

## Regular Meeting

The 1472<sup>nd</sup> meeting of the Town of Stonington's Planning and Zoning Commission was held on Tuesday, July 17, 2012, at Mystic Middle School, 204 Mistuxet Avenue, Mystic, Connecticut. The meeting was called to order by Chairman Robert Marseglia at 7:04 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 A. Brynes.

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

**Approval of Minutes:**

A motion was made by Ms. Hoffman and seconded by Mr. Tamsky to approve the June 19, 2012, PZC meeting minutes. The motion was unanimously approved, 5-0.

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

**ZBA #12-08 Michael Hasse & Nadezhda Pencheva-Hasse.** Staff reviewed the waiver request. A boundary survey was found but the location of the house is not shown. The Commission discussed the preference to have the ZBA review A-2 survey waivers.

A motion was made by Mr. Prue, seconded by Mr. Tamsky to grant the waiver. The motion was unanimously approved.

**Administrative Review:**

**12-153ZON 99 Mechanic, Inc.** - Zoning Permit application for installation of a 9-foot roll up door, exterior concrete pad, scissor dock lift, & portable canopy to accommodate deliver, storage & distribution for the Sun Publishing Co. Property located at 99 Mechanic St., Pawcatuck. Map 4 Block 17 Lots 4, 5, 6, 7, & 8. Zone M-1.

Staff distributed copies of the application, explaining the proposed exterior changes are small and there is no change in use (office). The fire department commented that additional smoke detectors may be required. Mr. Marseglia questioned if the permitted use was changing, to which Mr. Brynes replied that these are only site plan changes to reconfigure the parking lot with the use remaining as office.

A motion was made by Mr. Prue, seconded by Mr. Mercer to approve the application. The motion was unanimously approved.

**12-160ZON Hendels Investors Co.** - Zoning Permit application for installation of a 29" x 88" propane cylinder storage cage. Property located at 3 Roosevelt Ave., Mystic. Map 174 Block 16 Lot 2. Zone LS-5.

**12-164ZON Savin Gas Properties II, LLC.** - Zoning Permit application for installation of a 29" x 88" propane cylinder storage cage. Property located at 242 Greenmanville Ave., Mystic. Map 171 Block 2 Lot 2. Zone TC-80.

Staff distributed copies of the applications. Mr. Marseglia recommended discussing 12-160ZON and 12-164ZON together because the requests are the same, just at different sites. Staff reported that both applications conform to bulk and use requirements, and have been approved by their respective fire departments.

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A motion was made by Mr. Tamsky and seconded by Mr. Prue to approve the application for 12-160ZON Hendels Investors Co. with stipulation that the cage is anchored as required. The motion was unanimously approved.

A motion was made by Mr. Tamsky, seconded by Ms. Hoffman to approve the application for 12-164ZON Savin Gas Properties II, LLC. The motion was unanimously approved.

A motion was made by Ms. Hoffman and seconded by Mr. Prue to amend the agenda to change the order of the public hearings, with the applications to be heard in the following order: A, C, B. The motion was unanimously approved.

- A. PZ1213SUP Sea Research Foundation, Inc.** – Special Use Permit application for construction of a two-story, 7060 SF office/laboratory building with associated site improvements including relocation of walk-in freezer, relocation & expansion of propane tanks, parking, and landscaping. Property located at 55 Coogan Blvd., Mystic. Assessor's Map 164 Block 3 Lot 2, Zone TC-80.

Presenting the application were Paul Biscuti, P.E., of DiCesare-Bentley Engineers; Tracy Romano and Keith Sorensen from Sea Research Foundation, Architect David Holmes of Capital Studio Architects, and Landscape Architect Chad Frost of Kent + Frost. Mailing receipts were submitted for the record. The proposal is for a new office and research building on the north end of campus, where temporary office trailers are located. Existing propane tanks will also be relocated to allow for placement of freezers. The proposal has received IWWC approval.

Mr. Holmes presented a sample of the metal siding and colors to be used on the new building. He stated that the Architectural Design Review Board voted in favor of the building design. Mr. Frost presented an enlarged view of the landscaping plan.

Mr. Prue asked if an approval requiring removal of the existing trailers would be amenable to the applicant. Mr. Sorensen responded, yes, the trailers would be removed prior to receiving a certificate of occupancy for the new building, but the trailers will still be needed during building construction.

Ms. Hoffman asked whether there will be an increase in impervious surfaces. Mr. Biscuti replied that there will be a slight increase in the gravel parking lot but would be insignificant with no need for mitigation. Mr. Sorensen noted that there are no plans for new signs, but should they require some at a later date, they will submit the necessary application(s).

**Public Comments – General Comments:**

Carlene Donnarummo stated that some of the requested waivers should not be granted and raised the water company's concerns. Chris Reagan of Old Mystic Village asked about building size and parking requirements.

Mr. Brynes stated that the parking conforms to the regulations and minor zoning comments could be addressed in the stipulations of approval. Ms. Hoffman felt it was important to have the response back from the fire department and Aquarion Water prior to approval. Mr. Prue felt the public hearing should be continued until the Commission receives those comments.

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Chairman Marseglia opened the floor to rebuttal. Mr. Biscuti stated that fire emergency vehicle access has improved due to a wider right-of-way. Sewer flows were examined and found to be the same as those for the temporary trailers, and proposed water usage would be similar to the existing. They will follow-up with Aquarion Water and add E&S controls to the plans. Mr. Prue stated that he is not comfortable with having several stipulations for every approval and feel this can be a burden to staff.

A motion was made by Mr. Prue and seconded by Mr. Tamsky to continue to the hearing to 8/7/12 at Pawcatuck Middle School. The motion was unanimously approved.

**C. PZ1216SUP Pacako, LLC (Pita Spot)** - Special Use Permit application to allow liquor sales for consumption on premises at existing restaurant. Property located at 45 Williams Ave., Mystic. Assessor's Map 161 Block 14 Lot 5, Zone LS-5.

Presenting the application was Mr. Edward Hokayem, co-owner of the Pita Spot. The restaurant had received a provisional liquor license from the State of CT. The applicant explained that there will no changes in the restaurant, no bar will be constructed, they are seeking to improve revenue and be competitive with other restaurants in the community by serving liquor. Mr. Hokayem stated that the Pita Spot has not yet begun serving alcohol.

Public in favor:

Rod Desmarais stated purchasing alcohol elsewhere is an inconvenience for restaurant customers. Bob Delnickas felt that the restaurant has had a positive impact on the neighborhood.

Public against:

Kelly McMahan, a neighbor adjacent to The Pita Spot, felt that serving alcohol would add to the existing negative impacts of the restaurant such as the noise of trash pickup at 5:00am, three times per week worsening with the disposal of more bottles. She noted that Pita Spot is not in compliance with their buffer requirement, and is concerned with the lack of ability to enjoy her property and further loss of the property value. She stated that the restaurant has not completed the fence between their properties, and the Commission should enforce its regulations.

General Comments:

Lynn Young felt that people drinking and crossing back and forth across the street to the package store presented a safety issue and noted that the restaurant's competitors are allowed to serve liquor. Frank Rochette lives around the corner and feels this business is family-owned, they are the nicest people, and he hopes they stay in business. Paul Sartor stated the owners are great but those living closest to the site should have the most say and he can understand the concerns of the neighbor.

Mr. Brynes reported that there were no issues reported by the Fire Marshal, Sanitarian or Police Commission. The recommended stipulation for completion of the fence was discussed. Mr. Tamsky stated that an as-built site plan would help clarify ongoing enforcement issues such as the buffer. Mr. Marseglia stated that these were separate issues from the liquor permit that could be addressed at a future meeting. Mr. Mercer clarified that we are hearing two separate issues here tonight and they are: 1) liquor special use permit, and 2) a site plan issue with a neighbor. Mr. Prue asked if the dumpster location could be moved to lessen its impact on neighbors.

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Mr. Hokayem stated a site plan was completed and was approved by the Town and feels the neighbor's issues are not related to this application for a liquor permit, noting that liquor bottles will be placed in recycling bags and not in the dumpster. Mr. Hokayem said that the property owner added a fence on the northern side but did not extend it to the end of the property because trees and shrubs would have to be removed, and that the dumpster is in the best location. Ms. Hoffman stated that fences can often make noise issues worse. Mr. Mercer and several commissioners agreed that there are two separate issues here tonight.

A motion was made by Mr. Prue and seconded by Mr. Tamsky to close the Public Hearing. The motion was unanimously approved.

A motion was made by Mr. Prue, and seconded by Ms. Hoffman to approve the waiver requests. The motion was approved, 4-1.

Roll Call: Prue – approve, Marseglia – approve, Hoffman – approve, Mercer – approve, Tamsky – deny

A motion was made by Mr. Prue and seconded by Ms. Hoffman to approve the application with recommended stipulations #1 and #3 in the Staff Report. The motion was approved 4-0-1.

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

## Stipulations:

1. Hours of operation shall be limited to 10:00PM.
2. Stipulations of previous Commission approvals for this property remain in effect.

**B. PZ1214SUP & CAM Noank Shipyard, Inc.** - Special Use Permit & Coastal Area Management Review applications for construction of a 2-story, 8,340 square foot mixed-use marina support facility with retail, restroom, shower, laundry, & restaurant facilities; liquor sales, & architectural feature height exception. Property located at 2-4 Washington St., Mystic. Assessor's Map 182 Block 1 Lots 6, 12, & 16. Zones MC-80 & RC-120.

Presenting the application were Attorney Bill Sweeney, owner/president John Holstein, Project Manager Harry Boardsen, Architect John Walsh, Professional Engineer Sergio Cherenzia, Traffic Engineer Michael Desmond, and restaurateur Angela Kanabis.

Attorney Sweeney stated the goal of the application is to receive Special Use Permit and Coastal Area Management approvals for a new, mixed-use marina facility. The new restaurant will be geared toward families and transient boaters, does not include plans for live entertainment, and would remain open until 2:00am. The building complies with zoning and blends with the surrounding neighborhood. The building is a little over 8,000 square feet but is still hundreds of feet away from residential neighbors. Plans have been approved by the Architectural Design Review Board and Stonington Police Commission. The CT DEEP Office of Long Island Sound has reviewed the application and they are concerned that this is a reduction of a water-dependent use. Mr. Sweeney stated this is not a reduction as there is no loss in the number of boats or the ability for boat storage. The applicant will work with DEEP and the Commission to address any issues and apply for any necessary state permits. The building is designed to be elevated up above the base flood elevation allowing water to flow underneath. A five-foot rear yard setback is required for marinas. Mr. Sweeney stated the property is legally non-conforming regarding floor area ratio requirements when land under elevation 3' is deducted. The larger warehouse demolished for this project offsets the floor area of the new building. Mr. Prue was concerned about possible abandonment of the non-conformity by tearing

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down the warehouse prior to this application. Mr. Sweeney denied intent to abandon the non-conformity. Mr. Prue wanted to know the extent of the non-conformity.

Project Architect John Walsh presented building elevations, explaining that the restaurant will seat 100 people, and an extended roof line around the building will provide cover over walkways. The applicant is also requesting Special Permit approval for an Architectural Height Exemption for the roof monitor, noting there will be no direct lighting of the monitor. The building was designed to meet height requirements for the MC-80 zone and Coastal Zone Height limit. The Architectural Design Review Board praised the building design.

Sergio Cherenzia, P.E., presented the site plans, explaining stormwater runoff design and traffic circulation through a 30-foot area to provide fire and utility vehicle access. Approvals were received from all utility providers. The overall landscape will be low-lying trees, shrubs, and grass to contribute to better viewing of the coast. After analyzing traffic at peak times, there does not seem to be any issue, nor did the Police Commission have any concerns with traffic or public safety.

Mr. Prue asked for the floor area calculations. Mr. Cherenzia stated the site is non-conforming and a complete topographic survey should not be necessary since they are reducing the non-conformity. Mr. Marseglia stated that the demolition of the warehouse brought the application closer to conforming.

Engineer Michael Desmond addressed traffic safety issues. The Police Department reported no accidents at the intersection of Washington and Willow Streets over the past 3 years despite the narrow road width and large boats being towed. Mr. Desmond stated that site distances are adequate and there are no unusual conditions or traffic safety issues with the proposal.

Mr. Sweeney pointed out that Zoning Regulation 2.6 .2 says intent-to-abandon a nonconformity has to have been established. He stated that the building was demolished to accommodate this project after meeting with the Fire Marshal, and exact floor area ratio numbers are pointless.

Public Comment in Favor:

Chuck Sneddon stated that delays in the approval process are harmful to the owners, and he had a conversation with the owner around his intent to tear down the warehouse for this project. Terry Grimes discussed pre-existing non-conformities and the intent to abandon. Realtor Michael Blair stated that this project relates well to the area. Paul McMasters, project manager for 60 Willow Street Condominiums, spoke in favor. Scott Zelken supported the project as an expansion of access to the water for locals and tourists. David Labbie stated this project would be a good gateway to Mystic, bringing more tourists, businesses, and jobs to the area. Kate Abel, Steamboat Inn Manager, supports the application as a benefit for businesses and tourism. William Feretti spoke in favor. John Johnson, owner of 60 Willow Street Condominiums, felt this project will have a positive impact on his property. Amy Blumberg, owner of Argia Cruises, is in favor because downtown must have a means to improve. Craig Fisher spoke in favor. Peter Helie reviewed the plans and feels the project is sensitive to environment. Trisha Cunningham, President of the Mystic Chamber of Commerce, read a letter from the Chamber supporting the project. Owner John Holstein stated that their intent was to demolish the warehouse to accommodate the new building. Peter Humphry spoke in favor.

Public Comment Against:

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David Snediker lives across the street from Seaport Marine and feels the scope of the restaurant diminishes the marina usage. He stated that the 39% increase in traffic through the neighborhood is a concern, and if approved, stipulations should require closing at 10:00PM and should prohibit live music. He feels there should be a development plan for the entire site. Michael Crowley stated that traffic is a major issue on narrow streets. Janice Mink is opposed to the increase in traffic and believes the project will change the character of the neighborhood. Paul Sartor opposed the application due to the scope of the project and the traffic impacts on a major pedestrian thoroughfare, stating that applicants should provide detailed floor area ratio information. Ben Helme was concerned with the restaurant being open until 2:00am, agreeing with 10:00pm as a closing time. Joan Durant was concerned about parking, traffic and lighting issues and stated the roof monitor should be eliminated. Spyros Barres is concerned with neighborhood traffic.

## General Comments:

Carlene Donnarummo shares concerns over traffic on the narrow streets and the issues raised by the DEEP. Angela Kanabis, proposed manager of the new restaurant, stated that she has never received a noise complaint or violation at her restaurants, noting that many customers will likely arrive by boat. Mr. Prue asked what a reasonable closing time would be and how many deliveries per day are expected. Ms. Kanabis stated midnight as a reasonable closing time and an expected 5 or 6 small delivery trucks daily. Mr. Young asked if the 100 seats requested included the outdoor seating. Ms. Kanabis answered that it does.

Project Manager Harry Boardsen stated he and his team paid attention to every detail and are looking to add services and customers to the marina. Mr. Mercer asked if there is an opportunity for public access. Mr. Sweeney stated that there are no plans for public access due to security concerns and potential conflicts with marina activities. Tidal wetlands are shown on the plan and they are not being disturbed.

A motion was made by Mr. Mercer and seconded by Mr. Tamsky to continue the public hearing to the 8/21/12 meeting. The motion was approved 4-0-1.

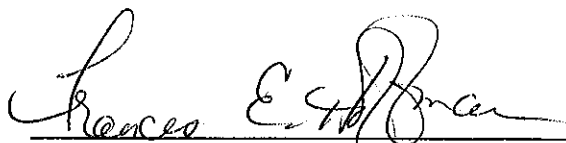
Mr. Marseglia summarized themes raised by neighbors: traffic details, DEEP issues, restaurant hours, and FAR.

Roll Call: Prue – abstain (momentarily absent for vote), Marseglia – approve, Hoffman – approve, Mercer – approve, Tamsky – approve

Commissioners requested that Zoning Official Joseph Larkin comment on how he typically addresses the issue of intent when applicants demolish a non-conforming building.

A motion was made by Mr. Tamsky and seconded by Ms. Hoffman to adjourn. The motion was unanimously approved.

Chairman Marseglia adjourned the meeting at 12:30 AM.

  
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 Frances Hoffman, Secretary