

MINUTES  
TOWN OF GROTON  
ZONING COMMISSION  
MARCH 5, 2014 – 7:00 P.M.  
TOWN HALL ANNEX – COMMUNITY ROOM 2

I. ROLL CALL

Regular members present: Sutherland, Marquardt, Hudecek, Sayer  
Alternate members present: Smith, Bancroft  
Absent: French, Middleton  
Staff present: Glemboski, Galetta

Chairperson Sutherland called the meeting to order at 7:01 p.m. and sat Bancroft for French.

II. PUBLIC HEARING

1. Special Permit #340, 7 Water Street, PIN 261918307563, WDD Zone. Proposal is for the renewal of seasonal outdoor dining area. Review is per Sections 6.3 and 8.3 of the Zoning Regulations. (Gary Hobert, Applicant)

The Public Hearing was opened at 7:02 p.m. with Chairperson Sutherland reading the legal ad.

Seamus Moran, of Indigo Land Design, presented to the Commission for the applicant Gary Hobert of Pizzetta. A Special Permit is requested for the renewal of outdoor seating at the restaurant. The initial Special Permit #333 for the outdoor dining area was approved in April 2013, for a one year period. The patio area is not expanding and will remain the same. Music remains part of the proposal. Originally, music was requested from June thru August on Friday, Saturday, and Sunday, plus two Tuesdays during the summer; however, the applicant would like to increase this timeframe to include Memorial Day and Labor Day and the day of the Mystic St. Patrick's Day Parade. A letter of support has been received from Roy and Abby Parkinson, who are neighboring property owners.

Moran reviewed the special permit criteria for the Commission and noted that the proposal is consistent with the Town of Groton Zoning Regulations.

Staff noted the conditions from the previous special permit for outdoor seating. Outdoor seating is still proposed from March through October and the hours of operation, 11:30 a.m. to 10:00 p.m., remain the same. The applicant is still proposing live outdoor music but is proposing a change to allow music from Memorial Day Weekend to Labor Day Weekend and to allow music on the day of the Mystic St. Patrick's Day Parade. They will continue to use small speakers, turned inward, with a master control volume and the music will end at 9:00 p.m. Additionally, Pizzetta will continue to participate in Mystic Art Center parking validation program when the outdoor seating is open.

Staff also noted that the project is exempt from CAM because it is a renewal of what was previously approved with no intensification or structural changes. The Planning Commission, at the February 24, 2014 meeting, supported the special permit application based on the prior year's experiences.

The Commission asked for clarification of the exact dates that music will begin and end in May and September. The applicant explained that they are proposing music from the Friday of Memorial Day Weekend to the Sunday of Labor Day Weekend.

The Commission also asked if the Zoning Official had received any complaints. Staff did not have any knowledge of complaints being filed with Zoning.

Chairperson Sutherland asked for public comments for or against the application.

Judy Hartley, an employee of Daniel Packard Inn at 32 Water Street, spoke in favor of the application. She is also the President of the Downtown Mystic Merchants Association and they fully support the application.

Roy & Abby Parkinson, 35 Steamboat Wharf, submitted a letter in support of the application.

David Kaye, 37 Steamboat Wharf, was concerned about the type of music that will be played. He would support the same, acoustic-type music that was played last year but he would not support loud rock-band music.

Moran noted that the applicant is requesting the ability to have music on all Tuesdays in the summer. He stated that this would be an expansion of music from the previous year. The Commission discussed the music parameters that were part of the original permit.

Gary Hobert, of Pizzetta at 7 Water Street, stated that they anticipate using the same system for St. Patrick's Day as previously used. Typically a rock band plays for only that day but the music ends at 6 p.m.

The Commission asked the applicant to specify the length of time they wish to have the special permit issued for. The applicant is requesting no expiration date. Time limits were discussed relative to a change in ownership of the business.

The public hearing closed at 7:27 p.m.

2. Certificate of Approval of Location #CAL13-01, 383 Gold Star Highway, PIN 169909064524, CB-15 Zone. Proposal is for use of property as a used car dealer. Review is per Section 14-54 of the Connecticut General Statutes. (Leo Antonino, Applicant)

The Public Hearing was opened at 7:28 p.m. with Chairperson Sutherland reading the legal ad.

David Held, Professional Engineer and Land Surveyor with Provost & Rovero, presented to the Commission for the applicant, Leo Antonino. He explained that this is an application for a Certificate of Approval of Location and provided the Commission with a brief history of the site. The property was occupied from 1999-2012 by United Rentals where they rented, sold, and serviced heavy equipment and construction machinery. Prior to that, from sometime in the 1950's, the site was used for auto sales and service.

Held also noted that the location is just over 2 acres on the south side of Route 184. He reviewed a 700-foot radius map surrounding the subject property to show the highways and public streets in that vicinity; namely, Gold Star Highway, Antonino Road and Knoll Drive, and the various pavement widths associated with them. An additional radius map showing approximately one-half of the Town, detailed churches, schools, and theaters within the vicinity of the subject property. The closest school is Mary Morrison, which is approximately

1 mile from the site, and the closest church is Groton Bible Church, which is approximately 1.4 miles away. He noted that there are no known theaters within the radius area.

Citing information from the Institute of Transportation Engineers, Held also stated that they anticipate no noticeable impact on traffic conditions or travel from a dealership location at this site. The substantial nature of Route 184 will provide adequate sightlines from the east and the west for traffic traveling at speeds of 45 or 50 MPH.

There will be no substantial changes to the location. The parking area in the front will be revamped and the handicap parking spots will be reconfigured and brought up to code. A specific vehicle storage and display area will be outlined on the existing pavement. Bollards will be added for traffic protection near the propane tanks.

The Commission was concerned about anything new on the interior with regard to painting facilities.

Held noted that there has been some back and forth with staff relative to this concern since the original submittal. What has been clarified is that the building was historically used for auto body work. There was an auto collision repair area and two sub-standard spray booths. There are new spray booths that have been designed and built to current standards but have not been used. This was verified by the Zoning Official and Planning Staff.

The Commission noted that United Rentals did not make use of the spray booths while they occupied the site. The Commission inquired about the new spray booth design vs. the way things were configured with the prior use.

Held described how the original spray booths operated and compared this with the new spray booth operation and ventilation system.

Additionally, the Commission was concerned about the procedure for waste disposal; however, Held stated that they were not prepared for a discussion of environmental or safety considerations as these are not a part of the Certificate of Approval of Location application being heard tonight.

Sutherland noted that at this public hearing the Zoning Commission is acting on behalf of the State to approve the site location. She is curious about the environmental impacts but understands that tonight the applicant is really only looking for approval of the location and they can address some of their other concerns at another time with staff.

Regarding safety concerns, Held stated that the Fire Marshal is scrutinizing the site location along with the building department and he has been in contact with them several times. Operational protocols are regulated by DEEP, as well as others, and proper safeguards and procedures will be in place.

The Commission asked staff if the applicant would come before them again after the granting of the certificate of location for a special permit.

Staff noted that the applicant will only need to come before the Commission for a special permit if it is determined that they are expanding the use. The Zoning Official has determined that it's a legal, non-conforming use and that they are not substantially expanding the use or increasing the non-conformity. It's allowed in the zone; it's not allowed in the WRPD. Whereas, it's conforming as to the commercial zone, it's not conforming as to what's allowed in the WRPD. However, it's allowed to stay in the WRPD as long as there is no

increase to the non-conformity. If the applicant tries to increase the non-conformity then they will need to come back to the Commission for a special permit.

Held also mentioned that, because this is a public hearing and they are in the WRPD, they were required to notify the State Department of Public Health and the Groton Public Utilities water section. He noted they have received no comments from either party.

Leo Antonino, Flanders Road, addressed the Commission. He stated that he has done business in the Town of Groton since the 1950's. The building in question is one where he originally had his business. As an aside, he noted that oil based paints are no longer used and that current paint is all water based.

Staff entered into the record a memorandum from Kevin Quinn, Town of Groton Zoning Official. It clarified the historical uses on the site and its current use as it relates to the WRPD. Also entered into the record were affidavits from former employees that were attached to Quinn's memo. Michael Murphy, Director of Planning and Development also provided a memorandum which staff read into the record. Murphy's memo clarified the legal non-conforming status of the property.

The Commission continued to have concerns about the lack of ability to address environmental, public safety, and WRPD compliance with this application.

Staff advised that the Commission has the ability to either approve the application or deny the application if they determine it does not comply with the Zoning Regulations. Staff also noted that the Zoning Official and the Director of Planning have both determined that the use is legal, non-conforming.

The Commission felt that the intensity of use was the real concern and questioned what their best course of action would be relative to this concern, i.e.: communicate their concerns to the Zoning Official.

Staff noted that they have been reviewing the application in depth for the last several months. The Zoning Official, Planning Director, and the Town Attorney have all weighed in on the application. The Zoning Official and the Director of Planning each say it's permissible because it is considered a legal, non-conforming use. The Commission should focus on whether or not the location is an appropriate location for the proposed use.

The Chairperson polled the Commission for their thoughts. Hudecek stated that normally with a pre-existing, non-conforming site they have the ability to assess how waste is going to be treated, how filtration is in compliance with today's standards, i.e.: concrete wash pads to protect the ground from runoff. He just wants to make sure the Commission does the right thing. Marquardt agreed that they need to look at what's around for the uses proposed. She noted that it makes sense that it's there, but in the WRPD they need to make sure that it's appropriate. Smith had no comment. Sayer felt it was time to close the public hearing.

Held addressed the Commission's concerns about the WRPD. He noted that the site used to have floor drains but they have been removed. The location will only be used for body work. There will be no oil changes or things of that nature done on the site.

Chairperson Sutherland asked for public comments for or against the application, and there were none. The public hearing closed at 8:03 p.m.

III. APPROVAL OF THE MINUTES OF Special Meeting of February 19, 2014 at 6:15 p.m. and Special Meeting of February 19, 2014 at 7:00 p.m.

MOTION: To approve the minutes of Special Meeting of February 19, 2014 at 6:15 p.m.

Motion made by Bancroft, seconded by Hudecek, 5 in favor, 0 opposed, 1 abstention (Sutherland). Motion passed.

MOTION: To approve the minutes of Special Meeting of February 19, 2014 at 7:00 p.m.

Motion made by Sayer, seconded by Bancroft 5 in favor, 0 opposed, 1 abstention (Sutherland). Motion passed.

IV. CONSIDERATION OF PUBLIC HEARING

1. Special Permit #340, 7 Water Street (Gary Hobert, Applicant)

The Commission felt the idea of a term would be favorable and discussed the length of time to stipulate. In addition to a term limit they also discussed whether a change of ownership should void the approval.

MOTION: To approve Special Permit #340, Pizzetta, 7 Water Street for seasonal outdoor dining subject to the following conditions:

1. The hours of operation for the outdoor seating area shall be from 11:30 am to 10:00 pm. There shall be no use of the outdoor seating after 10:00 pm.
2. Live outdoor music on the patio shall be limited to the following:
  - a. From the Friday before Memorial Day Weekend to the Sunday prior to Labor Day and the day of the Mystic St. Patrick's Day parade.
  - b. Fridays, Saturdays, Sundays, Tuesdays during the period listed above.
  - c. All live music shall end at 9:00 pm.
  - d. Small speakers, with master volume control, pointing inwards towards the patio are to be used in lieu of large centralized speakers.
3. The owner shall participate in the parking validation program at the Mystic Art Center when the outdoor seating is in operation. Signs shall be posted at entrances and cash registers to notify customers of participation in the parking validation program.
4. Approved for a period of six years.

Findings and Reasons for Approval

The Commission finds that the seasonal outdoor dining complies with Section 8.3 of the Zoning Regulations in that it will not have any detrimental effects on the public health, safety, and welfare, will not be in conflict with the normal pedestrian and vehicular traffic pattern of the neighborhood, does not conflict with the purposes of these regulations, and will reasonably minimize the potential environmental impacts on adjacent water bodies, including Long Island Sound.

Motion made by Bancroft, seconded by Hudecek, so voted unanimously.

2. Certificate of Approval of Location #CAL13-01, 383 Gold Star Highway (Leo Antonino, Applicant)

**MOTION:** To approve Certificate of Approval of Location (CAL13-01) for 383 Gold Star Hwy as a Used Car Dealer as per Section 14-54 of the Connecticut General Statutes with the following finding:

The Commission finds the use is suitable in the proposed location based on reference to schools, churches, theaters, traffic conditions, the width of adjacent highway and effect on public travel.

Motion made by Sayer, seconded by Hudecek. Discussion.

The Commission was concerned about the criteria being used to make the decision.

Staff noted that the Commission has the ability to say if it complies with the Zoning Regulations or not. The Zoning Official says it complies.

The Commission was also concerned about environmental controls.

Staff stated that if there are changes on the site they may need to do an administrative site plan for minor changes, or a site plan for significant changes. The Zoning Official will also need to review the parking for this application to make sure it meets the requirements.

The Commission also ascertained that there are sewers on the site.

Staff noted, in response to the Commission's question, that DEEP has not weighed in at this time. For the process of putting in the new spray booths they will need to go through DEEP approval.

The Commission also requested that Staff find out if the Zoning Official could address them with some answers to their aforementioned questions.

Staff noted that there will be reviews under building and fire code when building plans are submitted.

The Commission reiterated that it would like to hear a report from the Zoning Official either in person or in memorandum form.

Motion passed, 3 in favor, 1 opposed (Hudecek), 1 abstention (Marquardt)

The Commission requested the Chairperson to write a memo to the Zoning Official to ask him to discuss his review process for permitting and for a general discussion about the issue of grandfathering.

V. PUBLIC COMMUNICATIONS – None

VI. OLD BUSINESS

1. Discussion of Revisions to Zoning Regulations; including Buildable Land Definition, Table of Permitted Uses, and Animals in Residential Districts

Sayer reported that she met with Diane Glemboski and Kevin Quinn to discuss regulating the keeping of chickens in the Town. She noted that there are regulations in the state that really restrict many things, such as, size of space, landscape buffer, etc. Staff handed out a draft. Kevin had good input about writing the code so that it can be enforced. If the Commission decides to move forward with this it will entail a change to the zoning regulations, and would require a public hearing. One thing not addressed in the text is chickens being killed which is sometimes part of the process. An important note on the drafted regulations is that the keeping of the hens must be compliant with public health code. If the health code changes this must be updated. Quinn will contact Ledge Light Health District.

Sutherland reported on buildable land definition. As part of the POCD update an analysis has been done of all the buildable land in town and potential building square footage. She had concerns about the map which was originally overstated. Some things are lumped together that she would like to see broken out but the analysis has been done and will not be redone for different scenarios.

Staff noted that there is nothing specific on the table of permitted uses; however, Deb Jones has taken the zoning regulations and listed out every use that requires a special permit. This is something that the Commission may want to look at to see if everything listed really should require a special permit. Staff will add Deb's abstract on the agenda for the next meeting. The Commission wondered whether the Zoning Official should have some input on the table.

2. POCD Update Report

There has not been a meeting recently. The next meeting will be March 20. Much of the information is on the Town of Groton website and provides good data and updates.

3. Land Use Regulation Update Project

This item is tabled to the next meeting.

VII. NEW BUSINESS

1. Report of Commission – None

2. Receipt of New Applications

- a. Special Permit #339, 15 Water Street, (CAM), Change of use in basement from retail to café (Fedus Engineering, Applicant)  
A public hearing date was set for April 2, 2014.
- b. ZCH 14-01, Zoning Map Change, 707-817 River Road (CAM), Change 17 lots from RU-80 to RU-40 (Richard Dixon, Applicant)  
A public hearing date was set for May 7, 2014 because of referrals that need to be done.

VIII. REPORT OF CHAIRPERSON

1. Report on December 10, 2013 meeting with Town Council

The Chairperson will summarize her remarks to the Town Council so the Zoning Commission can vote on whether to support it or not support.

2. Zoning Commission Process – Opportunities and Discussion

The Chairperson felt it would be beneficial to allow interested parties to interview the final candidate when the Planning Director position is filled. After discussing the pros and cons, there was a general consensus that the Chairperson should send an e-mail suggesting that the Commission be represented if there is a committee being formed to hire a new Planning Director. Sutherland will send an e-mail to the Mayor and the Town Manager.

IX. REPORT OF STAFF – None

X. ADJOURNMENT

Motion to adjourn at 9:06 p.m. made by Hudecek, seconded by Bancroft, so voted unanimously.

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Susan Marquardt, Secretary  
Zoning Commission

Prepared by Lynda Galetta  
Office Assistant II