

PLANNING AND ZONING BOARD MINUTES FOR MEETING HELD TUESDAY 19 APRIL 2022, 7:00 PM

The meeting of the Planning and Zoning Board came to order at 7:00p.m.

A. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

B. ROLL CALL

Members Present: N. Austin, J. Castignoli, E. Hirsch, J. Kader, B. Kaligian, C.S. Moore, J. Mortimer, J. Quish, R. Satti, M. Zahariades

Not Present:

Staff: D. Sulkis, City Planner; M. Greene, Rec. Sec'y

Chairman Quish opened the meeting. He announced that 843 North Street had been withdrawn by the applicant and that both 535-543 Plains Road and 615 Plains Road would be heard at a later date.

C. NEW BUSINESS

D. PUBLIC HEARINGS

CLOSE BY MAY 24, 2022; VOTE BY JULY 28, 2022

- 1) 1040-1052 Boston Post Road (Zone ICD) Petition of Laurent R. Yergeau, Turnpike Lodge Inc., for an Amendment to Special Permit and Site Plan Review to construct an automotive dealership at Map 77, Block 832, Parcels 2, and 2/A, of which Turnpike Lodge, Inc. is the owner.

Mr. Yergeau, 45 Loomis St, addressed the board. He introduced the operations director of Key Hyundai and Genesis of Milford.

Chuck Dortenzio, 566 Bridgeport Ave, reviewed the property, the business, and Key's corporate citizenship in the city. He said that despite a lack of incentives, the company was very excited about developing the site as it is a gateway property with proximity to Interstate 95. He said the Genesis of Milford dealership is a luxury brand and will be the 5th national store of its kind. He introduced his team. **Mr. Hirsch** confirmed that the only new cars sold at the site would be the Genesis brand.

Jason Edwards, 227 Stepney Road, Easton, civil engineer for project, displayed an aerial map and described the original parcel with its former businesses and the previously approved plans for the site with a mixed hotel and retail use, which plans could not be completed. He said the current plan is to merge the prior lots into one address. He reviewed previously approved features that would be retained and said the existing structures on the site would be removed using a phased demolition. He anticipated a short delay to these activities if the project was approved due to moving cellular equipment. He reviewed water management, utility plans, and landscape plans. He said the regulations specify that a buffer be installed in the rear, but a waiver of this requirement would be needed due to the servicing of vehicles in the rear. **Mr. Satti** asked for clarification of the addressing scheme. **Mr. Edwards** said all demolition would be done in Phase 1 along with construction of the car dealership. They discussed the parking areas and the tall carousel that serves as both a vehicle display and storage facility.

Phil Clark, Architect, Claris Design + Build, 53 Church Hill Road, Newtown, said that 57' tower structure that faces 95 is almost all glass. **Mr. Sulkis** commented that this was well below the zone's height setback. **Mr. Castignoli** discussed access to the site. **Mr. Zahariades** confirmed that a Phase 2 was planned but has not been defined at this time. **Chairman Quish** asked if any concrete would be recycled on the site and was told all concrete and rebar would be recycled or reused.

Mr. Dortenzio said the Genesis store is designed to be a luxury retail experience and the rest of the property will be held to that standard of appearance.

Mr. Clark said the Genesis architects provided the overall site design per their corporate guidelines. He reviewed details on the service and sales areas. He identified the car delivery area and provided details on the elevated car carousel as well as the orientation of the building. He said the design featured varied textures and shapes to add interest and noted that the site was the second such store in the country at this state of development. **Ms. Austin** asked where trucks for vehicle delivery would enter and exit; **Mr. Edwards** pointed these areas out on the survey.

Mr. Sulkis read his administrative summary which was generally consistent with the presentation. He noted that some interdepartmental reviews were still pending. He suggested that if the board voted for the project, a condition of approval should be that the applicant satisfies the city engineer's questions. **Mr. Satti** asked if the carousel was zoning compliant, **Mr. Sulkis** said nothing in the regulations would prohibit such a feature in the building, which would, however, also be subject to the building code review. **Mr. Dortenzio** said the carousel doesn't move constantly; it's a way to both display and park the cars in a small footprint.

PUBLIC COMMENT

Chairman Quish asked for public comment. Hearing none, he closed the hearing and asked for a motion.

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Mr. Satti noted from an abundance of caution that he knew Mr. Yergeau through scouting but did not feel recusal was warranted.

Mr. Satti moved to approve with the following modifications the petition of Laurent R. Yergeau, Turnpike Lodge Inc., for an Amendment to Special Permit and Site Plan Review to construct an automotive dealership at Map 77, Block 832, Parcels 2, and 2/A, of which Turnpike Lodge, Inc. is the owner.

Proposed Conditions:

- 1) Reference to the city engineer's report dated 4/18/2022, page 3, recommendations A-H.
- 2) The applicant will provide a surety bond in an amount determined by the city based on the lowest of 3 estimates from qualified contractors as provided by the applicant for completing the site work as described in the plans and application submitted to the Planning and Zoning Board, including, but not limited to:
 - a. The demolition and removal of the former Howard Johnson structure.
 - b. The demolition and removal of the Fairfield Inn stair towers and foundation.
 - c. The removal of all excavated materials on site.
 - d. Grading and stabilization of the portion of the site listed as phase 2.

Second: Mr. Castignoli seconded.

Discussion: None.

Vote: Motion carried unanimously.

- 2) **1500 Windward Road** (Zone WDD) Petition of Stephen Bellis, Esq. for a Major Amendment to a Special Permit with Coastal Area Site Plan Review to construct an expansion of Caswell Cove Condominiums at Map 40, Block 300, Parcels 100-3A thru 100-3D, of which Caswell Cove Condominium Association, Inc. is the owner.

Attorney Bellis addressed the board, reviewing highlights of his presentation at the last meeting. He shared a document detailing the resolution voted by the association to construct 44 units in 2007, saying that with 182 out of 200 possible votes, the approval percentage was 86.

Jeffrey Gordon, Codespoti & Associates, 263 Boston Post Road, Orange, wanted to address Mr. Moore's question from the last hearing about access. He shared a 1965 photo of the Beard Sand and Gravel operation, noting that the site had previously been denuded of all vegetation and said that in 35 years, there should have been reassertion of natural growth. He reviewed the 1960s-era layout of the site and the emergency access then. He said this phase would provide the original intended second accessway. He said repair of rough roadway would be part of the proposal. He said a biofiltration area would restore the health of the soil without intervention of chemicals. **Mr. Hirsch** discussed the regular exits versus emergency exits with Mr. Gordon. **Attorney Bellis** said that the Traffic Division of the Police Department approved the proposal as submitted, as did the Fire Marshall. He said his client was willing to repair the road. He cited the prior approval of a larger number of units by the board. **Mr. Castignoli** asked about bylaws, would residents be provided these documents. **Attorney Bellis** said they must be disclosed by law.

Chairman Quish invited the public to speak.

Jean Gray, 1435 Winward Road, said she purchased her unit in 2017 and was not represented in the 2007 vote. She said she was opposed.

Gary Peluchette, 1425 Windward Road, said the vote by the condominium owners was taken 15 years ago. He reviewed the vote's purpose. He said plans were not shared or voted on. He said the process lacked transparency.

Kathy Duhon, 1414 Windward Road, said carcinogenic metals had been found on Caswell Cove property. She cited a court case in 2019. She said a family member was medically fragile and feared that construction would disturb and distribute toxins. She said also feared that any disclosures of risks to human health and the environment would not be forthcoming.

Jonathan Walker, 221 Popes Island Road, said the density of the new buildings was higher than existing buildings. He said the project ran counter to the goals of planned development. He said the river view would be compromised. He said he did not oppose development of the site, but his plan was inappropriate.

Corinne Booth, 1428 Windward, said when she bought her condo, she wasn't informed about the planned expansion. She said the bulkhead had deteriorated and erosion would enter the river. She said the height of the building would affect her view and she was concerned by the introduction of more traffic. She said she wanted a traffic study done.

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Joe Caruso, 1434 Windward Road, said there was only one access in and out without other entities like MetroNorth providing permissions. He said the driveway was undersized and was a safety risk. He felt the complex infrastructure could not support additional units. He said wildlife would be negatively impacted. He said the bulkhead was still being paid for. He disapproved of having to pay for additional work without seeing detailed plans. He read a statement critical of the plan and association's management for transparency. Q remarked that PZ has oversight of zoning regs and not association matters. He asked that comments to zoning matters.

Carol Lively, 963 Naugatuck Avenue, said the height of the buildings and their dense placement was unlike others in her area.

Gregg Fedder, 1138 Windward Road, said the emergency access road is inadequate if an evacuation was needed. He commented on the 2007 vote and his view that there would have been opposition to the current plans had they been made available then. He said the plans were inconsistent with the look and feel of Caswell Cove. He said the narrowest point on the access road was 24'.

Lisa Tryon, 1425 Windward Road, disputed the 4/5 minutes regarding a statement made by Attorney Bellis indicating that the Inland Wetlands Agency had granted an approval. She said the IWA only said it did not have jurisdiction. She said tidal wetlands had been identified on an early survey and should be under DEP [*sic*] jurisdiction. She reviewed waterfront views and access goals of the complex. She said the proposed emergency road was undeveloped and overgrown. She disputed an assertion in the CAM review that wildlife species would not be affected. She said the CAM needed correction and a second environmental study should be done.

Franklin Pilicy, Esq. 235 Main Street, Watertown, condominium attorney, said the condominium is required to provide declaration of development rights and a statement was in declaration about the new development rights since 2010. He said any owner buying a unit receives the declaration and that it is properly recorded on the land records.

Dottie Bateman, 632 Popes Island Road, said the process had been very long with much hard work and she was in favor.

Bill Roberts, 836 Popes Island Road, said he had recently bought his unit and was not told about potential development. He said he lives near the pump station and that there are already problems with it, so the new units would add to them.

Lisa Tryon, 1425 Windward Road, discussed documents she had found at the City Clerk's office and stating that development rights had expired.

McCorvie Wham, 713 Popes Island Road, said he had become president of the association this year, that he had lived in the complex for 28 years, and that communication with condo owners is not easy. He said it is hard to get people to pay attention but that most owners are in favor.

Jonathan Walker, 221 Popes Island Road, reiterated that traffic in the general area is dangerous and there are wetlands risks.

Chairman Quish asked Mr. Sulkis for comment.

Mr. Sulkis offered to reread his summary. He reminded the board that they were given a legal application from the condominium association. He said most of the commentary regarded internal Association disagreements. He said this board has previously approved significantly higher units on this site. He said the emergency access is not a Planning and Zoning issue and that the city's public safety departments have reviewed and approved the plan. He reiterated that the CAM application was proper. He then reread his administrative summary and said the proposed plan was substantially compliant with zoning regulations. He said the biggest issue for CAM is adverse impact on coastal resources. He said the history and use of the site is industrial, and that a section of the wall along the river is deteriorated but that the regulations don't speak to that; rather the bulkhead is a maintenance issue for the association. **Mr. Satti**, **Mr. Sulkis**, and **Attorney Bellis** discussed how the number of units changed under the Special Permit process. They discussed historical approvals and changes to the number of units. **Mr. Hirsch** asked Mr. Sulkis if a condition of approval could be added for the association addressing the bulkhead deterioration. **Mr. Sulkis** said the city engineer recommended that erosion be addressed but since the bulkhead is not part of the project, he didn't know if it could be made a condition of approval. **Mr. Hirsch** asked Attorney Bellis to comment. **Attorney Bellis** said the Special Permit approval process can attach conditions, but in this case, the association knows the bulkhead must be addressed; that makes it a separate issue to this application. He said that he understands condominium law and the provisions for decision-making about maintenance is that the owners elect a board of directors who have authority to make contracts on behalf of the condominium. **Mr. Sulkis** further said that an erosion problem is an issue of maintenance; for example, many properties aren't properly maintained in the city, but the city

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generally cannot force owners to fix erosion. **Mr. Mortimer, Mr. Hirsch,** and **Mr. Sulkis** further discussed jurisdiction for mandating maintenance. **Ms. Austin** said that owners are responsible for property maintenance and these issues could be addressed by voting against a motion. **Chairman Quish** agreed that a motion can be made and the board can vote. **Mr. Zahariades** asked why a vote was required if the proposal is zoning compliant; **Mr. Sulkis** said the way the ordinance is set up, the applicant must validate that the request is zoning compliant. **Mr. Kader** asked if the remaining units could be built later. **Mr. Sulkis** said nothing prevents it if they can do it in a zoning compliant manner. **Chairman Quish** asked about potential hazardous chemicals and wondered if the board could ask for a Licensed Environmental Prof to certify safety. **Mr. Sulkis** said that the board is not the Health Department. **Chairman Quish** said health and safety issues can be considered. **Mr. Kaligian** said the applicant had submitted a with a legal application and the board has an obligation to act, so a vote should be taken. **Mr. Castignoli** agreed that the board is going off topic, beyond its jurisdiction, and a vote was needed.

Chairman Quish closed public hearing.

Mr. Kaligian moved to approve as presented the Petition of Stephen Bellis, Esq. for a Major Amendment to a Special Permit with Coastal Area Site Plan Review to construct an expansion of Caswell Cove Condominiums at Map 40, Block 300, Parcels 100-3A thru 100-3D, of which Caswell Cove Condominium Association, Inc. is the owner.

Second: Mr. Castignoli seconded.

Discussion: Mr. Hirsch confirmed that no conditions were attached to the motion. **Mr. Satti** said he opposed the motion because he felt the application was not zoning compliant due to the environmental concerns expressed, and the lack of clarity about the total number of units approved.

Vote: Motion carried failed with the following votes:

WITH THE MOTION: N. Austin, J. Castignoli, E. Hirsch, B. Kaligian, C.S. Moore

AGAINST THE MOTION: J. Kader, J. Mortimer, J. Quish, R. Satti, M. Zahariades

Mr. Satti moved to approve with the following modifications the Petition of Stephen Bellis, Esq. for a Major Amendment to a Special Permit with Coastal Area Site Plan Review to construct an expansion of Caswell Cove Condominiums at Map 40, Block 300, Parcels 100-3A thru 100-3D, of which Caswell Cove Condominium Association, Inc. is the owner.

Proposed Condition:

Examination of the property by a Licensed Environmental Professional for an environmental impact study.

Second: Mr. Mortimer seconded.

Discussion: Mr. Hirsch confirmed definition of an inspector as a Licensed Environmental Professional, which was accepted by **Messrs. Satti** and **Mortimer**. Discussion ensued on differentiating wetlands versus non-wetland, with **Mr. Satti** wishing to include all environmental issues. **Mr. Moore** asked what the benchmark for a failure will be. **Mr. Sulkis** said the issues at Caswell Cover are well documented and being tracked by Health Department and Connecticut state officials. **Mr. Sulkis** reminded the board that it has no expertise in public health or the evaluation of environmental reports for adverse impacts. **Mr. Castignoli** disagreed that such a report could be made a condition of approval. **Mr. Hirsch** asked for a specific item in the study that would allow an approval. **Mr. Castignoli** expressed concern that a condition was being placed on construction that had not taken place.

Vote: Motion failed with the following vote:

WITH THE MOTION: J. Kader, J. Mortimer, J. Quish, R. Satti, M. Zahariades

AGAINST THE MOTION: N. Austin, J. Castignoli, E. Hirsch, B. Kaligian, C.S. Moore

Mr. Castignoli asked to table the item. **Mr. Hirsch** asked to make condominium-wide cooperation for approval financially compelling. **Ms. Austin** felt that the matter was diverging into unrelated subjects.

Mr. Castignoli moved to approve as presented the Petition of Stephen Bellis, Esq. for a Major Amendment to a Special Permit with Coastal Area Site Plan Review to construct an expansion of Caswell Cove Condominiums at Map 40, Block 300, Parcels 100-3A thru 100-3D, of which Caswell Cove Condominium Association, Inc. is the owner.

Second: Mr. Moore seconded.

Discussion: None.

Vote: Motion carried failed with the following votes:

WITH THE MOTION: N. Austin, J. Castignoli, E. Hirsch, B. Kaligian, C.S. Moore

AGAINST THE MOTION: J. Kader, J. Mortimer, J. Quish, R. Satti, M. Zahariades

Discussion of parliamentary rules ensued.

Mr. Kaligian moved to table.

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Second: Mr. Castignoli seconded.

Discussion: None.

Vote: Motion carried unanimously.

Chairman Quish asked if the City Attorney can give an opinion on the item.

E. LIAISON REPORTS—Mr. Satti said he attended the SCCOG meeting and nothing relating to Milford was discussed.

F. SUBCOMMITTEE REPORTS—Ongoing.

G. APPROVAL OF MINUTES—**4/5/2022** minutes were approved unanimously.

H. CHAIR'S REPORT – None.

J. STAFF REPORT - None.

K. ADJOURNMENT was at 9:20.

Attest:

M.E. Greene

New Business, not on the Agenda, may be brought up by a 2/3's vote of those Members present and voting.

ANY INDIVIDUAL WITH A DISABILITY WHO NEEDS SPECIAL ASSISTANCE TO PARTICIPATE IN THE MEETING SHOULD CONTACT THE DIRECTOR OF COMMUNITY DEVELOPMENT, (203) 783-3230, FIVE DAYS PRIOR TO THE MEETING, IF POSSIBLE.