

## ZONING COMMISSION MEETING

MONDAY, FEBRUARY 27, 2012

TOWN HALL

7:00 p.m.

Present: Chairman Peter Brazaitis, Todd Ouellette, Anne Marie Buonocore, Don Truskauskas, Land Use Coordinator Polly Redmond and ZEO Karen Nelson.

Absent: Nancy LaGanga, Alternate Members Robert Lavoie, Glenn Bradley and Kevin Ferrarotti

### 1. OPEN MEETING – ESTABLISH QUORUM.

Chairman Brazaitis called the meeting to order at 7:00 p.m. All members present are seated.

### 2. APPROVE MINUTES OF PREVIOUS MEETING: 2/14/12.

A. Buonocore **motioned** to approve the minutes of the previous meeting, seconded by D. Truskauskas. Motion passed unanimously.

Commissioner D. Truskauskas recuses himself from the following discussion.

### 3. DISCUSSION/POSSIBLE DECISION - JIM ROTONDO, P.E., FOR CARL COPPOLA – APPLICATION FOR SPECIAL PERMIT AND SITE PLAN APPROVAL FOR CONSTRUCTION OF 3200 SQUARE FOOT (FIRST FLOOR) COMMERCIAL/RETAIL BUILDING, 122 LITCHFIELD ROAD, POST OFFICE PLAZA. APPLICATION INCLUDES PLACEMENT OF TEMPORARY SIGN TO ADVERTISE LEASED SPACE AVAILABLE.

Mr. Coppola is present. Commissioners reviewed the Notice of Decision written by LUC Redmond outlining possible reasons for approval and listing possible conditions of approval. T. Ouellette **motioned** to approve the application for special permit and site plan approval, including the placement of a sign advertising the availability of leased space, as published by LUC Redmond for the following reasons:

- That the proposed activity shall be in harmony with and conform to the appropriate and orderly development of the Town and the neighborhood and shall not hinder or discourage the appropriate development and use of adjacent property or substantially or permanently impair the value thereof;
- The location of the proposed building and revised parking area provides adequate traffic flow and adequate off-street parking;
- The streets serving the proposed building is adequate to carry prospective traffic, that provision is made for entering and exiting the property in such a manner that no undue hazard to traffic or undue traffic congestion is created;

and is subject to the following conditions and modifications:

In addition to the Inland Wetlands and Watercourses Commission's conditions of approval the Zoning Commission sets the following conditions that should be noted on the site plan mylar to be filed in the Office of the Town Clerk, Land Records.

#### LID Maintenance Conditions:

- 1) That on-site supervision and weekly inspections by the contracted Professional Engineer be conducted with dated monthly reports from the Professional Engineer to be sent to the Harwinton Land Use office.
- 2) That *prior* to major storm events, on-site inspections shall be conducted as well as on-site inspections within 24 hours of the *end* of a storm with a rainfall amount of 0.5 inches or greater to insure soil and erosion control measures are in place and functioned correctly.

- 3) That no work shall take place during a rain event when forecasts call for more than 1 inch of rainfall.
- 4) That the applicant files a Low Impact Development Maintenance Agreement on the Land Records in the office of the Town Clerk at the same time the site plan mylar is filed. The Maintenance Agreement will provide that the facility owner shall maintain, clean, repair, replace and continue the stormwater control/treatment measures to design specifications and that the facility owner shall be responsible for all expenses related to the maintenance of the stormwater/treatment measures.
- 5) That the applicant shall provide for periodic inspection of the stormwater control/treatment measures on an annual basis, to determine the condition and integrity of the measures. Such inspection shall be performed by a Professional Engineer licensed by the State of Connecticut. The inspecting engineer shall prepare and submit to the Town of Harwinton, within 30 days of the inspection, a written report of the findings including recommendations for those actions necessary for the continuation of the stormwater control/treatment measures.
- 6) The applicant shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the stormwater control/treatment measures except in accordance with written approval of the Town of Harwinton.
- 7) The applicant shall undertake necessary repairs and replacement of the stormwater control/treatment measures at the direction of the Town of Harwinton or in accordance with the recommendation of the inspecting engineer.

**SITE PLAN AND EROSION & SEDIMENTATION CONTROL MEASURE CONDITIONS:**

1. That conditions set by the Harwinton Inland Wetlands and Watercourses Commission and the Zoning Commission be placed on the mylar site plans to be filed in the Office of the Town Clerk, Land Records.
2. That Torrington Area Health approval for septic system installation is obtained and a copy of that approval be sent to the Land Use office prior to the issuance of a permit to construct.
3. The site plan approval shall expire twelve (12) months from the date of issuance unless a valid building permit is in effect or the Zoning Commission renews the approval for one period not to exceed twelve (12) months when it is determined that the use, building and/or site development authorized by the permit conforms with the Zoning Regulations. (Zoning Regulation 1.3.3m)

The mylar site plan shall include an approval block providing a space for signature of the Zoning Commission Chairman and a space for the date of approval of the site plan and the date of the expiration of the site plan which shall be five (5) years from the date of approval. Failure to complete all work within such five-year period shall result in automatic expiration of the approval of such plan. 'Work' for purpose of this subsection means all physical improvements required by the approved plan. (Zoning Regulation 1.3.3m)

4. Required improvements shown on the approved site plan, including landscaping when approved by the Zoning Commission, must be maintained by the owner of the property for a period of ten (10) years from the date of approval. (Zoning Regulation 1.3.3n)

5. This special permit shall not become effective until a copy, containing a description of the premises to which it relates and specifying the nature of the special permit is recorded in the Land Records of the Town Clerk in accordance with State Statute 8-3d.
6. That the hours of construction be in compliance with standards set by the Torrington Area Health District and/or the Town of Harwinton.
7. As part of the permit granted, proper soil and erosion controls as stated in the construction sequence and shown in the plan design must be in place prior to the start of any construction and those controls are to be inspected and approved by the Zoning Enforcement Officer and the applicant's Professional Engineer prior to and during all phases of construction.
8. That recommendations made by WMC Consulting Engineers in their letter to the Land Use Coordinator and dated February 14, 2012 be implemented into the site plan. Specifically, that (1) the southernmost two-way travel lane at the Post Office Plaza to the west along the same line be extended to provide a better "T" intersection adjacent to the proposed commercial building parking lot and that Bioretention Basin #3 be slightly expanded to fill in the green space, (2) that while positioned at the stop sign exiting the proposed commercial building parking lot, that there be a combination painted pavement marking straight, right and left arrows and also a "No Left Turn" sign allowing vehicles to maneuver straight through the intersection to the Post Office Plaza and (3) that while positioned at the stop sign location, exiting the southern travel lane of the Post Office Plaza parking lot, that there be a combination painted pavement marking straight and left arrow be added and in addition, that a "No Right Turn" sign be posted to allow vehicles to maneuver straight through the intersection to the proposed commercial building.
9. A foundation location as-built shall be required and shall be held in the Harwinton Land Use office. No Certificate of Occupancy shall be issued by the Building Official until the Zoning Commission or the ZEO has issued in writing a Certificate of Compliance which states that the provisions of the zoning regulations and conditions of approval have been complied with. (Zoning Regulation 1.3.3c)
10. It is understood that this special permit and site plan approval is hereby approved for the construction of a commercial building and the reconstruction and expansion of the existing parking area. The applicant is to return to the Zoning Commission for approval for specified uses of the building, landscaping plans, lighting plans and parking lot signage. Fire Marshal approval will be required, in addition to building official approval, and the provisions of Zoning Regulation 9.1.1 General Standards shall apply.
11. The site plan approval includes the approval of a temporary sign advertising the availability of leased space. The temporary sign is permitted for **six (6) months** and extensions of the permit may be granted by the Zoning Commission.

The Commission's approval is based on the belief that the application meets all Zoning Commission Regulations dated March 1, 2011 and in particular Sections 4.8.1, 7, 8, 9, 10.6 and 11.

A. Buonocore seconded the motion and it passed unanimously with T. Ouellette, A. Buonocore and P. Brazaitis voting.

Commissioner D. Truskauskas is reseated at this time.

**4. FRED PESCE – APPLICATION FOR HELIPORT, 529 BURLINGTON ROAD.**

Mr. Pesce is present along with Matthew Kelly, CT Airport Authority. Chairman Brazaitis states that the last time Mr. Pesce applied for a heliport the commission asked for information showing the heliport has always been in existence. Chairman Brazaitis refers to Town Counsel, Michael Rybak's Opinion Letter 06-06 dated 4/24/06 when Mr. Pesce was trying to obtain town approval then although he notes that the commission is not

reviewing past applications at this time made by Mr. Pesce. (See Zoning minutes of 5/14/07) Mr. Pesce explains that he needs town approval for the site in order for FAA to issue him a license for the heliport. T. Ouellette states that if Mr. Pesce could present proof that the heliport was in existence, and has stayed in existence in some capacity even upon the closing of the airport, then perhaps a public hearing wouldn't even be required nor an application. A. Buonocore questions whether there are any flight logs that might show the heliport has been in existence with Mr. Kelly stating, there are not always flight logs and even Bradley Airport does not use flight logs but uses tower tapes. Mr. Pesce notes that Life Star lands on his property and Kamen Aerospace Corporation uses his property for training exercises using helicopters. The commission asks that Kamen provide a letter to the Land Use office stating they have been using the property as a heliport to show proof that the heliport has been in continuous existence. Mr. Kelly stated that he would get this information to the commission. D. Truskauskas states that once this documentation is received it will show that the heliport is a legal non-conforming use. ZEO Nelson wishes to clarify that if documentation is provided by Kamen then this commission would not require a public hearing or an application from Mr. Pesce? It is the consensus of the commission that there would be no application or fee required and that documentation will show that the use of the property as a heliport has always been in existence.

**5. GRJH, INC./SUNOCO GAS STATION – APPLICATION FOR MODIFICATION OF APPROVED SITE PLAN, 207 BIRGE PARK ROAD. CORRECT AND ABATE NOTICE ISSUED BY ZONING ENFORCEMENT OFFICER.**

No one is present to represent. ZEO Nelson refers to her 2/14/12 report and states that there is no new information to report though TAHD approval has been received and dated 2/16/12. ZEO Nelson states that new railings for the stairway and the retaining wall should be inspected by the Building Inspector. T. Ouellette questions what the commission requires from GRJH at this time with ZEO Nelson stating we require a site plan showing all modifications to the original site plan. D. Truskauskas agrees saying that the town needs to have this in order to see any changes that may be made to the site in the future. A letter dated 2/27/12 from Atty. Steve Byrne has been received and is read by Chairman Brazaitis. It states that Atty. Byrne has prepared a Citation for zoning violations taking place at 207 Birge Park Road and if the commission so chooses to direct ZEO Karen Nelson to sign and serve, the property owner will have ten days from the mailing date to request a hearing. If no hearing is requested, the town can proceed to have a judgment entered into Superior Court. ZEO Nelson states that First Selectman Michael Criss wanted to speak to this commission first before proceeding. Chairman Brazaitis asks what the commission's thoughts are on proceeding with legal action. D. Truskauskas states that the commission should enforce the Zoning Regulations. T. Ouellette agrees stating that the commission should move forward with enforcement action and A. Buonocore also agrees to move forward. D. Truskauskas made a **motion** to direct ZEO Karen Nelson to sign and serve the citation to GRJH, Inc. that was prepared by Atty. Steve Byrne. A. Buonocore seconded the motion and it passed unanimously.

**6. DISCUSS/REVIEW SIGN REGULATIONS, SECTION 11 OF THE ZONING REGULATIONS.**

LUC Redmond has refined the list of sign definitions. The commission asks that they be forwarded to Michael Rybak, Town Counsel, for review. LUC Redmond will confer with Atty. Rybak on whether or not the Historical District's sign regulations should be added to the town's sign regulations giving the Historical District enforcement backup via the town's ZEO, and whether the Historical District's sign policy on political signs, specifically that they must be removed within two days after an election, is enforceable or should be deleted from the Historical District's sign regulations. D. Truskauskas **motioned** to have Town Counsel Michael Rybak (1) review the proposed sign definitions/regulations, (2) give his opinion on the Historical District's sign regulations, and (3) to comment on the possibility of adding a severability clause to the Zoning Regulations. T. Ouellette seconded the motion and it passed unanimously.

7. **INFORMAL DISCUSSION – LETTER FROM RYAN & AMY FERRARI REGARDING MIXED USE OF PROPERTIES ALONG THE EAST/WEST ROUTE 4 CORRIDOR RETAIL SERVICE ZONES.**

D. Truskauskas states he would be looking further into this matter but adds that it is his thought that it might be possible to have commercial zones on both ends of town. One in the location from Route 8, east along Route 118 to the Route 4 intersection and one from the Burlington town line west down to Route 72 intersection. Not necessarily a full scale commercial zone but perhaps one with mixed uses between residential and small scale businesses such as daycare centers (similar to the one the Ferrari's proposed – see Zoning minutes of 1/9/12) that would give opportunity to bring businesses into town. D. Truskauskas will research this further and bring discussion back to the next Zoning meeting on 3/12/12.

8. **COMPLAINTS/ENFORCEMENT ACTIONS.** None.

9. **ANY OTHER BUSINESS.**

D. Truskauskas states he would like to see a little more information on what ZEO Karen Nelson is doing with her office hours. The commission feels that the ZEO should log all activities and provide such to the commission. Billing practices of the ZEO are also discussed.

10. **CORRESPONDENCE.**

Letter dated 2/27/12 from Atty. Steve Byrne regarding pending litigation in Lucas v HZC.

D. Truskauskas **motioned** to enter into Executive Sessions at 9:12 p.m. to discuss pending litigation in Lucas v HZC. T. Ouellette seconded the motion and it passed unanimously.

A. Buonocore **motioned** to exit out of Executive Session at 9:25 p.m., seconded by D. Truskauskas. Motion passed unanimously.

A. Buonocore **motioned** to invite Atty. Steve Byrne to the next Zoning meeting on 3/12/12, seconded by D. Truskauskas.

No other action taken.

11. **INVOICES.** None.

12. **ADJOURN.**

T. Ouellette **motioned** to adjourn the meeting at 9:25 p.m., seconded by A. Buonocore. Motion passed unanimously.

Respectfully submitted,

Polly Redmond  
Land Use Coordinator