

## Regular Meeting

The 1471<sup>st</sup> meeting of the Town of Stonington's Planning and Zoning Commission was held on Tuesday, June 19, 2012 at Mystic Middle School, 204 Mistuxet Avenue, Mystic, Connecticut. The meeting was called to order by Chairman Robert Marseglia at 7:00 PM. Present for the meeting were Commissioners John Prue, Ben Tamsky, Frances Hoffman, and Bob Mercer; Alternates Gardner Young and Curtis Lynch, and Town Planner / Interim Director of Planning Keith Brynes.

Seated for the meeting were Mr. Mercer, Ms. Hoffman, Chairman Marseglia, Mr. Tamsky, and Mr. Prue.

**Commission Initiatives:****Discussion of 2014 Plan of Conservation and Development –2014 POCD Committee candidate selection.**

Ten (10) candidates applied, two (2) withdrew their applications; one (1) PZC Commissioner will serve on this committee, making for nine (9) candidates under consideration.

A motion was made by Mr. Tamsky, seconded by Mr. Mercer, to appoint all nine (9) candidates to the POCD subcommittee of the Stonington PZC. Members include Bob Birmingham, Wendy Bury, Walter Grant, Jim Kelley, Sara Lathrop, Bill Lyman, Robert Mohr, Alisa Morrison and John Prue. The motion passed unanimously.

Ms. Hoffman asked for advanced notice of when POCD meetings will occur. Mr. Prue stated that the PZC will receive the meeting schedule and agenda. A line will be added to Commission Initiatives on the PZC agenda to inform the PZC of upcoming POCD meetings. Mr. Brynes will confirm whether members need to be sworn in.

**Approval of Minutes:**

A motion was made by Ms. Hoffman, seconded by Mr. Tamsky to approve the June 5, 2012, PZC meeting minutes. The motion was approved 3-0-2.

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

**Administrative Review:**

**ZON12-131 Alliance Energy, LLC** - Zoning Permit application for installation of a blue/white fascia on existing fuel filling island canopy. Property located at 87 West Broad St., Pawcatuck. Map 3 Block 21 Lot 3, Zone LS-5.

Staff reported that this is a repeat of a previous Zoning Permit denied by the Commission on April 17, 2012, after the Commission determined that the fascia was a sign. The applicant has appealed the ZEO's denial of the previous Zoning Permit to the Zoning Board of Appeals, with the public hearing scheduled for August 14, 2012.

Mr. Tamsky questioned the appropriateness of a repeat application, saying that the ZBA appeal process should play out. Mr. Mercer shared the same concerns. Mr. Prue stated that this appeal brings up several legal issues that need to be reviewed by the Town Attorney. Mr. Marseglia felt that since it was a new, paid-in-full application, the Commission should hear the applicant that evening.

Attorney Ted Ladwig, representing the applicant, presented the application. He distributed 3 exhibits: CT General Statutes 8-2 as amended, a copy of a 1988 CT Supreme Court Ruling, *Capalbo v Greenwich*, and the definition of a "sign" from the current Zoning Regulations. Mr. Ladwig stated that the law is clear that a color is not a sign and that the Commission cannot regulate the color of signs, noting that several gas stations in town have bright colors and logos on them. Mr. Mercer stated that during the initial presentation, the color was presented as a logo meant to specifically identify a company. Mr. Ladwig stated that the new application

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simply presents colors and not the name of a client. Ms. Hoffman felt that it was the same thing being described differently. Some of the commissioners felt that this application presented new information.

A motion was made by Mr. Tamsky, seconded by Mr. Mercer to deny the application. Mr. Tamsky stated that the Commission is not telling the applicant which color to use. The issue is that the fascia is a sign which exceeds the amount of signage allowed by the regulations. Mr. Prue stated that this decision, if upheld by the ZBA, sets a bad precedent. Mr. Marseglia's concern was that PZC is not being consistent with present and past rulings.

The motion to deny the application failed 1-4.

Roll call: In favor of denial of the application – Tamsky; opposed to denial of the application – Mercer, Hoffman, Marseglia, Prue

A motion was made by Mr. Prue, seconded by Ms. Hoffman to approve the application. Motion passed 3-1-1.

Roll Call: Prue - approve, Marseglia - approve, Hoffman - approve, Tamsky - oppose, Mercer - abstain

**ZON12-132 Readco Stonington III, LLC** - Zoning Permit application for outdoor patio seating (24 seats). Property located at 465 Liberty Street, Pawcatuck. Map 18 Block 1 Lot 36, Zone HI-60.

Mr. Brynes described the application to replace 3 parking spaces with outdoor seating. There is adequate parking and up to 24 outdoor seats are exempt from the parking requirements. There were no objections from the Fire Marshal.

Mr. Al McAnly presented this application, describing the location of the outdoor seating area, and noting that the area will be made aesthetically appealing. There will be 6-inch high curbs with a fence around the exterior in order to protect the people from walking off the patio area into the vehicle travel area. There will be 6-8 planters, 4-foot high spread around the patio to enhance landscaping.

A motion was made by Mr. Tamsky, and seconded by Mr. Mercer to approve the application. The motion was unanimously approved, 5-0.

**ZON12-133 Moogie, LLC** - Zoning Permit application for outdoor patio seating (9 seats) at Wide World of Bagels. Property located at 24 East Main Street, Mystic. Map 182 Block 4 Lot 9, Zone LS-5.

Staff distributed plans and explained that the applicant is requesting permitting for 9 outdoor seats. The proposal would replace one parking space and relocate one handicapped parking space. The total seating, both interior and exterior, is 26. The Fire Marshal recommended an additional bollard be placed to further protect customers in the outdoor seating area. Mr. Brynes confirmed that the parking would still be adequate. Owner Elliot Cohen stated that there will be shrubs on one side and bollards with a railing in front, agreeing to install the additional bollard as requested by the Fire Marshal.

An amended motion was made by Ms. Hoffman, seconded by Mr. Mercer to approve the application with the stipulation that the additional bollard be added per the Fire Marshal's review. Mr. Brynes stated he will get a final copy of the plan correcting a discrepancy in the number of seats. The motion was unanimously approved.

**Public Hearing(s):**

**PZ1205SUP & CAM Summit Street Development, LLC** - Special Use Permit & Coastal Area Management Review applications for construction of a 1-story, 4,944 square foot dental office building, parking, associated

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landscaping, utilities, & storm water management. Property located at the corner of Harry Austin Dr. & Masons Island Rd., Mystic. Assessor's Map 160 Block 4 Lot 4. Zone M-1. **Applicant requests continuation to 8/7/12.**

A motion was made by Mr. Prue, and seconded by Ms. Hoffman to continue **PZ1205SUP & CAM Summit Street Development, LLC**, to 8/7/12.

**PZ1212SUP JBRV, LLC (Valenti VW)** – Special Use Permit application for construction of a new 17,000 square foot two-story auto dealership building and associated improvements. Property located at 72 Jerry Browne Rd., Mystic. Assessor's Map 164 block 2 Lot 3. Zone GC-60.

The Call was read by Secretary Hoffman, and Chairman Marseglia explained the order of this Public Hearing.

Applicant Robert Valenti and Project Leader Sergio Cherenzia, P.E., presented this application. Mr. Cherenzia submitted certified mailings of the abutter notifications, displayed two (2) exhibits of the proposed structure, and explained that the proposed expansion is in support of Volkswagen sales. Mr. Cherenzia stated that the proposal meets all zoning requirements and described utilities and drainage. The staff report incorrectly states over 200 parking spaces are required when the actual requirement is for 132. The project has been approved by the Inland Wetlands and Watercourses Commission, and at their request, vegetative enhancements will be added around the parking. There will be no change in the current hours of operation.

Ms. Hoffman asked for clarification regarding the type and location of the building illumination. Mr. Valenti described the building lighting proposed under the soffit inside the windows, noting they could adhere to the stipulation that it be shut off at 10 p.m. or 11 p.m., but that some of the building and site lighting is for security and needs to remain on all night.

Chairman Marseglia opened the floor for comments from the public:

Ms. Carlene Donnarummo spoke under General Comments, recommending that there be a time limit for the proposed lighting.

Mr. Brynes stated that the staff report did overstate parking but there is enough onsite, the review by Architectural Review Board noted that the building color should be white and not beige, there were no objections from the Town Engineer, Police Commission or other reviewers, and the proposed wall signs meet the zoning regulations.

Mr. Lynch suggested staff should provide input on whether individual standards under Section 6.4.4 will be met. Mr. Tamsky stated that this review is the Commission's role. Mr. Marseglia discussed the need for all Commissioners to adequately review plans and applications.

Chairman Marseglia opened the floor to the applicant for rebuttal: Mr. Valenti stated that lighting would have to remain on until 10 P.M. Mr. Prue asked whether the site is approaching the maximum allowed gross floor area ratio. Mr. Cherenzia stated that the site is not near the maximum allowed. Mr. Brynes asked if the CT Department of Health had any other comments on the water service. Mr. Valenti stated that the State has no issues since they are not adding a well. Mr. Valenti has passed this information to the Town Sanitarian. Mr. Brynes confirmed that the Sanitarian had no further concerns.

A motion was made by Mr. Tamsky, and seconded by Ms. Hoffman to close this public hearing. The motion was unanimously approved.

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A motion was made by Mr. Prue, and seconded by Ms. Hoffman to approve the 6 Special Use Permit waivers requested. The motion was unanimously approved.

A motion was made by Mr. Prue, and seconded by Mr. Tamsky to approve the Special Use Permit application with 5 stipulations recommended by staff.

Mr. Prue modified his motion to include a 6<sup>th</sup> stipulation of approval. Ms. Hoffman seconded. The motion was unanimously approved.

Stipulations of approval:

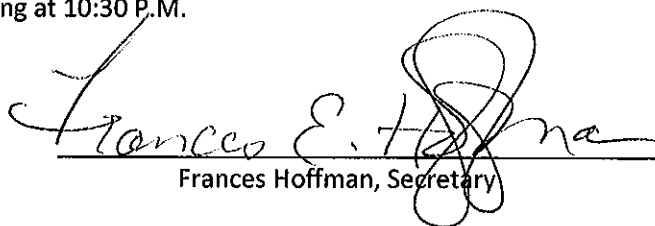
1. The applicant shall post an Erosion and Sedimentation Control Bond prior to the issuance of any Zoning Permits. The bond amount shall be established by the Town Engineer after an estimate of the construction cost is provided by the applicant and approved by the Town Engineer.
2. Final plans shall be recorded prior to issuance of any Zoning Permits.
3. Final plans reviewed to the satisfaction of the Old Mystic Fire District.
4. New signs shall be limited to a maximum of 15% interior illumination per section 7.12.3.1.
5. New site and/or building lighting shall be full cut-off.
6. Ribbon lighting as depicted in the drawing Z0.3 from Volkswagen shall be turned off by 10:00PM.

**Commission Initiatives: Discussion of the Director of Planning Position** – Mr. Marseglia stated that members need to review plans and reports on their own and should not use staff as their sole means of preparation. Without a Director of Planning staff does not have the time for such a review with Commissioners. The Commission discussed whose responsibility it is to come up with a list of questions and to complete due diligence reading and research of applications. The PZC all agreed that it is OK to call Staff with a few questions but to be careful not to monopolize his time.

Mr. Marseglia felt that the PZC Bylaws and State Statutes allow the Commission to hire a new Director, and inquired if the Commissioners were prepared to make that request of the Town. There was not consensus that a new Director is needed. Mr. Mercer felt that a full time ZEO was needed instead. Ms. Hoffman suggested that consultants can be hired as necessary. Mr. Marseglia recommended that the Commission put together a prioritized schedule for their ongoing initiatives and later assess whether more staff is needed.

Mr. Marseglia stated members should keep in mind that the Commission is liable for their actions when voting. The Commission should vote carefully since their decisions impact the Town's liability.

A motion was made by Mr. Prue, and seconded by Mr. Tamsky to adjourn. The motion was unanimously approved. Chairman Marseglia adjourned the meeting at 10:30 P.M.

  
Frances Hoffman, Secretary