



PLANNING AND ZONING COMMISSION

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MINUTES PLANNING & ZONING COMMISSION THURSDAY, JUNE 1, 2017 REGULAR MEETING 7:00 P.M. BRANFORD FIRE HEADQUARTERS 45 NORTH MAIN STREET

Commissioners Present: J. Lust, J. Chadwick, J. Vaiuso, F. Russo, P. Higgins, C. Andres,
M. Palluzzi

Commissioners Absent: C. Kelly

Staff Present: H. Smith-Town Planner, R. Stoecker-Assistant Town Planner, M. Martin-Clerk

Secretary M. Palluzzi read the Public Hearing notice into the record.

Chairperson Andres introduced the Commissioners and the Staff Present.

Chairperson Andres then reviewed the Public Hearing procedures.

REGULAR MEETING 7:00 P.M.

PUBLIC HEARINGS:

1. 26 Cherry Hill Road LLC-Applicant & Owner
26 Cherry Hill Road
Zoning Map Amendment/Master Plan Amendment-
PDD Modification
Application #17-3.2
A/R on 3/16/17, PH opened 4/20/17, PH continued from 5/18/17

Attorney Bernard Pellegrino (Pellegrino Law Firm) represented the Applicant and stated that John Milone (Milone & McBroom) as well as other members from Milone & McBroom and Tony Thompson were also present. He stated that they have finalized some legal documents with the Branford Historical Society and Ann Trapasso since the last Planning & Zoning Meeting which he submitted into the record and briefly highlighted. He also submitted a map showing updated and additional landscaping and a revised Statement of Use. He then reviewed the items that were listed on the previous Staff Report.

John Milone (Milone & McBroom) spoke next. He was attending the meeting in place of Matt Ducsay who was absent. He submitted information pertaining to the rock and noted that Peter Hinen (Director of Geotechnical Engineering) was present to answer any questions pertaining to the stability of the rock behind the units.

Peter Hinen- He was asked to look at the rock stability for this project. He stated the bedrock geology is Branford Nice, which is a solid, stable rock. He also reviewed the site drawing and feels it will be a stable slope when the project is complete. He also noted he has 45 years of geotechnical practice in the state of Connecticut and is a professional engineer.

John Milone then submitted an updated landscaping plan which he noted is as installed, not in the future.

Tony Thompson (Plans Ahead, Branford) spoke next. He had colored drawings which he reviewed. Harry Smith briefly reviewed items listed in the Staff Report.

PUBLIC INPUT:

1. Attorney Chris Smith (Shipman & Goodwin) is representing Ann Trappasso. He said they have been working with Attorney Pellegrino and they hope that their agreement would be a condition of this approval. He also requested the blasting plan be included in the approval as well. They are also asking for a certainty of where the line of disturbance will be and notate it on the plans. He also submitted for the record the information packet that was submitted into the record in July 2015 where he outlined the argument that the Special Exception had expired. He wants to reserve the right to raise the issue if need be.
2. Attorney Robert Harrington is representing the Branford Historical Society. He said he joins with Attorney Smith's request to make the conditions of approval as he outlined them. He noted there is a similar declaration of restrictions for the Branford Historical society that addresses their concerns and a colored drawing should be included with that that is part of the record.

Chairperson Andres closed the Public Hearing.

2. Joel Laub- Applicant
LAM Properties (Thomas Holeva)-Owner
998 West Main Street
Special Exception- Car Sales
Application #17-5.1
A/R 5/4/17, PH set for 6/1/17

**The Applicant asked to continue this item without testimony. The Public Hearing opened.
No one spoke.
This item was continued to the June 15 meeting.**

3. Wayne Sandford- Applicant
Branford Electric Railway Association-Owner
46-52 Alex Warfield Road
Special Exception & Coastal Site Plan - Wood Shop
Application #17-5.2
A/R 5/4/17, PH set for 6/1/17

Chairperson opened the Public Hearing. No one spoke.
This item is continued to the June 15 meeting.

H. Smith noted he will advise the Applicant to submit a request to waive the Public Hearing requirement.

MINUTES: 05-18-17

J. Chadwick made a motion to approve the meeting minutes as written.

M. Palluzzi seconded the motion.

CORRESPONDENCE:

1. H. Smith had a copy of a letter from Holiday Retirement to Shaun Heffernan (Fire Chief). It stated that a condition of the prior approval of this development states that 24/7 staff on call will be provided. H. Smith noted his recollection is that the Commission felt that the idea of a remote staff person on call thru the button monitoring system does not constitute 24/7 staffing. The letter further states that Holiday Retirement believes they have the right to make changes and they are planning to do so as of June 5, 2017.
H. Smith noted he had a letter from the Town Attorney's office that was sent to Holiday Retirement on June 1, 2017. He read the letter for the Commission which said the Town Attorney's office had reviewed the letter from Holiday Retirement and the Notice of Decision dated July 30, 1986 as well as

the statement of use. The letter also stated that failure to supply said onsite staffing 24 hours a day is not consistent with the approval granted in the Notice of Decision. It noted that the appropriate means to alter the staffing model would be an application for a modification to the original approval submitted to the Planning & Zoning Commission and that until it is modified, the town expects the staffing to remain consistent with the Notice of Decision dated July 30, 1986.

2. Letter from the State Dept. of Transportation regarding the development of a roundabout at the intersection of Rte. 1 and Rte. 22 on the Guilford/Branford border was summarized and H. Smith said they will keep us posted on the progress.
3. Correspondence regarding the installation of 3 antennas on the cell tower located at 21 Acorn Rd. was received.
4. Letter from the East Haven Zoning Board of Appeals regarding an appeal of the Zoning Enforcement Officer's decision was discussed.

OLD BUSINESS:

1. 35 Jefferson Road LLC ,c/o Jeffrey Brandfon (member)-Applicant & Owner
35 Jefferson Road
Special Exception- Storage Trailer
Application #17-5.9
A/R 5/18/17, PH set for 6/15/17
2. William C. Lyons-Applicant
Barbara R. Lyons-Owner
190 Damascus Road
Special Exception-Interior Lot
Application #17-3.4
A/R on 4/6/17, PH opened 5/4/17, PH closed 5/18/17, continued from 5/18/17

Chairperson Andres reviewed the application for the Commission.

R. Stoecker noted he had an updated Staff Report which he reviewed. The Commission had a discussion and referred to the Zoning Regulations.

The Commission advised H. Smith to draft a resolution for denial.

3. William C. Lyons-Applicant
Barbara R. Lyons-Owner
190 Damascus Road
Re-subdivision-One (Interior) Lot
Application #17-3.3
A/R on 4/6/17, PH opened 5/4/17, PH closed 5/18/17, continued from 5/18/17
Tabled to the June 15 meeting.
4. Stonewall Lane Associates LLC.-
Charles F. Shelton Jr. (Managing Member)-Applicant
Andrew Porto-Owner
10 Cedar Street
Special Exception Modification- Office Building
Application #17-5.4
A/R 5/18/17, PH set for 6/15/17
5. KIOP Branford,LLC-Applicant & Owner
1025-1091 West Main Street
Site Plan Modification- New Lighting
Application #17-5.5
A/R 5/18/17, Tabled to 6/1/17

Tabled to the June 15 meeting.

6. Michael J. Bennett, (Bennett & Smilas Associates, Inc.)-Applicant
101 North Branford Rd., LLC-Owner
101 & 115 North Branford Road
Special Exception- Industrial Building
Application #17-5.7
A/R 5/18/17, PH set for 6/15/17
7. David I. Scheer-Applicant & Owner
2 Spring Rock Road
Coastal Site Plan Modification
Application #17-5.8
A/R 5/18/17, Tabled to 6/1/17

Commissioner John Lust recused himself from this application and left the meeting room.
Commissioner Fred Russo was seated for him.

David Scheer (Applicant) gave a brief history of this project. He stated his first objective is to reestablish access to the beach for his neighbors. He was asking the Commission to modify the wording in the approval.

Chairperson Andres noted that the Department of Energy & Environmental Protection (DEEP) has said the wall is a flood and erosion control structure. The Town Attorney has said a Shoreline Flood and Erosion Control Structure can only be approved to protect a "water dependent use" which includes uses that provide "general public access" and that eliminating references to public access may result in an approval that no longer complies with Coastal Management Act policies. He noted the Commission will consider revising the language in the April approval. He noted the Commission was not intending to add additional encumbrances to this property in that approval. He said the Commission cannot modify the language to eliminate mention of public access in the approval. He also stated the public walkway is a water dependent use.

The Commission then discussed the wording in the approval and possible modifications.

Public Comments:

1. Susan Daigle -31 Spring Rock Rd. (with Elaine; also a resident of Spring Rock Rd.)-
She said the neighbors want to enjoy the area. There were 14 neighbors present at the meeting. She had a photo and information detailing the many events that are held in the Area. She referred to previous agreements and noted many people have deeded rights to the beach. She gave a brief history of the walkway. She is hopeful that the Commission will restore the beach access.
2. Donna Boddin-34 Spring Rock Rd.-Asked if there will be future repairs to the walkway can a time limit be imposed so that it won't be closed for another year?
3. Mary Catherine Lee-8 Elizabeth Street- She said she has access rights. She noted that Pine Orchard Assn. built the walkway. She asked if they could designate who has rights to use the walkway.

After discussion, J. Chadwick made a motion to approve the following modified Findings & Conditions to the April 6, 2017 approval. F. Russo seconded the motion.

FINDINGS:

1. The Coastal Site Plan is consistent with the goals and policies of the Coastal Area Management Act (CGS Section 22a-92) and incorporates as conditions or modifications all reasonable measures to mitigate adverse impacts on coastal resources and any future water dependent activities based on representation made that the walkway is a water dependent use that provides access to the beach to the west from Spring Rock Road and is used by persons other than the property owner, thereby promoting overall public access to the beach area.

2. The Commission further finds that this Shoreline Flood and Erosion Control Structure meets all the criteria listed on the DEEP "Shoreline Flood and Erosion Control Consistency Checklist" in view of the function of the sidewalk adjacent to it as public access.
3. These findings should not be read as an intention to create any additional encumbrances on the property subject to this application (2 Spring Rock Road).

CONDITIONS:

1. Prior to the start of construction appropriate erosion controls shall be installed to the satisfaction of the Town of Branford Zoning Enforcement Officer.
2. A landscaping plan for the stabilization of the slope behind and to the north of the wall prepared by a landscape architect licensed in the State of Connecticut shall be submitted for the review and approval of the Town Planner or Planning and Zoning Commission.
3. The currently existing portion of the wall, approximately twenty-nine inches (29") is allowed to remain with the addition of the proposed intermittent extension of the wall as shown on the plan submitted to the Planning & Zoning Commission on May 2, 2017, as last revised May 27, 2017 by Registered Architect Thomas Edwards, AIA.
4. Post construction, any obstacle placed in the walkway to block access shall be considered a violation of this Coastal Site Plan, except for blockage for temporary periods for reasons of maintenance and repair. An unlocked swinging gate does not constitute an obstacle.

NEW BUSINESS:

1. Vincent Chiocchio-Applicant & Owner
157-171 Thimble Island Rd
Special Exception Modification-Multi Family Residence
Application #17-5.10
To be A/R, PH to be set or waiver request approved

This application needs to be reviewed by the Stony Creek Architectural Review Board.

H. Smith recommended a waiver of the Public Hearing since this application is for a modification of a previous approval.

J. Vaiuso made a motion to waive the Public Hearing. J. Chadwick seconded the motion which passed unanimously.

This item was continued to the June 15 meeting.

2. CGS Section 8-24 Granting Exclusive Rights to utilize designated parking spaces on a public road at certain times of the day related to a proposed Settlement Agreement with respect to litigation concerning the Legacy Theatre, Inc. (Thimble Islands Road).

H. Smith said he received a letter from the First Selectman requesting the CGS 8-24. This item is referring to parking spaces that have exclusive rights to use at a specific time of day for certain hours on these days. He reminded the Commission this is not an approval, they are sending a positive referral. They are operating as a Planning Commission, not a Zoning Commission.

Attorney William Aniskovich spoke next. He explained this is a settlement proposal that is arising out of an appeal of a Zoning Board of Appeals ZEO tenant fit up permit related to the operation of the Legacy Theatre. Also present were Attorney Tim Lee who is representing the Stony Creek Association, Attorney Mark Branse who is representing the individual plaintiff's and Attorney Jim Strub who is representing the Legacy Theatre. The town encouraged all the parties to engage in settlement negotiations. The parties have come to an agreement, which a copy was given to the Commission. It is his opinion that the provision of the settlement agreement that grants an exclusive right to use certain parking spaces from 4 to 8 pm on a daily basis is a transfer of interest of land and that under the code requires an CGS 8-24 referral to the Commission and approval by the RTM.

Attorney Jim Strub- Waterbury- (representing the Legacy Theatre) reviewed a drawing regarding the location of the parking and the hours.

Attorney Mark Branse talked of the number and the location of the parking places and noted that this agreement would run as long as the use is in existence. He reviewed a few details of the agreement.

Attorney Tim Lee (representing Sony Creek Assn.) noted this item was debated at the Stony Creek Assn meeting in November and they approved the settlement agreement.

Attorney Aniskovivch noted the agreement and the parking plan was presented to Town Staff for review and a few comments were received.

M. Palluzzi made a motion for a positive referral. J. Lust seconded the motion.

3. Request for a bond release of \$3,717.00 for site improvement work located at 17 Sound View Heights.

H. Smith briefly reviewed this and said the Zoning Enforcement Officer is recommending the release of the bond.

J. Vaiuso made a motion to release the bond. M. Palluzzi seconded it.

4. Leslie Greengard & Janice Blustein-Applicants& Owners
45A Cocheco Avenue
Coastal Site Plan
Application #17-5.11
To be A/R.
The Commission A/R and tabled the item to June 15.

5. Town of Branford- Applicant & Owner
185 Damascus Road
Special Exception-Intermediate School
Application #17-5.12
To be A/R, PH to be set

The Commission A/R and set the Public Hearing for July 6.

H. Smith noted there is an additional item that needs to be added to the agenda. It is a request for the acceptance of a thousand dollar bond for the installation of driveway aprons at 175 Pine Orchard Road. The homeowner would like to wait before installing the driveway.

J.Chadwick made a motion to add to the agenda and accept the bond. J. Vaiuso seconded the motion.

OTHER BUSINESS:

1. Planner's Report

H. Smith noted the first Transit Oriented Development (TOD) Study workshop was held May 22 and was well attended. The next (TOD) meeting is June 22.

2. R-1 Zoning Regulation Amendment Update

H. Smith briefly reviewed his draft amendment document for the Commission and they discussed it briefly.

The meeting was adjourned at 10:40 p.m.