

Regular Meeting

The 1713th meeting of the Town of Stonington's Planning and Zoning Commission was held at the Stonington Board of Education District Office at 40 Field Street, Pawcatuck, on Tuesday, December 20th, 2022. The meeting was called to order at 7:01 pm by Chairman Ben Philbrick. Also present for the meeting were Commissioners Fred Deichmann, Ryan Deasy, Lynn Conway, and Charles Sheehan; Alternates Gary Belke and Marjorie Selinger; and Town Planner Keith A. Brynes. Alternate Andy Meek was not present.

Seated for the meeting were Ben Philbrick, Fred Deichmann, Lynn Conway, Charles Sheehan, and Ryan Deasy.

Minutes:

Mr. Deasy moved to approve the minutes of the December 6, 2022, meeting as corrected, seconded by Mr. Sheehan. The vote was taken to approve as corrected. Motion was approved 4-0-1.

Roll Call: Philbrick - approve, Deichmann - approve, Conway- approve, Deasy – approve, Sheehan - abstain

Administrative Review:

22-288ZON Ron & Elizabeth Rosencrans – Zoning permit application to clear overgrowth in the Non-Infringement Area (NIA). Parcel located at 238 Palmer Neck Rd., Pawcatuck. Assessors Map 56 Block 1 Lot 4. Zone RC-120.

Mr. Brynes summarized this request to remove undergrowth and invasive species in the Non-Infringement Area. A report by a professional soil scientist concludes that this activity will not be harmful to the wetlands. No work can be done in the tidal wetlands without DEEP approval. House construction on this lot must be outside of the Non-Infringement Area and requires a zoning permit.

Mr. Deasy moved to approve this application with a stipulation; seconded by Mr. Sheehan. The motion was unanimously approved, 5-0.

Stipulation:

1. A Vegetation Management Plan involving maintenance of existing trees and replacement of invasive ground cover with suitable vegetation shall be reviewed by staff.

PZ2217SD & SUP Cherenzia Excavation, Inc. & EG Home, LLC (W. Sweeney) - Request for 90-day extension to file final mylars.

Subdivision plans must be filed with the Town within 90 days of approval. Two 90-day extensions are allowed, and this would be the first.

Mr. Deasy moved to approve the application; seconded by Mr. Sheehan. Motion was unanimously approved, 5-0.

PZ2223SD & CAM Masons Island Company (Prominent Development) - Request for 90-day extension to file final mylars.

Subdivision plans must be filed with the Town within 90 days of approval. Two 90-day extensions are allowed, and this would be the first.

Mr. Sheehan motioned to approve the application; seconded by Mr. Deasy. The motion was unanimously approved, 5-0

Old Business:

PZ2229SPA & GPP Amara-UZ, LLC – Site Plan and Groundwater Protection Permit applications for construction of a 4,500SF retail convenience store with drive-thru window, a 5,625SF retail building with associated parking and site improvements. Property located at 376, 380 & 384 Liberty St., Pawcatuck. Assessor's Map 18, Block 5, Lots 1-4. Zone CS-5.

This item has been tabled to the January 17th meeting with an extension granted by the applicant.

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Public Hearing(s):

PZ2230RA Marc Lotti (Mystic River Farm, LLC) – Zoning Regulation Amendment to remove the word “rabbits” from ZR 2.12 Prohibited Uses, in order to allow for the “keeping, breeding, and raising” of rabbits within the Town.

The applicant was not present. Mr. Deasy made a motion to continue this hearing to the January 17th meeting; seconded by Mr. Sheehan. All in favor, 5-0. Motion approved.

PZ2231SUP WinnDevelopment Company, LP - Special Use Permit application for modifications to previously approved application for an 82-unit affordable housing residential apartment building with units leased pursuant to CGS 8-30g. Modifications include a reduction in building size and number of units, elimination of all 3-bedroom units, and placement of an age restriction on at least one resident. Properties located at 27 West Broad St. & 15 Cogswell St., Pawcatuck. Assessor's Map 1, Block 4, Lots 18 & 19. Zone PV-5.

Attorney William Sweeney, partner of TCORS Attorneys in New London, is representing the WinnDevelopment Company. This application modifies the previously affordable housing development approved in 2020 which is still valid. It will now contain 70 housing units, rather than 82. The building will be smaller with similar amenities to the original approval. Only 5.71% of the existing housing stock in Stonington is categorized as affordable housing. A minimum of 10% is required to be placed on the state's exempt list. Therefore, this application is subject to the strict provisions of CT General Statutes Section 8-30g rather than zoning regulations. This project is consistent with the original approval. Attorney Sweeney discussed the minimum percentage of units in the development that must be considered affordable per state law based on the Area Median Income. One resident in each unit must be a minimum of 55 years old. The floor plans have been modified to include only one- or two-bedroom units, eliminating all three-bedroom units. The parking space count will increase by one. However, with the decreased number of units the ratio of parking spaces per unit will increase from 1.1 to 1.3.

Attorney Sweeney stated that the building exterior has been significantly modified to improve its aesthetic appearance. Notice of this meeting was given to all abutting property owners. The applicants met with the Architectural Design Review Board, the Economic Development Commission and the Police Commission. Wetlands approval was granted in 2020. Every modification being proposed under this application will decrease the project intensity and better complement the surrounding neighborhood.

Paul Vitaliano, Project Engineer, stated they have shrunk the footprint of the building, incorporated more parking, and clarified that the entire structure to the north of the parking garage will remain exactly the same as originally proposed.

Paul Humphries, Project Architect, stated that the building length has been reduced by about 70 feet. Mr. Humphries reiterated the reduced unit count and altered building styles. Exterior materials include white and gray clapboards, exposed brick, and asphalt shingle roofing. The rear façade of the building that faces the train tracks was modified after meeting with the Architect Design Review Board. Mr. Philbrick asked if the west side elevated portion will have a flat roof. Mr. Humphries stated that this is the case. Ms. Conway asked about the height of the exposed brick which Mr. Humphries clarified will be only as high as the ground floor with the exception of the elevator shaft.

Traffic Engineer, Joseph Baskus, referenced his study which shows that this project will generate very little traffic for this intersection. Traffic will be a fraction of what a retail development would create and is less than the original approval. Most exiting traffic is projected to head west. There will be no change to the “Levels of Service” or “Vehicle Queuing” from the original plan. Traffic levels have returned to pre-pandemic

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levels and counts done in October are valid. It is recommended that a by-pass lane is created eastbound on Rt. 1 (West Broad St.) to facilitate left turns onto Coggswell Street. The existing crosswalk across Rt. 1 is proposed to be relocated to the other side of Coggswell St., and the existing crosswalk across Coggswell is proposed to be realigned. There will be no change to on-street parking. The location of the Coggswell Street stop sign should be moved closer to the intersection. During a preliminary review, CTDOT did not have issues with these plans; however, they still need to be finalized. These changes are the same as what was proposed in the original plan.

Mr. Deichmann asked if there is any way to improve the sight line for the left turn out of Coggswell. Mr. Balskus stated that the only reasonable way is to move the stop sign up as mentioned, otherwise on-street parking would have to be removed. Mr. Deasy asked about changes to the lighting surrounding this intersection. Mr. Balskus stated that this was investigated for the 2020 proposal and the lighting was sufficient but they can look further into that issue. Mr. Sheehan asked if the previous plan required approval from OSTA (Office of the State Traffic Administration). Mr. Balskus clarified that this is not considered a "major traffic generator" per that office and therefore does not require their approval. Ms. Conway asked if the resident age limitations will change the times of peak traffic hours compared to the original approval. Per Mr. Balskus, there may be more traffic later in the day and less in the morning but the difference would not be significant. Mr. Philbrick asked if the alleyway to the west will now have one-way traffic. Mr. Balskus clarified that it will remain two-way. Mr. Philbrick asked if the new "island" on West Broad St. could be used to cross the street one lane at a time. Mr. Balskus stated the law indicates that if a pedestrian is in a crosswalk, then traffic from both sides must stop. Therefore, the island should not have to serve this purpose but may be used that way if needed. Mr. Philbrick asked about the possibility of adding a blinking yellow light. Mr. Balskus clarified that it would ultimately be decided by DOT, but typically they require an issue with crashes or "driver expectancy" for this to be considered. Mr. Belke asked if the traffic study accounts for weekends. He is also concerned about the difficulty of making the left turn out of Coggswell. According to Mr. Balskus the study does not account for weekends. The applicant would pay for these improvements to the road.

Attorney Sweeney clarified that CGS 8-30g allows relief from zoning regulations for affordable housing developers since development of affordable housing is very important to the future of the state. These applications can only be denied on narrow and limited grounds. Stonington is not on the Affordable Housing Exemption list and is therefore subject to CGS 8-30g. While this building does not conform to the density, height and other zoning requirements, lack of zoning compliance cannot be the basis for denial. The Commission would have to prove that denial is necessary to protect substantial interests in health and safety, and they must rely on reliable expert testimony. The risk to the community must outweigh the benefits. According to Attorney Sweeney, there are plenty of positive reasons to support this application regardless of the statute: revitalizing an abandoned mill site, attracting new residential development, conformance with modern building code requirements, diversity of housing opportunities, improvements to West Broad St. that will increase safety for pedestrians and drivers, and the chance for qualified seniors to become a part of the Pawcatuck community.

Public Comment in Favor:

Judd Rosen, 6 Coggswell St., stated he owns the closest residential property to this lot. He read his letter of approval which came to this conclusion: "I welcome this revised proposal and URGE the Planning and Zoning Committee to vote favorably its approval." Mr. Rosen claims that if the Westerly/ Pawcatuck Task Force was still in operation it would certainly approve of this development.

Don Kluberanz, 3 Canary St., Pawcatuck, fully supports this development. There is a high demand for senior housing amid a low supply. Mr. Kluberanz applauds the Town of Stonington for teaming with WinnDevelopment.

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Jim Lathrop, Economic Development Commission member, stated that over the last four years the objections to this development came in six categories: too big, too ugly, increased traffic, not enough parking, too many public resources required, and that it is a great idea but not for this location. Mr. Lathrop addressed those concerns: it is now smaller, more aesthetically pleasing, has more parking, and does not significantly affect traffic. The walkable aspects of this development are immense and local businesses will do better because of it. Walkability helps create community. Large, underdeveloped, marginalized sites can create havoc and this will help fix that.

Dave Hammond, 350 Greenhaven Road, Chair of the Economic Development Commission, thanked the EDC team for helping to keep Stonington economically strong and vibrant. The value of this development to the Town of Stonington includes establishing an inclusive mixed income community and providing a much-needed boost to downtown Pawcatuck. The utility infrastructure is in place, there is reduced need for cars, thus it is a perfect location for income-based housing. Mr. Hammond stated that he supports this project and its effort to revitalize downtown Pawcatuck.

Public Comments Against:

Ben Tamsky, Mystic resident, read a letter by Laura Graham, 2 Moss St., Pawcatuck, who claims these developers stand to make so much profit that they will pay 1 million dollars for a property assessed just over \$100,000. This is a textbook case of corporate welfare and the community will not benefit. Stonington already has Affordable Housing developments with vacancies. Pawcatuck already has over 15% of its housing as affordable. There will be traffic congestion for generations. The precious parking in this area will be robbed by construction workers and then guests of the residents, and there is no foot bridge to the train station in Westerly. WinnDevelopment is forcing this against the will of the town's residents as the plan was rejected at the polls. Senator Sommers and Representative Howard are against this plan. Ms. Graham understands the legality of approving this plan, but would like to see the town take a stand. She would like to state her dissent for the record.

Tracy Swain, 52 Courtland St., Pawcatuck, stated that statutes which can be used to deny this development are CGS 8-2a, which cites concerns of health, safety, and convenience, and CGS 8-23, which focuses on lessening congestion for safety from fire, flooding, panic, etc. Ms. Swain discussed emails obtained between Westerly Water and the applicant's engineer from 2020 which referenced water pressure issues. The lack of water looping in Pawcatuck results in less than adequate water pressure. If just one building has a fire causing the sprinkler system to activate, every other building on this loop must be evacuated because there is not enough remaining pressure. The maintenance of these water lines is not being evenly split between Pawcatuck and Westerly leading to a water and safety issue.

Stephen Capizzano, Capizzano Olive Oils & Vinegars on Coggsell St, stated his concern with a large backup of traffic during the summer. The project is too large and the lot is too small. He believes it would not improve the quality of life for this community. The rear facing façade should be aesthetically pleasing. If this project has to be built, it should be done without taxpayers' dollars helping to fund the process.

General Comment:

Carlene Donnarummo asked if the proposed median in West Broad St. will be raised. Ms. Donnarummo stated the townspeople were wise to reject the tax abatement program that would have given this property an abatement 10 years after its completion. She requested information on whether a shadow plan was submitted or a waiver requested. She believes it is a false assumption that a majority of drivers will be turning out of Coggsell and heading towards Mystic instead of Westerly. Ms. Donnarummo would like more information regarding effects on the Liberty Street intersection which she believes should remain without a

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traffic light. She asked whether 2010 census numbers were used in the affordable housing count which would not be up-to-date.

Rebuttal:

Attorney Sweeney stated that 95% of the letter written by Laura Graham has no bearing on the legal charge. The Commission cannot consider financial issues. The only valid piece is regarding the federal floodplain on the property. However, all units have been elevated 2' above the Base Flood Elevation. A flood evacuation plan will be included.

Regarding Ms. Swain's comments, CGS 8-30g overrides both CGS 8-2 and 8-23. There were months of work that went into the engineering design and they have met with all relevant departments and agencies. Picking a handful of past emails does not tell the full story and suggests that something was not properly done. The emails refer to discussions prior to the approval of the original project. Since then, analysis has been completed by Westerly Water's consulting engineering firm which concluded that the project will have adequate fire protection pressure. Mr. Vitaliano, project engineer, confirmed that the water pressure is adequate. There will be an upgrade from a 6-inch to an 8-inch water line.

Attorney Sweeney stated that traffic issues are issues of expert testimony. The Supreme Court has said commissions must give due weight to an expert over public opinion. Issues regarding taxpayer funding are not relevant to the matter at hand. The island in West Broad St. will not be raised, it will be striped. Regarding a shadow plan, there are no residential buildings that will be affected and a waiver has been requested. Affordable Housing statutes state that such requirements cannot be imposed by this commission. Mr. Humphries discussed the changes to the front entrance and the rear façade which has been scaled down with white clapboards and a band under 4th floor windows. Mr. Balskus stated he used current census bureau data, traffic volume analysis, and his professional engineering judgment regarding projected trip directions. The Liberty St. intersection will be reviewed by DOT. This project is not proposing a traffic light at that intersection.

Attorney Sweeney stated Stonington's 5.71% affordable housing figure is from the State's Affordable Housing Appeals List, which is the official count of affordable housing in each town. The percentage in Stonington has decreased from 5.9% in 2019. Attorney Sweeney believes this is a far better project than it was 2 years ago.

Staff Comments:

Mr. Brynes stated that his evaluation of basic project requirements showed no issues with the feasibility of the proposal. Plans were reviewed by the WPCA, Westerly Water, Pawcatuck Fire Marshal, Police Commission, Floodplain Management consultant, and Architectural Design Review Board. The Town Engineer and Town's engineering consultant did not have any issues with the drainage plan. The Town's flood hazard consultant was satisfied; flood resilience has been enhanced since the original approval. There are no current plans for a pedestrian bridge; however, it is a long-term goal. The current options for this application are to approve of the modifications or maintain the previously approved plan. The application can only be denied for safety reasons which outweigh the public benefit of affordable housing and which cannot be reasonably modified. The reasons to deny do not include a basic increase in traffic or parking demand or the notion that too much affordable housing is located in one area of town. Mr. Brynes clarified that the voters did not vote down the project, just the proposed tax abatement. This proposal represents the fulfillment of the 2005 Pawcatuck Redevelopment Plan which recommended high density housing at this location. Attorney Sweeney stated that if this application is approved and constructed, the Town's percentage of affordable housing would be over 6% unless other affordable units come off the list. Mr. Brynes stated that minimum 10% affordable housing cannot legally focus on Pawcatuck specifically, but must be for Stonington as a whole.

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Mr. Philbrick asked why this will be considered a "green building." Mr. Vitaliano explained the high standards by private organizations such as the Green Building Council and the Passive House Institute that will be met. Geothermal heat is not proposed but there will be some solar panels on the roof.

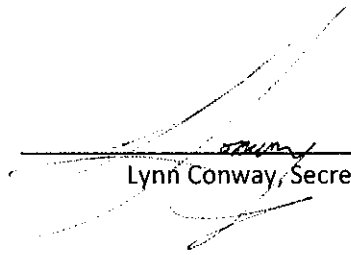
Ms. Selinger stated that she believes this would be a great development for Pawcatuck.

Mr. Deasy made a motion to approve this application with stipulations and grant necessary waivers; motion seconded by Mr. Sheehan. The motion was unanimously approved, 5-0.

Stipulations of approval:

1. Final plans shall be recorded in the Town's Land Evidence Records.
2. Final plans shall be reviewed to the satisfaction of the Town Engineer and Pawcatuck Fire District. Work shall not proceed without approval of the Pawcatuck Fire District and Westerly Water.
3. The applicant shall post an Erosion and Sedimentation Control Bond prior to the issuance of any Zoning Permits. The bond shall be either in the form of a certified check or irrevocable letter of credit meeting the requirements of Section 8.6.3 of the Zoning Regulations. The bond amount shall be established by the Town Engineer after an estimate of the costs of installing and maintaining appropriate erosion and sedimentation control measures is provided by the applicant and approved by the Town Engineer. Work shall remain bonded for a minimum of one year from the date of completion.
4. Public Access Easement shall be recorded prior to issuance of any Zoning Permits and shall include specific language permitting construction of a future pedestrian bridge. Easement will require Board of Selectmen approval.
5. Transportation related off-site improvements that are approved by CTDOT shall be completed prior to issuance of a Certificate of Zoning Compliance.
6. The applicant shall provide a flood evacuation plan to the Department of Planning prior to issuance of a Zoning Permit which shall be recorded in the Town's Land Evidence Records.

Mr. Deichmann motioned to adjourn; seconded by Mr. Deasy. All in favor 5-0. The meeting was adjourned at 9:36pm.



Lynn Conway, Secretary