

**MINUTES FOR TWO (1) PUBLIC HEARING
OF THE PLANNING AND ZONING BOARD
HELD TUESDAY, MARCH 18, 2014 AT 7:30 P.M.
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET**

Chairman Benjamin Gettinger called to order the March 18, 2014 meeting of the Planning and Zoning at 7:30 p.m.

A. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

B. ROLL CALL

Members Present: Terrence Copeland, Michael Dolan, John Grant, Jeanne Cervin (Vice Chair); Edward Mead, Carl Moore, Tom Nichol, Tom Panzella, Jim Quish, Benjamin Gettinger, Chair.

Staff: David Sulkis, City Planner; Emmeline Harrigan, Assistant City Planner; Phyllis Leggett, Board Clerk.

The Chair made an announcement that the application for 0 Westmoor Road would be heard at the next Planning and Zoning meeting on April 1, 2014.

C. 1. EXECUTIVE SESSION – Grillo Organic v. Milford P & Z, 1183 Oronoque Road
Discussion concerning pending litigation.

The Planning and Zoning Board, David Sulkis and Emmeline Harrigan went into Executive Session on the above matter at 7:35 p.m. The Board and Staff returned from Executive Session at 7:55 p.m.

D. PUBLIC HEARINGS – Close by 4/22/2014; expires on 6/26/2014

2. **0 WESTMOOR ROAD (ZONE R-12.5)** – Petition of Warren K. Field, Jr. for Special Permit and Coastal Area Management Site Plan Review approval to construct a single family residence within 25 feet of high tide on Map 30, Parcel 613A, Parcel 34-37, of which Field and Son Builders LLC is the owner. **POSTPONED TO APRIL 1, 2014 MEETING**
3. **313 NAUGATUCK AVENUE (ZONE CDD-2)** – Petition of John Knuff, Esq. for Special Permit, Coastal Area Management Site Plan Review and Site Plan Review approval to construct a gasoline station and convenience store on Map 15, Block 244, Parcel 1, of which the Wiehl Estate is the owner.

John Knuff, Esq., 147 Broad Street, Milford, CT, appearing on behalf of the Wiehl Estate to construct a gas station and convenience store at the corner of Milford Point Road and Naugatuck Avenue, where a gas station and convenience store already existing. Also present were Mark Smith, PE and Chris Hogan, the President of Consumers Petroleum. The application is for a Special Permit, Coastal Area Management Site Plan Review and a Site Plan Review. Attorney Knuff distributed photos of the posted signs; three photos of the existing site; original approval as a gas station in 1959 and a front yard setback variance from 1991, which were date stamped into the record.

A general automobile repair business at this location was approved on October 6, 1959. Between 1959 and 1974 the Milford Zoning Regulations were amended to require a minimum lot area for gas stations of 22,000 SF and a minimum distance to a residential zone of 300 feet.

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The applicant gas station has slightly over 20,000 SF and is about 20 feet from the closest residential zone became nonconforming as to those two requirements. In 1997 a variance was granted to a setback for the canopy. In 2000 the former repair facility and garage base were replaced with a convenience store and most recently, variances were received this past summer for the minimum lot area and the minimum distance to the residential zone. The variances specifically allowed the applicant to come before the Planning and Zoning Board with this application. The variance did not allow the applicant to vary any other bulk requirement. All height, setback, coverage and landscaping requirements are compliant and a number of nonconformities are being eliminated.

Attorney Knuff gave the background of the owners of the property, the Wiehl Estate, an affiliate of Consumers Petroleum, and how they have redeveloped other such properties in Connecticut. They build new convenience stores, as well as improving all the infrastructure, including underground tanks, lines and dispensers and bring everything up to date for safety and environmental standards.

The applicant keeps the look of all the gas stations and convenience stores with a uniform residential character. The proposed building will have a colonial design with a creamy yellow clapboard, peaked roof, dormers and modest signage. This application will comply with improving the Devon area and is in keeping with the guidelines of the POCD and the design zoning regulations for the CDD-2 zone.

Attorney Knuff also noted there would be no automotive repair or service of any kind. The number of dispensers will be reduced from four to three. Fueling positions will be reduced from six to three. A curb cut on Milford Point Road closest to Naugatuck Avenue will be eliminated. Flush mounted lights on the canopy will provide much less glare than what is presently on the canopy. There will be landscaping where there is presently none. Impervious coverage will be reduced by approximately 1700 SF. There is no landscaping along the frontage at this time, but the required six feet will be added.

Mark Smith, Project Manager, Alfred Benesch & Company reviewed the Existing Conditions Survey, which identified what is presently on the site. He described the proposed new design. Building will be moved and everything existing will be eliminated. New sidewalks on both frontages. Displayed photograph of the new building with hardyboard siding and PVC trim. Looks residential in style. It will be a complete upgrade of the site and to that corner.

Attorney Knuff outlined the application's compliance with the Special Permit Zoning Regulations.

Mr. Sulkis: Attorney Knuff did a fine job presenting the project. He noted they are adding a propane storage tank for distribution of propane, which is located underground, so it complies with our regulations. He pointed out that on the proposed photometric survey, their light levels slightly exceed the .5 foot candle measurement along Naugatuck Avenue.

Attorney Knuff: Stated they would be happy to accept as a condition of approval that the light plan would be revised to bring it into conformance with the Town's regulations.

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The Board asked questions regarding the safety of the location of the propane tanks near the dumpsters; will the reduction in the number of pumps cause a lineup of cars for gas; will the staff refilling the propane tanks be certified or authorized to do that?

Mr. Knuff responded to each question to the Board members' satisfaction.

The Chair opened the hearing to the public and read the procedure for speaking at the public hearing. Asked if anyone wanted to speak in favor of the application (No reply). Asked if anyone was opposed to the application.

Ron Miller, 306 Naugatuck Avenue, Four Corners Rest Home. He is concerned with lighting and noise. Gone from a gas station that closed at 8:00 pm to a convenience store that closed at 11:00 pm and now a store that will be open 24 hours. Concerned about the noise, cars left running with boom boxes playing, night time deliveries of gasoline, as well as the lights and where they will be projected.

Mr. Knuff, via the displayed site plan, showed Mr. Miller where the lights are presently and where they will be, which will be an improvement. Since Mr. Miller brought it to their attention, the on site manager will be requested to be vigilant in monitoring the noise level. Will request that deliveries be made during normal business hours. Cannot limit them to a specific time of delivery, but can request the deliveries be done during the day.

There being no one to speak and no further questions from the Board, the Chair closed the public hearing.

Motion: Ms. Cervin made a motion to approve with the condition that the Lighting Plan be resubmitted that will conform to the zoning regulations.

Second: Mr. Mead.

Discussion: None.

In favor: All members voted in favor of approval.

Motion: Passed.

E. NEW BUSINESS

4. **91 MELBA STREET (ZONE R-5)** - Petition of David Salerno for Coastal Area Management Site Plan Review approval to construct a single family residence on Map 29, Block 587, Parcel 31, of which Gary and Michele Kupfer are the owners.

David Salerno, Compass Builders, representing the Kupfers who own 91 Melba Street. The existing structure has been storm damaged and will be demolished and rebuilt. John Gaucher has approved the plan.

Ms. Harrigan: The City Engineer as well as John Gaucher from the State DEP requested some additional percolation tests to determine whether or not the storm water management system

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proposed was going to be appropriate given the ground water level heights. Due to the cold weather, the applicant asked if that could be made a condition of approval. The City Engineer agreed it would be fine to wait.

Motion: Ms. Cervin made a motion to approve the application of 91 Melba Street, with the condition that the installation of the storm water management system be approved by the Engineering Department

Second: Mr. Nichol.

Discussion: None.

In Favor: All members voted in favor of the motion.

Motion: Passed.

F. PUBLIC HEARING CLOSED 3/4/2014; expires on 5/8/2014

5. **121, 123 AND 131 WEST MAIN STREET (ZONES RO and SFA-10)** – Petition of Metro Star Capital, LLC for Zone Boundary Change and Site Plan Review approval to construct a mixed use building with 48 residential units and office space on Map 65, Block 321, Parcels 19, 20 and 24A, of which 121 West Main Street Associates, LLC is the owner.

Chairman Gettinger: Asked staff to review the memorandum he presented to the Board with regard to comparing the RO zone and the MCDD zone, which had been requested of him at the last meeting.

Mr. Sulkis: Reviewed the memo he created comparing what could be done in the MCDD zone as compared to the RO zone.

Mr. Quish: Held onto his prior statements with regard to his interpretation of mixed use and the balance of residential to commercial use. He noted the adjacent large properties are municipal properties and cannot be developed. He believed this application is spot zoning a less dense use could be used by the property without a zone change.

Mr. Sulkis: The RO zone, at this time, allows 99% commercial and 1% residential. Spot zoning has a legal definition and this is not spot zoning.

The Board asked questions concerning uses in the affected zones; its views of the project and its effect on traffic and density in the zone change.

Ms. Cervin: Stated the plan conformed to the Plan of Conservation and Development.

Chairman Gettinger: Asked rhetorically, what was the point of public comment if the Board consistently votes against them. 8-30g applications are different, but this is not an 8-30g project and there has to be balance to the POCD, which is the comments of the neighbors and residents.

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The Plan of Conservation and Development should not stand alone as a deciding factor. If it is the sole deciding factor, why have a hearing? A majority of the residents would not vote in favor of increased density in the City.

Mr. Quish: Questioned the way the language in the application was worded as a “zone line change”, when it is really a zone change. He believes the application was not presented impartially.

Mr. Sulkis was asked to review what uses could take place in the RO zone.

Motion: Mr. Quish made a motion to deny the application.

Second: Chairman Gettinger.

It was clarified that Mr. Quish intended to make a motion to deny the zone change.

Motion: Mr. Quish made a motion to deny the zone change.

Second: Chairman Gettinger.

Discussion: Mr. Quish felt the site could be developed in line with the zoning regulations that would be the least impactful on the residents and comply fully with the Plan of Conservation and Development. Saw no benefit to the City or the local residents to approve the zone change.

Voice Vote on the Motion to Deny: Mr. Copeland, Against; Mr. Dolan, Against; Mr. Grant, Against; Chairman Gettinger, Against; Ms. Cervin, Against; Mr. Moore, Against; Mr. Nichol, Against; Mr. Panzella, Against, Mr. Quish, In favor.

Motion: Failed

Ms. Cervin: Made a motion to approve the zone change.

Mr. Panzella: Second.

Discussion: Chairman Gettinger: Stated he would be voting for the motion, but Mr. Quish’s concerns should not be ignored. He thought there should be more parameters and direction for the Board to go through other than the Plan of Conservation and Development. He also felt there was the potential to do more of a disservice to the people living in the area; not by the applicant, but a future 8-30g application.

He thought it advisable to have a subcommittee to discuss when a zone change is appropriate and how to address the concerns of the public who come to multiple meetings and are then told sorry, the Plan of Conservation and Development rules.

Voice Vote on the Motion to Approve the Zone Change: Mr. Copeland: In favor; Mr. Dolan, in favor; Mr. Grant, in favor; Chairman Gettinger, in favor; Ms. Cervin, in favor; Mr. Moore; in favor, Mr. Nichol, in favor; Mr. Panzella, in favor; Mr. Quish: Against.

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Motion: Ms. Cervin made a motion to approve the application of 121, 123 and 131 West Main street.

Second: Mr. Nichol

Discussion: None.

Voice Vote on the Motion to Approve the Application: Mr. Copeland, in favor; Mr. Dolan, in favor; Mr. Grant, in favor; Chairman Gettinger, in favor; Ms. Cervin, in favor; Mr. Moore, in favor; Mr. Nichol, in favor; Mr. Panzella, in favor; Mr. Quish: Against.

Motion: Passed

G. LIAISON REPORTS

Mr. Mead: Police Commission: Another 8-30g application will be coming before the Board.

Mr. Quish: Asked for more information on the commissions needed for liaisons and when they meet.

H. APPROVAL OF MINUTES – (3/4/2014)

Motion: Ms. Cervin made a motion to approve the Minutes of 3/4/2014.

Second: By Mr. Nichol.

Discussion: None.

In favor: All members voted in favor of approval.

Motion: Passed.

I. CHAIR'S REPORT

Chairman Gettinger noted he was approved to be on the South Central Regional Council of Governments. He asked Staff if they approve the P & Z Board's regulation changes.

Mr. Sulkis: Explained to the Board the role of the Regional Council of Governments. They receive copies of proposed regulation changes and may comment on them if necessary.

Chairman Gettinger: Would like to form a subcommittee to review regulation changes and see what changes need to be addressed. The subcommittee will be picked in a democratic manner.

Ms. Cervin: Noted the UConn training sessions through CLEAR that seminars in land use. She highly recommends new board members attend them. April 5th is the Advanced Training; Another session will be on Responsibilities and Legal Procedures. There will be another session on chairing meetings.

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J. STAFF REPORT

Mr. Sulkis: Discussed the marijuana dispensary and growth suppliers memo he circulated to the Board. This will be put on the agenda and discussed at the next meetng. The moratorium runs to the end of April. Board needs to give direction on what they want Staff to do with this new topic and regulations associated with it.

The Chair asked the Board to review the memorandum Mr. Sulkis had distributed, and to be prepared to discuss it at the next meeting.

Motion: Ms. Cervin made a motion to adjourn.

Second: Mr. Grant.

Discussion: None.

Vote: All in favor of adjournment at 8:20 p.m.

The next Planning and Zoning meeting will be held on Tuesday, April 1, 2014.

Phyllis Leggett _____
Phyllis Leggett, Board Clerk