

Regular Meeting

The 1627th meeting of the Town of Stonington's Planning and Zoning Commission was held Tuesday, December 18, 2018, at the Mystic Middle School, 204 Mistuxet Avenue, Mystic, CT. The meeting was called to order by Chairman David Rathbun at 7:00pm. Also present for the meeting were Commissioners Shaun Mastroianni, Curtis Lynch, Ben Philbrick, and Gardner Young; Alternates Lynn Conway, Fred Deichmann, and Peter Chomowicz; Town Planner Keith Brynes, and Director of Planning Jason Vincent.

Seated for the meeting David Rathbun, Shaun Mastroianni, Gardner Young, Curtis Lynch, and Ben Philbrick.

Minutes:

Mr. Philbrick moved to approve the meeting minutes of December 4, 2018, seconded by Mr. Lynch, all in favor 5-0, motion approved.

Commission Initiatives:

POCD Update Committee - The commission will address this at the next meeting, 1/14/19.

Administrative Review:

Consideration of modifications to approved Special Use Permit Application PZ1727SUP & CAM Hendels Mystic, LLC & Hendels Washington St., LLC for a 14,157SF mixed use building with associated site improvements. Property located at 3 Roosevelt Ave. & 48 Washington St., Mystic. Assessors Map 174, Block 16, Lots 1 & 2. Zone LS-5. Modifications are proposed as a settlement to Connecticut Superior Court case Hendels Mystic, LLC et al v PZC (#KNL-CV18-6033365S).

Attorney Ron Auschner presented the application and stated the property has new ownership that plans to move forward with the development.

Clint Brown, project engineer, presented the site plans and the minor modifications to close the vehicular access for a pedestrian walkway. There are some small technical modifications as well. Ms. Conway asked for clarification on the site grading. Mr. Brown explained that due to the flat nature of the site they have had to modify plans for storm water management to work with the site.

Tim Gerrish, landscape architect, presented the landscape plan and the changes due to the vehicular access being closed. The hedging will only be two feet high so sightlines will remain intact.

Peter Springsteel, project architect, presented the modified architecture plans. The modification will remove some of the fourth floor on the ends to reduce the massing. The lower three quarters of the balcony fencing will be opaque to block any furniture unsightliness. Lastly, the wrought iron balconies have been replaced with a white fencing.

Mr. Brynes reviewed the proposed motion and stipulations.

Mr. Lynch moved to approve the application with the stipulations recommended by staff, seconded by Mr. Mastroianni, all in favor 5-0, motion approved.

Stipulations:

1. A Site Plan review application will be required by both the Planning and Zoning Commission and the Architectural Design Review Board, prior to installation of any signs.

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FINAL PLAN STAGE

The following modifications are required to finalize the plans:

2. Additional notes to be included:
 - a. "The porous pavement is an integral component of the drainage system design and future maintenance of the site and parking surfaces shall maintain a pervious surface."
 - b. The installation of the porous pavement, including various base courses, and underground detention system shall be inspected by the design engineer during construction.
 - c. The first-floor use is limited to commercial activities.
3. Any notes regarding the maintenance of the pump system shall be removed.
4. The extents of the pervious pavement shall be clearly delineated.
5. Prior to Commission endorsement:
 - a. Shall be reviewed to the satisfaction of the Town Engineer
6. Commission-endorsed Final Plans shall be recorded on the Town of Stonington Land Records (Town Clerk's Office), prior to the issuance of a Zoning Permit for construction.

ZONING PERMIT STAGE

Prior to the issuance of a Zoning Permit, the applicant must complete the following:

7. A dry-floodproofing plan, developed by a Connecticut-licensed Professional Engineer, shall be submitted. Documentation shall include:
 - a. Confirmation that depth of floodproofing is within acceptable limits.
 - b. Certification that floodwater velocities & depths are acceptable in this location.
 - c. Confirmation all utilities will be above the Base Flood Elevation (BFE).
 - d. Provision of an emergency operations plan & maintenance plan
8. The applicant shall post an Erosion and Sedimentation Control Bond prior to the issuance of any Zoning Permits for development per 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.
9. The applicant shall post a Performance Bond for improvements in the public right of way prior the completion of such improvements per the requirements of Section 8.6.1 of the Zoning Regulations. The bond amount shall be established by the Town Engineer after an estimate of the costs of installing such public improvements is provided by the applicant and approved by the Town Engineer.

PZ1716SUP KAC, LLC (A. Kanabis) – Request modifications to approved Special Use Permit to provide site accommodations for utilities as follows: relocate bicycle stand, swap dumpster & generator locations, & placement of 3 LP bottles. Property located at 17-19 East Main St., Mystic. Assessors Map 174 Block 2 Lot 4. Zone DB-5.

The applicant is requesting minor changes to the previous approved application. Mr. Philbrick asked how the dumpster will be emptied with the new configuration. Mr. Comeau stated that it will be emptied outside of business hours and explained the route to access.

Mr. Mastroianni moved to approve the application, seconded by Mr. Young, all in favor 5-0, motion approved.

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Old Business:

PZ1829RA Town of Stonington PZC – Zoning Regulation Amendment to modify the regulations regarding Accessory Dwelling Units. PH closed 12/4/18.

Mr. Brynes presented the proposed changes as written in the staff report. The commission reviewed the items and made modifications. The commission discussed owner occupancy and whether it should be included or addressed by town ordinance. The commission reviewed Ms. Conway's written comments and discussed what should be adopted. The commission decided that new structures would require a special use permit.

Mr. Lynch moved to approve the regulation amendment as amended, seconded by Mr. Young, the vote was taken 4-1, the motion was approved.

Roll Call: Young – approve, Philbrick – approve, Lynch – approve, Rathbun – approve, Mastroianni – deny

Ms. Conway expressed her concern that comments she was asked to provide were not addressed.

Public Hearing:

Mr. Young recused himself and Mr. Chomowicz was seated.

PZ1831SUP Richard Mann (T. Collier) – Special Use Permit application for confirmation of established 307-seat Restaurant and Retail uses, provide amplified live music, and minor alterations to building and site. Property located at 215 Liberty St., Pawcatuck. Assessors Map 16 Block 4 Lot 12. Zone LS-5.

Thomas Collier, attorney for the applicant, presented the application and site plan overview. The applicant's plan shows 107 parking spots on site; a conservative estimate. The building's footprint has not been modified. The applicant is proposing indoor and outdoor seating and four exterior volleyball courts. Mr. Collier clarified the music time ranges and meal hours. Mr. Rathbun asked if all music will be indoors. Mr. Collier stated that it will be. Mr. Philbrick asked if the volleyball courts will be lit and used at night. Mr. Collier stated they will not. Mr. Chomowicz asked if the number of seats are in line with the previous restaurant. Mr. Collier stated that due to the configuration differences, it is unclear. The WPCA does not mandate that they hook up to the public sewer. The applicant plans to purchase an adjacent lot for additional parking.

Property owner, Richard Mann, presented outlines and photos of the proposed plan and concept. The plan would be to have a dinner time to be followed by entertainment. The outdoor area will be used for some outdoor dining and yard games. The applicant is hoping to make this a classic establishment with tasteful music and entertainment.

Caswell Cooke, Westerly Town Council Member, and owner of Seafood Haven, spoke about booking live entertainment geared towards an older audience. They plan to book caberet, acoustic, country, adult contemporary, mostly mid-range entertainment.

Sound engineer, Ian Jones, performed a study to measure impact of a loud rock music concert in the building on the street. There was no measurable impact on the surrounding streets based on the

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reading. Liberty Street measured around 55db, 10db below town ordinance. The acoustical tiles are fire retardant as well.

Mr. Rathbun is concerned with the parking associated with the volleyball gameplay. Mr. Collier explained that the volleyball is league type, twice per week for set hours. Mr. Mastroianni asked if there would be music outdoors that is not live. The applicant stated that there is no intention to pipe music outdoors for the volleyball. They will not be applying for an outdoor bar as the restaurant and courts will function separately. Mr. Chomowicz raised concern that all the cars may exit at once when the entertainment ends and asked if the impact was studied. It was reviewed by the police commission, but a traffic study was not conducted. It is not their opinion that all patrons will leave at the same time. There is an additional exit on the site the applicant is in the process of purchasing. The applicant is in agreement with the proposed stipulations.

No Public Comment in Favor

Public Comment Against:

Michael Murphy, a neighboring property owner, expressed concern with the noise levels and vibrations associated with the sound, based on prior experience with Bullwinkle's in the 90's. There would often be a temperature issue in the past so the doors would be open and cause the music to have even more of an impact. Ms. Conway asked if there was vegetation in the front to help. Mr. Murphy stated at the time there was, but it did not help.

Julie McNeil, abutting neighbor and owner of several homes on Faulise Avenue, expressed her concern with the outdoor dining and volleyball courts that have been discussed. She is in favor of the indoor dining and entertainment, but has many concerns with the outdoor entertainment's impact on her properties. Ms. McNeil also has concerns with the possible firepit constructed in the rear.

Bob Ness, a neighbor across the street, expressed concern with the potential noise and vibration from the music, otherwise, he is in favor of the proposal.

No General Comment

Rebuttal:

Mr. Rathbun asked if the volleyball courts can be moved to the south and west, especially the one located closest to the neighbors. Mr. Mann clarified that they did remove one of the courts near the neighbors. They had constructed a fire pit, but will be removing it because they have been working with the fire marshals and cannot obtain a permit. Mr. Mann stated that they will not have club style music and will not play at the level of past establishments. Mr. Lynch would like an updated plan to be submitted. Mr. Collier stated that the style of music will be different, and that they will not be propping the doors open. Ms. Conway asked if anything has been done to improve soundproofing since Bullwinkle's or Rosalini's were operating in the building. Mr. Mann stated that it was rebuilt in 1983 to address the soundproofing and that their level of music will not compare to prior establishments. Mr. Mann clarified the existing screening and buffers. Mr. Philbrick asked if there is any fencing proposed around the outdoor seating to buffer sound. The commission recommended a sound barrier on the north side of the outdoor patio. The north volleyball court will be removed as well.

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Mr. Brynes reviewed the recommended stipulations from the staff report as well as those that have been proposed during the hearing.

Mr. Lynch moved to close the public hearing, seconded by Mr. Philbrick, all in favor 5-0, motion approved.

Mr. Lynch moved to approve the application with stipulations discussed by staff and the waiver requests, seconded by Mr. Philbrick, all in favor 5-0, motion approved.

Stipulations:

1. Approval is for a restaurant / dinner club featuring live music as per Sections 4.3.3.18 and 6.6.16. Approval does not include a "nightclub."
2. Live music shall be limited to between 5:00PM and midnight on Wednesday through Friday and from noon to 11:00PM on Saturday and Sunday. General hours of operation shall not exceed midnight on Monday through Friday and 11:00PM on Saturday and Sunday.
3. No amplified live entertainment shall occur outdoors.
4. An off-site parking agreement shall be filed prior to the issuance of a Zoning Permit. Should parking no longer be available on 207 Liberty Street, the site must come into compliance with the regulations and/or a Parking Reduction may be requested by the applicant through the Special Permit process.
5. Minor changes to the parking layout may be approved by the Department of Planning in order to improve on-site circulation.
6. Proposed signage shall conform to Section 7.12 of the Zoning Regulations.
7. Any new building or site lighting shall be full cut-off.
8. Outdoor games shall not be available to customers after sun-down.
9. There shall be no outdoor amplification of sound.
10. The proposed north volleyball court shall be removed.
11. Building doors shall not be left open.
12. Six-foot tall solid fencing shall be added to the north side of the outdoor dining area.

Mr. Philbrick moved to adjourn, seconded by Mr. Mastroianni, all in favor 5-0, the meeting adjourned at 9:24pm.



Shaun Mastroianni, Secretary