

HARWINTON ZONING COMMISSION MEETING
MONDAY, AUGUST 11, 2014
TOWN HALL 7:00 P.M.

Present: Chairman Don Truskauskas, Joseph Marzullo, Anne Marie Buonocore, Lynne Steincamp, David Mathes and Land Use Coordinator Polly Redmond

Also Present: Town Atty. Michael D. Rybak

Absent: Daniel Thurston

PUBLIC HEARING - continued

1. OPEN HEARING – ESTABLISH QUORUM.

Chairman Truskauskas called the hearing to order at 7:00 p.m. All regular members present are seated.

Commissioner David Mathes, who was absent at the June 9, 2014 public hearing, acknowledges that he has received the audio recording of that public hearing from Land Use Coordinator Polly Redmond and has listened to it.

2. BORGHESI BUILDING AND ENGINEERING – APPLICATION FOR SITE PLAN APPROVAL AND SPECIAL PERMIT/CHANGE OF USE – SCHOOL BUS PARKING ON PORTION OF PROPERTY FORMERLY OPERATED AS JOHNNYCAKE AIRPORT, 529 BURLINGTON ROAD (ROUTE 4). PROPERTY OWNED BY JOHNNYCAKE AIRPORT PROPERTY, LLC.

Alan Borghesi, Chairman and Registered Engineer, Borghesi Building and Engineering, is present. Revised Site Plans prepared by Borghesi Building & Engineering titled Site Plan, Sheet No. SP1, revised to 8-7-14, Site Plan, Sheet No. SP2, revised to 8-5-14 and Sheet No. SP3, dated 8-7-14 are received. Sheet SP3 in color is also submitted and dated 4-28-14 which will remain as the cover sheet.

Chairman Truskauskas acknowledges two emails received in the Land Use office. Exhibit 25 is an email from Timothy Malone, Sr. Planner & Economic Development Program Manager, Central Connecticut Regional Planning Agency, dated 7/15/14, which is a Zoning Referral and Exhibit 26, which is an email from Tod Kallenbach, Town of Burlington, Economic Development Commission Chairman that states the Burlington EDC is in agreement with CCRPA's report. Both documents remain on file in the Land Use office.

Mr. Borghesi reviews revisions made to the site plan that include changes to the parking area, the creation of one way bus traffic and increase of the buffer from 15 feet to 35 feet. He states that buses will only use their backup beeper when testing which will be done at the fuel island. The fuel tank has been relocated and is situated directly across from an existing building previously used as the airport hangar. Mr. Borghesi states that the fuel tank has been turned at an angle from the previous site and now shows concrete filled 4 inch bollards around the tank and 6 inch bollards at the corners. The separating distance from the fuel tank to the Sports Complex on the neighboring property to the west has increased from 261 feet to 396 feet. The tank is now 191 feet to the west property line, whereas the prior location was 74.7 feet to the west property line. The revised site plan shows more pervious area now and the bus parking will be 640 feet from the street (Route 4/Burlington Road) whereas the previous plan had the bus parking 400+/- from the street. Mr. Borghesi points out the lighting on the site plan that will provide 250 watt fixtures, single head, full cut-off, mounted on 18 foot poles with light shielded so not visible off premise. Exhibit 29 is submitted by Mr. Borghesi and is an information page from Lithonia Lighting giving features and specifications on the proposed lighting. Exhibit 29 also includes a Luminaire Schedule dated 8/6/14 that was received in the Land Use office on 8/11/14.

A second soil report, Exhibit 28, from George Malia, Certified Soil Scientist, dated 8/8/14 is submitted reports his findings on his second site visit on 8/8/14 and which he has determined there are no inland wetlands or watercourses within the area of his inspection.

Mr. Borghesi states that he was asked if a bio-basin could be supplied and submits a profile showing how grade and distance make a basin impossible and that if one were proposed further south, it would intrude into wetlands.

Guy Heska, P.E., Heska Associates, provides a traffic study marked "Draft" (Exhibit 36) dated 7/24/14 and refers to traffic volume counts taken between 7/17/14 through 7/22/14. The report remains on file in the Land Use office. Conclusion is that with this proposal, there would be a thirty-seven second delay at the County Line intersection from the existing wait time to exit onto Route 4/Burlington Road. Sight line measurements were also taken with the conclusion that current sight lines do not meet current DOT standards. CTDOT was contacted and commented that they do not see the proposal as a public safety concern. Mr. Borghesi adds that DOT stated to him that they had no interest in reviewing this project. Mr. Borghesi notes that they will be working with DOT on posting of bus signs on Route 4 and that a *Caution* sign is already shown on the site plan.

Commissioner A. Buonocore questions why the traffic counts weren't taken when school was in session with Mr. Heska stating that based on DOT information, there would be no difference if counts were taken when school was in session. Commissioner L. Steincamp questions why the traffic counts weren't taken Monday through Friday instead of Thursday through Tuesday with Mr. Heska stating that traffic counts vary only slightly on weekends. Atty. Mark Branse, legal counsel for the applicant, states that weekends were included on the days of traffic counts and explains that two different counts were taken; one being what this proposal would generate and one on what the general traffic is on Route 4/Burlington Road now. Commissioner L. Steincamp questions what the Levels of Service mean, as mentioned by Mr. Heska, with him explaining that it is a scale of level of comfort with Level A being good traffic movement and Level F having moving traffic but congestion. Atty. Mark Branse questions Mr. Heska if traffic of buses would be any different from any other industrial uses permitted in this area with Mr. Heska stating that morning peak hours of traffic is between 7 a.m. and 8 a.m. on Route 4 and that buses will be leaving earlier than that.

Chairman J. Marzullo refers back to the fuel tank location and its exposure to traffic. He has concerns that the 4 inch bollards will not prevent a bus from crashing into it. Mr. Borghesi explains that it is state code on size and spacing and that the Fire Marshal inspects and approves it once it is in the field. He adds that there is a grass island around the tank and that the actual tank is encased. Upon questioning on size, Mr. Borghesi states that the fuel tank is a 4,000 gallon tank that will be completely above ground.

Chairman Truskauskas opens the floor for public comment at this time.

George Werner, 591 Litchfield Road, refers to the last hearing where the applicant proposed a stop sign in one direction only. He also expresses concern that with the driveway being shared with the restaurant might lead to short cuts of traffic in front of the deli next to the restaurant. John Dufour, Principal of All-Star Transportation and applicant, states that no buses and no employees will be allowed to use the area of the deli to exit the property.

Atty. Perley Grimes, legal counsel for neighbor Mountain Meadows Corporation, inquires as to the dates the hearing has been extended to and questions hours of ingress and egress to the property. He has a number of concerns he mentions including that the Zoning Commission should know what the easements are on the property and who owns them, who will maintain the driveway and parking area, who else can park on the property, what does the notation "A minimum of 24' of passageway shall be maintained at all times along an area agreed to by the owners of each parcel" mean and that whatever agreement is necessary should be made at this time and be on record, who owns the 15 acre parcel and who will own it at the 'end of the day' and that there should be an enforceable contract, lease, etc. and will there be a lease area? Atty. Grimes also notes that the owner of the property should be named on the site plans, that the air conditioning unit was relocated and noted on the plans dated 6/19/14 though the revised plans presented tonight does not show this notation. Atty. Grimes notes that on the site plans presented there is a footnote stating "All buses shall be required to back into parking spaces" with Mr. Borghesi stating that is an error that will be

corrected. Atty. Grimes states that the frontage of the 15 acre parcel should be measured along the CHD line to ascertain that the frontage is 200 feet. Reminding the Commission of issues that were discussed at the last public hearing on 6/23/14, Atty. Grimes distributes for the record a folder (Exhibit 31) of materials that includes copies of Zoning Regulation sections, a copy of WMC's 6/2/14 report, Borghesi's 6/18/14 letter to WMC in response to their report, an email from Town Atty. Michael Rybak dated 5/7/14 to LUC Redmond, a copy of Burlington's Central Business Zone Regulations and CCRPA's report by Timothy Malone that he would like to review with the Commission. He reminds the Commission of their ability to impose conditions and he questions if there is a submission of a complete proposed use of the property. He refers to Low Impact Development techniques and if proposed in a regulated area, believing it should be reviewed by the Inland Wetlands Commission. He questions landscaping buffer suitability, and whether construction sequencing and erosion control measures are noted and depicted on the plans. At this time, Atty. Grimes presents Exhibit 32, a letter from Milone & MacBroom, dated 8/11/14, sent to Richard Miller/Mountain Meadows Corporation at their request, that accompanies a plan showing modifications that Mr. Miller would prefer. Those modifications being: (1) easier pull-through parking, (2) relocation of backup alarm testing area – typical signage, (3) location for snow storage along buffer area and (4) suggested travel path for exiting buses. Atty. Grimes submits Exhibit 33, which is a list of Suggested Conditions of Approval that remains on file.

John Dufour is present and states that he owns 700 buses and if one went to any of his lots where they are parked they will not see any buses parked on an angle (one of the 12 suggested conditions). Buses are parked in order, bumper to bumper in a straight line, for safety. Backhoes will be used for snow removal where snow will be deposited to the back of the property. Referring to backup beepers, they are required by the State of CT and are loud for a reason and if Mountain Meadows Corporation wishes to have testing of backup alarms take place on the west side of the hangar building (suggested condition 6), he has no problem with that being done as the buses exit the property.

Alan Borghesi notes that the revised plans went back to WMC Engineers with their comments addressed and that WMC made no further comments.

Atty. Mark Branse states that Atty. Grimes has asked a lot of questions and the answers are outside the scope of the Zoning Commission's power. He explains that the Commission does not need to know who owns easements and who maintains them, that the application is signed by Borghesi and they are the authorized agent to make application, that the land was surveyed by a land surveyor and sealed site plans have been provided. If the survey is wrong, the Zoning approval is no good but he reminds the Commission that the parcel already exists. He notes that the applicant and the owner are responsible for compliance of the site plan requirements and questions if a representative from Milone & MacBroom is present to discuss those plans presented by them for suggested modifications. With no one present to represent, he asks that the site plan by Milone & MacBroom be stricken since the preparer is not present to be examined. Atty. Branse notes that Section 12.1 of the Zoning Regulations call for a 50 foot landscaped buffer where the property abuts a Country Residential zone, Town Residential zone or a Lake Harwinton zone which this property does not abut and therefore, Section 12.1 does not apply though still, the applicant is giving more than what's required in a 32 foot buffer. He refers to the Town of Burlington's Plan of Conservation and Development that categorizes Mountain Meadows as an underutilized sight for future industrial or hospitality uses. Atty. Branse also notes that Burlington's Zoning Regulations, on page 65, Section D4, calls for open space and landscaping between each lot line to be 20 feet wide. Therefore, with the 30+ feet of landscaped buffer being presented tonight and the 20 feet required from Burlington, gives approximately 50 feet of landscaped buffer between this lot and the lot owned by Mountain Meadows Corporation. Atty. Branse also notes that Atty. Grimes submission of Exhibit 31 is labeled with a date of 7/28/14 and questions why this material was not submitted earlier allowing time for review of the material.

Atty. Rybak wishes to verify that the property owner has indeed given consent for Borghesi to make this application. LUC Redmond states that Exhibit 8 is a letter from Mr. Fred Pesce giving that authorization. He cautions the Zoning Commission to not get into titles and that the A2 Survey provided is certified and that regulations allow lot lines to be measured at the street line or the setback line. He reminds the Commission that the property has always been classified as Light Industrial with special uses including parking and storage of vehicles including the allowance of a gas station. He states that the Zoning Commission should determine if the proposed use is permissible, which has already been established, and that the Zoning Commission should look at any conditions they might wish to impose and that Section 9 of the Zoning Regulations should be reviewed for guidance. He agrees with Atty. Branse in that with no representative from Milone & Mac Broom, the Commission should not be guided by the suggested modifications on their site plan. The buffer requirements covered in Section 9.1.1e of the Zoning Regulations is what the Commission should consider. Items the Commission should also consider is the removal of any Stormwater Management on the site and Atty. Rybak questions what WMC would say about that after their initial report was to implement LID.

Alan Borghesi states that if the Zoning Commission wishes to act tonight, he would have WMC Engineers do a final comment on the site plan presented. Atty. Branse states that because the parking lot is already paved and drainage is already existing, nothing new is being proposed. Alan Borghesi will contact WMC to explain why LID is impractical for a bio basin and if they are satisfied with the reduction of the amount of impervious surface in place of LID practices, a letter stating so will be obtained.

Atty. Grimes states that WMC Engineers should look at LID and that the Zoning Commission should look at their regulations on that in Section 7. Perhaps a representative from WMC could come in and comment before the commission on LID implementation. Atty. Branse notes that the site plans never showed a bio basin so no change was ever made to the plans. Mr. Borghesi agrees stating that WMC reviewed the original plans and now with the reduction of 13,000 square feet of impervious surface, LID is not needed, and if that is the opinion of WMC also he will get that in writing from them.

A list of all Exhibits submitted (#1 through #38) remains on file in the Land Use office.

3. CONTINUE OR CLOSE HEARING.

Mr. Borghesi gives written consent to extend the public hearing an additional ten (10) days to 8/25/14. Commissioner J. Marzullo **motioned** to continue the public hearing to Monday, August 25, 2014 at 7:00 p.m. in the town hall, 100 Bentley Drive, seconded by Commissioner L. Steincamp. Motion passed unanimously. The hearing adjourned at 9:13 p.m.

REGULAR MEETING

1. OPEN MEETING – ESTABLISH QUORUM.

Chairman Truskauskas called the meeting to order at 9:14 p.m. All regular members present are seated.

2. APPROVE MINUTES OF PREVIOUS MEETING: 7/28/14

L. Steincamp **motioned** to approve the minutes of the previous meeting, seconded by J. Marzullo. Motion passed unanimously.

3. PUBLIC COMMENT. None.

4. **DISCUSSION/POSSIBLE DECISION – BORGHESI BUILDING AND ENGINEERING – APPLICATION FOR SITE PLAN APPROVAL AND SPECIAL PERMIT/CHANGE OF USE – SCHOOL BUS PARKING ON PORTION OF PROPERTY FORMERLY OPERATED AS JOHNNYCAKE AIRPORT, 529 BURLINGTON ROAD (ROUTE 4). PROPERTY OWNED BY JOHNNYCAKE AIRPORT PROPERTY, LLC.**

No discussion.

J. Marzullo **motioned** to add two items to the agenda:

- (1) Jared Braddock for Pickett Brook Property, LLC – application for single family dwelling, Woodchuck Lane and
- (2) Curtis Jacques and Apryl Bell, application for 16' x 36' in-ground pool, 48 Lake Drive

D. Mathes seconded the motion and it passed unanimously.

JARED BRADDOCK FOR PICKETT BROOK PROPERTY, LLC – APPLICATION FOR SINGLE FAMILY DWELLING, WOODCHUCK LANE.

Jared Braddock is present with plans prepared by Robert Green Associates titled Zoning Location Survey Plot Plan for House Lot 1201-2, Prepared for Bruce Anderson, dated 7/28/14. The lot is from a recent Subdivision, Fenn Resubdivision, which has been approved by the Planning Commission and awaits mylar signing and filing in the land records. IWWC and TAHD approvals have been received. Driveway permit and E&S permit are on file. A. Buonocore **motioned** to approve the application with the stipulation that the subdivision mylar be filed in the land records of the town clerk, seconded by D. Mathes. Motion passed unanimously.

Chairman Truskauskas recuses himself for the following application. Commissioner J. Marzullo is seated as Acting Chairman.

CURTIS JACQUES AND APRYL BELL – APPLICATION FOR 16' X 36' IN-GROUND POOL, 48 LAKE DRIVE.

Curtis Jacques is present and requests in writing a waiver of the requirement for an engineered site plan. He provides a copy of the previous owner's site plan used for a 2002 house addition and has sketched in the location of the proposed in-ground pool. Setbacks are as follows: 72 feet to the north side property line, 50 feet to the south side property line and 56 feet to the back property line. IWWC approval has been received. TAHD approval is pending. D. Mathes **motioned** to grant the waiver request of an engineered plan and approve the application contingent upon receiving TAHD approval, seconded by A. Buonocore. Motion passed unanimously.

Chairman Truskauskas is reseated.

5. **INFORMAL DISCUSSION – ZONING REGULATION CHANGE PROCEDURES.**

No discussion – tabled to the next Zoning meeting on 8/25/14.

6. **INFORMAL DISCUSSION - INFORMAL DISCUSSION – MEDICAL MARIJUANA REGULATION OR MORATORIUM.**

No discussion.

7. **COMPLAINTS/ENFORCEMENT ACTIONS.** None.

8. **ANY OTHER BUSINESS.** None.

9. **CORRESPONDENCE.**

First Selectman Michael Criss received and forwarded to the Land Use Office the Town of Thomaston's Ordinance on Sexually Oriented Businesses. Chairman Truskauskas and L. Steincamp took one copy each and will review and return at the next Zoning meeting.

10. **INVOICES.** None.

11. **ADJOURN.**

D. Mathes **motioned** to adjourn the meeting at 9:29 p.m., seconded by J. Marzullo. Motion passed unanimously.

Respectfully submitted,

Polly Redmond
Land Use Coordinator

RECEIVED FOR RECORD AT HARWINTON CT
ON 8-14-2014 AT 11:02 AM
ATTEST NANCY E. ELDRIDGE TOWN CLERK