt White stated that financing was not available unless it was base flood elevation. Commission members made comments. Ms. Hoffman suggested a text amendment.

At this time John Prue left and Chairman Marseglia seated Curt Lynch.

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12-014 ZON Pechje, LLC – Request approval for change to approved signage program for existing and new tenant (Ayurvedic Herbalist) signage. Property located at 37-39 West Broad St., Pawcatuck. Assessor's Map 1 Block 4 Lot 6 Zone DB-5.

Mr. Brynes discussed the request for a change to the currently approved signage program, noting that no permits for existing signs have been applied for.

Mr. Tamsky made a motion to approve with the stipulation that prior to the Zoning Official's approval of the Zoning Permit, the property owner shall apply for a Zoning Permit for the unpermitted signs.

Ms. Hoffman seconded.

Jessica Ferrell spoke of the signage in downtown Pawcatuck, noting that the projecting signs are both more visible and attractive, and the property owner is likely unaware that he didn't acquire the necessary permits.

Chairman Marseglia wanted to approve this application and then send a Notice of Violation to the owner of the building. Mr. Tamsky and Ms. Hoffman retracted their motions. Mr. Lynch made a motion to approve the application. Ms. Hoffman seconded. The motion was unanimously approved, 5-0.

Old Business:

PZ1133BR Pequot Development Associates - Application for reduction of Public Improvement Bond posted to satisfy requirements of proposed construction activity related to **PZ0803SD & GPP**. Original bond instrument was a Letter of Credit for \$981,568.13. Applicant received a reduction to \$300,000.00 on 8/17/10 & requests a further reduction to \$150,000.00. Property located at 56 Jeffrey Rd., Pawcatuck. Assessor's Map 17, Block 1, Lot 6, Zone RM-20.

Mr. Tamsky made a motion to table the application. Mr. Lynch seconded. The motion was unanimously approved.

PZ1134SPA & CAM Latimer Point Condominium Assoc., Inc. - Site Plan Application & Coastal Area Management Review for proposed decks, deck additions, house additions & shed. Properties located at 16 North Shore Way, 1 Reid Rd., 14 Crooked Rd., 35 East Shore Rd., 43 East Shore Rd., & 55 East Shore Rd., Stonington, CT. Assessor's Maps/Blocks/Lots: 154/2/10, 154/4/7, 154/4/16, 154/6/4, 154/6/6, & 154/6/10. Zone RM-20.

Mr. Tamsky made a motion to table the application. Ms. Hoffman seconded. The motion was unanimously approved.

PZ1202 SPA & GPP Malico, LLC – Site Plan & Groundwater Protection Permit applications to construct a 1,680 s.f. commercial building and associated site improvements for driveway, parking, gravel storage, septic, utilities, and stormwater management. Property located at Taugwonk Rd., Stonington. Assessor's Map 67 Block 2 Lot 2. Zones GC-60 & RR-80.

Mr. Tamsky made a motion to table the application. Ms. Hoffman seconded. The motion was unanimously approved.

Public Hearings: 7:30 p.m.

PZ1131SD & CAM Clara M. Coogan Trust - Subdivision and Coastal Area Management Review applications for a 2-lot subdivision. Property located at 162 Greenmanville Ave. & Pleasant St., Mystic. Assessor's Map 172 Block 2 Lot 5. Parcels included as part of proposed Open Space are Assessor's Map 163 Block 1 Lots 5A & 9. Zones RM-15, RA-20, & RA-40. *Continued from 1/17/12.*

PZ1132SUP & CAM Clara M. Coogan Trust – Special Use Permit & Coastal Area Management Review applications for phased development of a 245-unit Congregate Living Facility on 18.02 acres to be created through subdivision of a ±52.07 acre parcel. Phase 1 proposes 125 units and Phase 2 proposes 120 units. Property located at 162 Greenmanville Ave., Mystic. Assessor's Map 172 Block 2 Lot 5. Zones RM-15 & RA-40. *Continued from 1/17/12.*

Maggie Jones, Executive Director of Dennison Pequotsepos Nature Center stated that they are under contract to purchase the additional 34 acre property from the Coogan Trust. Mr. Lynch asked about the interconnectivity of the

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open space. Ms. Jones explained how the open space associated with this project would connect with existing open space owned by various organizations.

Mr. Brynes reviewed the feasibility report for the project. The Clara Drive intersection plan was approved by the Police Commission on 2/6/12 with recommendations that the speed limit on Clara Drive should be set at 15 or 20mph, the applicant should work with McQuades to clear brush on their property and proper signage should be placed on Clara Drive. The applicant does not yet have written permission from McQuades to clear landscaping on their property so the Developer must meet the site lines without it.

Richard Strouse, Engineer with CMCE Associates, spoke about the application. They met with the Board of the Denison Pequot Nature Center and showed them pictures of the catch basins and they are fine with it in the open space, but if it needs to be located within the assisted living property, that would be fine also. Mr. Lynch asked whether an open space trail could lead to Clara Drive. Joe Mastronunzio of Brom Builders discussed a possible walking trail along the western border of the assisted living property out to Clara Drive. He presented a sight line demonstration of the Clara Drive intersection and the planned McQuade's brush clearing and signage. Mr. Tamsky asked if the new western property line could be moved to the west to accommodate the buffer. Mr. Strouse stated that it could be moved, although he believes it conforms to the regulations.

Mr. Mastronunzio introduced Bob Coleman of Coleman Drilling & Blasting to answer any questions. Mr. Mastronunzio stated that his firm will perform pre-blast surveys for any home owners on the north side of Pleasant Street. Submitted plans include 14 restrictions on blasting. He reviewed the warning procedures and time restrictions on blasting. Mr. Tamsky asked about blasting near the sewer line going over to Rt. 27. Mr. Mastronunzio said there could be some blasting there. Mr. Coleman explained insurance company policies that restrict inappropriate blasting.

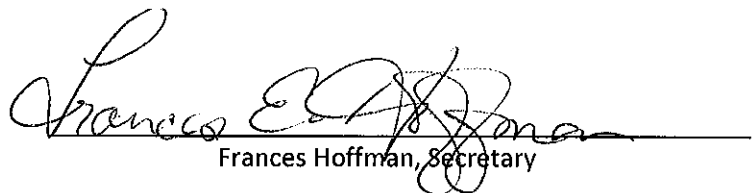
Attorney Susan Pochal, representing the Coogan Family Trust, reminded the Commission that the boundaries of the subdivision and appraisals have already gone to Probate Court and negotiated with the Nature Center. Changing them would be very difficult. The Coogans would also like to maintain maximum frontage on Clara Drive.

Public Comment: Barbara Wilson stated that the entrance on Pleasant Street is locked and thought there shouldn't be public access since it is a residential neighborhood without parking.

Maggie Jones stated that they are working with CL&P and that parking won't be an issue since people would park near other parts of the trail. Mr. Strouse stated that despite the gates there is room for pedestrians to access the area.

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

Mr. Tamsky made a motion to adjourn the meeting. Mr. Lynch seconded. Mr. Marseglia adjourned the meeting at 10:52 P.M.


Frances Hoffman, Secretary