

MINUTES  
ZONING COMMISSION  
OCTOBER 5, 2011 – 7:00 P.M.  
TOWN HALL ANNEX – COMMUNITY ROOM 1

I. ROLL CALL

Present: Cady, French, Hudecek, Marquardt, O'Neill  
Absent: Sutherland  
Staff: Davis, Glemboski, Gilot

Chairman Hudecek called the meeting to order at 7:00 p.m. and seated Cady as a voting member.

II. PUBLIC HEARINGS

1. Special Permit #321, 0 Yetter Road, PIN 270015625780, RU-40 Zone. Proposal is for excavation, processing and sales of 843,220 CY of earth products and the importation of an additional 843,220 CY of material for on-site processing and including periodic crushing operations. Review is per Section 7.1-10 of the Zoning Regulations. (Whittle Earth Products Facility, Applicant) – Continued

Staff said they met with the applicant's agents to review the outstanding items. Staff said the Planning Commission's report was distributed in the agenda packet. He distributed a copy of a letter from Attorney Scott Sawyer, which was received by the Planning Department late this afternoon. Staff said an extension would be required by the applicant if the hearing is not closed this evening. Commissioner French disclosed that she looked at the property but did not actually go onto the Whittle property.

Attorney Jeff Londregan, Conway Londregan, reviewed the proposal and addressed outstanding items from the previous meeting.

- Decibel level of rock crusher when it is running: Mr. Londregan stated that the State DEEP has maximum allowable decibel levels emitted from one property to another. The manufacturing company had limited information on decibel levels, and no data for this particular crusher. Other factors, such as wind, leaves, humidity, etc., can affect decibel levels. Mr. Londregan said that the Commission could set the condition that the DEEP maximum is the allowable at the property line, with a lower number for the nighttime. The first time the rock crusher comes back, the applicant would attain a sound expert to obtain the decibel level at the property lines to assure the equipment is in compliance with DEEP regulations.

- Planning Commission's referral: The Commission had concerns with the material already on site before more can be brought onsite. The Town would not want this to be a "dumping site". Mr. Londregan explained that the clientele who bring unprocessed material are different than clientele who pick up processed material; this would limit the applicant as far as the clientele who could bring material. The property is limited as to what can be brought there, there is not a lot of room for excess stockpile beyond what is there, processed material is already stockpiled, and there are wetlands on the property, all limiting additional importation because there is nowhere to put it. Alternatives could be offered as conditions of approval. Mr. Londregan discussed the eastern side of the property's elevations nearest the

neighbors, grading, and the use of stockpiled material for fill. All of the piles onsite were surveyed, and currently the c.y. of material that was brought in from offsite is more than the materials mined onsite, with a ratio of 60-65:40-35. The applicants proposed using the existing yardage there as starting point of the 1:1 ratio required by the stipulation. Therefore, this would limit any further offsite material being brought to the site in order to maintain that ratio in the first two years.

- Groundwater and wells with regard to any blasting on the site: The applicants have no plans to blast right now, but they are allowed to mine based on the pre-existing non-conforming status.

Clint Brown, DiCesare-Bentley Engineers, said he was asked to look at impact of any blasting on the wells. Mr. Brown said he consulted with a geotechnical expert (Tom Nolan, Haley & Aldrich). Mr. Brown detailed the test holes dug at the site, the groundwater regime well below the blast area, blasting for removing nuisance rock as opposed to mining on an everyday basis. A geotechnical engineer looked at location, wells, groundwater and soils, and provided an opinion as to risks. The conclusion is that about 250 ft. from a blast to a well would be a reasonable distance to minimize any impact. It will be some time before they get that close; presently they are about 450 ft. from the property lines. Also, some work can be done north to south to limit the encroachment to the adjacent properties.

Attorney Londregan recommended a condition that a geotechnical analysis would be required first before any blasting at 250 ft. to ensure no adverse effect on the abutting wells. The Chairman suggested a written report from the geotechnical engineer should be provided.

Mr. Londregan said he would withhold his comments with regard to Attorney Scott's letter, as the Commission had not had an opportunity to read it. Staff recommended that the Town Attorney review the correspondence as well. Mr. Londregan said the applicant would grant an extension to continue the hearing.

David Wakus, 388 Yetter Road, spoke against the application. Mr. Wakus said other zoning issues should be addressed; pre-existing conditions regarding expansion, screening mills within 100 feet of his property line, noise levels, the lack of dust mitigation, diesel fumes, and that a waste handling facility is not an approved usage. He said the salt storage at the site has not addressed. The Chairman said the Commission could only address the special permit application. Mr. Wakus disputed the "farm use" of the property.

The Commission asked if anything that happens on this property would be relative to this application. Staff said they were limited to the special permit application. An enforcement order would need to be issued for unrelated activities. Staff explained that the stipulated agreement was an attempt to create a framework for resolving these issues, including the special permit for regulated uses, purported lawful non-conforming uses (importation) and "non-permitted" uses, such as processing. Issues related to snow plowing are not related to the enforcement order or the stipulated agreement.

Albert Turner, 314 Yetter Road, spoke against the application. He said in addition to the echo of the noise, he is affected by the vibration from the facility. He

said the Whittles have never approached neighbors. The operation is moved around on the site, and is adjacent to the Whittle property.

Attorney Scott Sawyer said he represented Mr. Turner, and would allow everyone time to read his communication, and he would address the Commission at the next meeting if it is continued.

Staff said the Planning Commission's referral was not submitted in the packet; it was distributed this evening.

Attorney Londregan reviewed the history of this application, the allowed uses and non-conforming uses, reasonable conditions. The neighbors did not appeal the stipulated agreement. Historically there had been no limitations at this site; this agreement is an attempt to add limitations and reasonable conditions and Town oversight on a pre-existing non-conforming use. Anything dealing with snow-plowing or salt is not part of this application. The Commission discussed whether this would be an expansion or continuation of an existing operation. The Chairman asked if the number of machines and rate of processing would be increased. Attorney Londregan stated no, just the equipment used as crushing operation. Rates and volume are not increased. Attorney Londregan presented an extension letter to the Commission.

Motion to continue the public hearing to November 2, 2011 made by French, seconded by O'Neill, so voted unanimously.

2. REGA #11-04, Zoning Regulation Amendment to Sections 5.1-3, 6.1-1.C, 6.1-3.A, B & C, 6.1-4.A, and new Sections 6.1-3.D and 7.1-46 in order to allow small-scale personal type retail businesses as a conditional use in the OMF zoning districts (Michael Hoelck, Applicant)

Chairman Hudecek read the legal ad. The Chairman disclosed that he knew the applicant but had no business ties or monetary involvement, and this would not affect his decision. The Manager of Planning Services did not attend this proceeding.

Michael Hoelck presented his application for a regulation amendment to allow certain small scale retail businesses in the OMF district. Mr. Hoelck explained the history of his purchase of property at 388 Long Hill Road with the intention to use it as a satellite to his Waterford florist shop. Mr. Hoelck also purchased Tommy's Flowers in 2010.

The Commission took a short recess at 8:07 p.m. and the meeting resumed at 8:10 p.m.

Staff explained the history of Mr. Hoelck's property, the intent of the OMF zone to serve as a buffer between retail and existing single family residential. Staff reviewed the attachments sent to the Commission in their agenda packets, which included the actual text amendment, maps showing the actual "OMF" districts in Groton, and a list of current uses allowed in the OMF zone. Staff explained, as proposed, a conditional use would not require a special permit but would need to meet specified conditions and it would require site plan approval. The Planning Commission referral recommended denial until a thorough review of the OMF district is completed in conjunction with the upcoming revision to the Plan of Conservation and Development. The proposed language was reviewed by the Commission.

The Chairman asked for public comments.

Margil Steinfeld, 32 Valley Road, spoke about the Planning Commission's referral, the history of Long Hill Road, the potential for increase in traffic, especially left hand turns, with the increase of commercial properties, and the Town's update of the Plan of Conservation and Development. Mr. Steinfeld opposed the proposed amendment.

Joann Steinfeld, 32 Valley Road, spoke against the application. She spoke about the various adjacent zoning districts, increase in traffic, and the properties that would be affected. The Chairman reminded Ms. Steinfeld that this was for a use change, not a zone change.

Mr. Hoelck said there are a lot of vacancies within this zone. He clarified that his primary request was to allow florists in the OMF district.

The public hearing was closed at 8:59 p.m.

III. APPROVAL OF THE MINUTES OF September 7, 2011

MOTION: To approve the minutes of September 7, 2011, as presented.

Motion made by French, seconded by O'Neill. Motion passed unanimously.

IV. PUBLIC COMMUNICATIONS - None

V. CONSIDERATION OF PUBLIC HEARING

1. Special Permit #321, 0 Yetter Road (Whittle Earth Products Facility, Applicant)

The public hearing was continued to November 2, 2011.

2. REGA #11-04, Zoning Regulation Amendment, (Michael Hoelck, Applicant)

The Commission discussed "personal" retail, the existing traffic in those OMF areas, and the potential for increased traffic. Staff said they may either accept just the "florist" designation, or they may accept the whole list of proposed uses. The intensification of the uses was discussed.

The Commission discussed whether they could approve the applicant's request for his specific use on that specific lot. Staff said the use cannot be approved for just that specific lot; the Town does not spot zone, but the existing proposal could be modified so that "florist" could be added as a use to any of the "OMF" parcels.

MOTION: To amend the zoning text amendment application REGA #11-04 and approve "florist" as the only use; all other uses removed from the proposed amendment.

Motion made by O'Neill, seconded by French. Motion passed unanimously.

The Commission concurred that they could further consider additional uses after the Plan of Development is updated.

**MOTION:** The Town of Groton Zoning Commission hereby modifies and adopts zoning regulation text amendment application #REGA 11-04 (Applicant; Michael Hoelck) for amendments to Section 5.1-3 (Table of Permitted Uses), Section 6.1-1.C (Office-Multi Family (OMF) District: Purpose), Section 6.1-3.A, B & C (OMF District: Permitted Uses), Section 6.1-4.A (OMF District: Minimum Lot Requirements), and Index and create new Sections 6.1-3.D (OMF District: Permitted Uses) and 7.1-46 (Small-Scale Personal Retail in OMF District) pursuant to the following findings and reasons for approval:

1. The OMF district was established to provide an orderly transition between single family residential areas and more intensive commercial development. The proposed regulation amendment, to allow florist as a use within the OMF, is written with an emphasis on maintaining the integrity of the OMF zone as a transition zone between the intensive retail and the nearby single family residential zone.
2. The modification proposed with this approval addresses issues raised during the hearing process.
3. The text amendments for the OMF district will affect only a few currently developed OMF zoned parcels within the Coastal Area Management area and the amendments are consistent with and implement the Municipal Coastal Program, with particular regard to the protection of the environment and the enhancement of community character.
4. These amendments are made in accordance with a comprehensive plan and provide for reasonable consideration of the environment in accordance with the statutory provisions of CGS 8-2.

The effective date of these amendments shall be November 1, 2011.

Motion made by Hudecek, seconded by O'Neill. Motion passed 4 -1, 1 opposed (French).

## VI. OLD BUSINESS

1. Discussion of proposed text amendments to Zoning Regulations Sections 8.3 and 8.4

Staff discussed the special permit criteria for the Town of Cromwell, which was included in the agenda packet. The Commission discussed the scope and criteria by which they would like to consider special permit applications. Staff will develop a draft regulation for discussion at the next meeting.

## VII. NEW BUSINESS

1. Election of Secretary

MOTION: To elect Mariellen French as Secretary of the Zoning Commission for the remainder of the year.

Motion made by French, seconded by Hudecek. Motion passed unanimously.

MOTION: To add the "Election of Vice-Chair" to the agenda.

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

MOTION: To elect O'Neill as Vice-Chair of the Zoning Commission for the remainder of the year.

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

2. Receipt of New Applications

Special Permit #322 – 715 Noank Ledyard Road (Thomas Vignato, Applicant)

Staff briefly discussed the application. A public hearing date was set for November 2, 2011.

VIII. REPORT OF CHAIRMAN - None

IX. REPORT OF STAFF

Staff said that a CLEAR Land Use Academy session will be held at UCONN on Saturday, November 5<sup>th</sup>. This will be an all-day session, and is available to any Commissioner who may want to attend. It will be held at the UCONN extension in Haddam. Commissioners should let staff know if they are interested. The cost is \$35, which can be paid for by the Town.

X. ADJOURNMENT

Motion to adjourn at 9:54 p.m. made by O'Neill, seconded by French, so voted unanimously.

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Mariellen French, Secretary  
Zoning Commission

Prepared by Debra Gilot, Office Assistant III