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WATERFORD, CT

**MINUTES**

16 MAY 11 PM 1:16

Planning & Zoning Commission  
Waterford Town Hall

ATTEST: *David L. Carpo* May 9, 2016  
TOWN CLERK 6:30 PM

Members Present: J. Auwood, J. Bunkley,  
Members Absent: S. Stotts, B. Chenard (1 vacancy)  
Alternates Present: M. Mazzella  
Alternates Absent: E. Maguire, (1 vacancy)  
Staff Present: A. Piersall, Planning Director; M. Wujtewicz, Planner; T. Lane,  
Zoning Official; D. Choisy, Recording Secretary

**1. CALL TO ORDER AND APPOINTMENT OF ALTERNATES**

Chairman Auwood called the meeting to order at 6:30 and appointed M. Mazzella to sit for B. Chenard.

**2. APPROVAL OF MINUTES**

**MOTION:** Motion made by J. Bunkley, seconded by M. Mazzella, to approve the minutes of the April 25, 2016 meeting as written.

**VOTE:** 3-0

**3. RECEIPT OF APPLICATIONS**

#PL-16-9 – Request of Town of Waterford First Selectman, applicant, for site plan approval to reconstruct and expand a fixed wood pier at 3 River Street (Mago Point), WD zone, in accordance with Sections 14, 22 and 25 of the Zoning Regulations. A coastal site plan review is required in accordance with the Coastal Management Act.

A. Piersall stated that this proposal has already received CGS 8-24 approval from the Commission and the RTM. The application is complete and will be scheduled for review by the Commission at a future meeting.

**4. PUBLIC HEARING**

#PL-16-4 – Request of Mago Way Realty, LLC owner and applicant for special permit and site plan approval to locate a restaurant at 361 Mago Point Way in accordance with sections 14, 22 and 23 of the zoning regulations and as shown on plans titled “Restaurant Site Development Plans” dated March 30, 2016. A Coastal Site Plan review is required in accordance with the Coastal Management Act.

Chairman Auwood opened the hearing and read the following exhibits into the record:

- EXHIBIT 1 - Application and Support Material:
1. Planning & Zoning Application and abutter list
  2. Application for Coastal Area Management Site Plan Permit
  3. Engineering report dated March 30, 2016 revised to May 5, 2016
  4. Lighting Plan dated 4/1/16
- EXHIBIT 2 - Notice of Public Hearing advertised in the Day newspaper on April 25, 2016 and May 2, 2016
- EXHIBIT 3 - Hearing Notification letter to applicant dated April 19, 2016 along with

- certificates of mailing.
- EXHIBIT 4 - Notice of Grant of Variance Application #93-20 for property at 361 Rope Ferry Road
- EXHIBIT 5 - Letter dated April 28, 2016 to William R. Sweeney, Esq. from Mark Wujtewicz, Town of Waterford Staff Review Comments
- EXHIBIT 6 - Letter dated May 5, 2016 to Mark Wujtewicz from Sergio F. Cherenzia, PE, Cherenzia & Associates, LTD, responses to Staff's comments
- EXHIBIT 7 - Plans titled "Restaurant Site Development Plans, 361 Mago Point Way" dated May 5, 2016
- EXHIBIT 8 - Plans titled "Mago Point, New Restaurant Structure" dated April 20, 2016 revised to May 5, 2016
- EXHIBIT 9 - Document titled "Mago Point Smokehouse, 361 Mago Point Way, Statement of Consistency with the Adopted Plan of Preservation, Conservation and Development," received May 5, 2016
- EXHIBIT 10 - Document titled "Mago Point Smokehouse, 361 Mago Point Way, Consistency with Section 23.5 Findings" received May 5, 2016

Attorney William Sweeney, representing the applicant, presented this application to the Commission. Also present were Paul, Barb & Pete Diversa, engineer Sergio Cherenzia and architect Peter Springsteel. The Commission watched a video prepared by the applicant.

Attorney Sweeney reviewed the existing conditions on the site, noting that the property is in the Special Flood Hazard Area Zone AE. He stated that the proposal will meet FEMA regulations and is consistent with the requirements of the Connecticut Coastal Management Act.

The applicant is proposing to build a 6,360 square foot full service restaurant which includes a 1,405 square foot rear deck and 377 square foot front waiting deck. The building and lot meet all applicable bulk requirements of the zoning regulation. He noted that the previous use as a restaurant was never abandoned. A variance for the previous restaurant was granted by the Zoning Board of Appeals for a reduction in required parking spaces. Additional parking will be available in the municipal lot, along the street and on other land owned by the applicant. He reviewed the proposed traffic pattern on the site, and stated that landscaping and bioretention areas have been added. The building will be connected to municipal water & sewer. Twenty-five full and part time employees are anticipated, and there will be live entertainment inside the building. The smokers will not have any adverse effect on the area.

Project Engineer Sergio Cherenzia of Cherenzia & Associates reviewed the existing and proposed site. The amount of impervious surface will be reduced. Two grease traps are proposed, and will meet all FEMA requirements. The applicant is proposing a one-way entrance and a one-way exit, with traffic entering from Mago Point Way and exiting onto Fourth Street. He stated that the impervious area has been reduced slightly, and there should not be an increase in peak discharge. He reviewed the water quality system.

Architect Peter Springsteel stated that the first floor will be at elevation 16. He reviewed the design of the proposed building and noted that it will meet all FEMA regulations. The building will be fully sprinklered, and the Fire Marshal has reviewed the plans. All mechanicals will be elevated and screened. He reviewed the proposed floor plans.

Attorney Sweeney reviewed the consistency with Section 23.5 findings (Exhibit 10), and the Statement of Consistency with the Adopted Plan of Preservation, Conservation and Development (Exhibit 9).

Chairman Auwood asked how many off-site parking spaces there will be. Attorney Sweeney stated that he wasn't sure, maybe between 100 and 200.

Chairman Auwood asked if there was anyone in the audience who wished to speak regarding this application.

Elizabeth Berner Wadsworth, who owns several businesses in the area, spoke in favor of the application.

John Cabral, a resident of Fourth Street, spoke in favor.

Lynn MacMorrow, of 10 Fourth Street, stated concerns with the smoke and odor from the proposed smokehouse, and submitted into the record as Exhibit 11 information regarding emissions from smokehouses.

Tim Hogan of 362 Mago Point Way spoke in support of the application.

Charles Mazzella of 140 Niantic River Road spoke in favor of the application.

Derk Shephard of 297 Boston Post Road spoke in support.

Paul Goldstein, 34 Fifth Avenue spoke in favor.

Jody Strohl of 5 Coit Court stated support for the application.

Denise Pitasi of 40A Cross Road spoke in support.

Kim O'Connor spoke in favor.

Deborah Hadaway of 377 Mago Point Way spoke in favor, but also stated concerns with emissions from the smokehouse.

Attorney Sweeney stated it will not be an open pit smokehouse. The smokers will be natural gas fired, and the emissions will be no different than any other restaurant.

P. Daversa explained the type of smokers to be used, and stated that the emissions will not disturb the neighbors.

Jesse Long of 26 Sixth Avenue spoke in favor.

Lynn MacMorrow again stated concerns with the emissions. She stated that the applicant has indicated that he may raise the height of the stack. She also stated concerns with maintenance of the property. A. Piersall stated that if the applicant wanted to change the height of the stack, he would have to go to the Zoning Board of Appeals for a variance. Attorney Sweeney stated that the stack is

as high as it can be by regulation.

Chairman Auwood asked if there was anyone present who wished to speak regarding this application. There being no further comment or questions, the public hearing was closed at 8:00.

## 5. APPLICATION REVIEWS

**#PL-16-4** – Request of Mago Way Realty, LLC owner and applicant for special permit and site plan approval to locate a restaurant at 361 Mago Point Way in accordance with sections 14, 22 and 23 of the zoning regulations and as shown on plans titled “Restaurant Site Development Plans” dated March 30, 2016. A Coastal Site Plan review is required in accordance with the Coastal Management Act.

The Commission reviewed the findings and conditions prepared by Staff.

**MOTION:** Motion made by M. Mazzella, seconded by J. Bunkley, to approve Application #PL-16-4 with the following Findings and Conditions:

### *Findings of Fact:*

- a. The application is for a use permitted subject to approval of a Special Permit, pursuant to Section 14 of the Waterford Zoning Regulations.
- b. This property is subject to a variance granted by the Waterford Zoning Board of Appeals on August 2, 1993 and certified on August 24, 1993.
- c. The application meets the criteria for site plan approval, pursuant to Section 22 of the Waterford Zoning Regulations, subject to conditions 1-8.
- d. The application meets the criteria for issuance of a Special Permit, pursuant to Section 23 of the Waterford Zoning Regulations.
- e. The application is in conformance with Section 25.3, Development in Flood Hazard Areas, of the Waterford Zoning Regulations, subject to conditions 4, 6 and 7.
- f. The proposed activity is consistent with the coastal policies in Section 22a-92 of the Connecticut General Statutes and Section 25.4 of the Waterford Zoning Regulations.
- g. The proposed activity, pursuant to conditions 1 and 2, incorporates as conditions or modifications all reasonable measures which would mitigate the adverse impacts of the proposed activity on both coastal resources and future water-dependent development activities.

### *Conditions of Approval*

1. The final plans shall include a detail for the rip-rap leak-offs indicating elevations relative to pavement and adjacent grades and geotextile liner.
2. An inspection and maintenance schedule for the bio-retention areas, tree filter, rip-rap leak-offs and area drains shall be submitted to the Commission or its agent prior to issuance of a Certificate of Occupancy. A copy of the inspection and maintenance plan shall be maintained on site.

3. Site lighting shall be adjusted to reduce the spillover of light to .1 footcandles or less onto the property directly adjacent to and west of the property. An updated photometric plan shall be provided prior to the issuance of a Certificate of Occupancy demonstrating the reduction.
4. Prior to endorsement of the site plans, drawing numbers A-201, A-202, S-05 and S-06 shall be amended to show elevation dimensions/ measurements referenced to a Datum such as the 1988 NAVD.
5. The architectural drawing A-101 indicates that an extra pier/ column is proposed near the kitchen lift area. This drawing shall match the structural drawings at the time of application for a zoning compliance permit.
6. The design criteria on drawing S-01 shall be revised to read “restaurant/commercial foundation,” rather than “House Foundation. Updated plans that meet this condition shall be submitted for review and approval at the time of application for a zoning compliance permit.
7. At the time of submission for a zoning compliance permit, back-up data and calculations demonstrating compliance with the FEMA guide lines and Flood Hazard Area Regulations for the Coastal AE Zone shall be submitted.
8. Prior to issuance of a zoning compliance permit, the applicant shall provide written documentation that the Director of Public Works has reviewed and approved the plan modification submitted May 5, 2016 for the removal of the gabion check dam and its replacement with a drop inlet and piped connection to the Town’s drainage system.

**VOTE:** 3-0

**7. CORRESPONDENCE**

Letter dated April 25, 2016 to Abby Y Piersall, AICP from Seven V Heard, Millstone Power Station, RE: Millstone Power Station – Proposed HSM Construction Area

A. Piersall reviewed the correspondence with the Commission, and stated that Staff’s concerns have been addressed.

**8. ADMINISTRATIVE REVIEW**

Request for 90-day extension of time to file mylars – Sawyer’s Cove Subdivision , 148 Oswegatchie Rd.

The Commission received a request for a 90-day extension of time to file the mylars for this subdivision from the applicant’s attorney.

**MOTION:** Motion made by J. Bunkley, seconded by M. Mazzella, to approve a 90-day extension of time to file the mylars for the Sawyer’s Cove Subdivision.

**VOTE:** 3-0. The new deadline for filing the mylars is August 14, 2016.

Sawyer’s Cover Subdivision, #PL-15-15 – Consider and act upon request of applicant to allow conditional endorsement of the approved boundary survey plan in accordance with Section 3.7 of the Subdivision Regulations.

M. Wujtewicz stated that the applicant is requesting a change of approval status for this subdivision from standard to conditional. M. Wujtewicz reviewed the criteria for a conditional approval for a subdivision and the request is supported by Section 3.7 of the Subdivision Regulations. The applicant is proposing to post an erosion and sedimentation control bond for the work within the proposed Right of Way for the construction of the Cul-de-sac. A 100% bond will be posted for the work within the existing public right ways of Shawandasse Road and Oswegatchie Road.

The applicant has submitted a bond estimate of all the public improvements that had been reviewed and the amounts were found acceptable by the Department of Public Works and the Utility Commission. It is the opinion of staff that a bond in the amount of \$10,000.00 be posted for the erosion and sedimentation control for work performed within the proposed right of way for the Cul-de-sac. A separate bond to be posted in the amount of \$50,000.00 for the public improvements to be performed within the existing rights of way of Shawandasse Road and Oswegatchie Road as detailed on the subdivision plan.

The conditional endorsement would prohibit the sale or marketing of building lots within the subdivision until such time that the public improvements are completed and accepted by the Town through the legislative process or the balance of the bond is submitted. Once either of those conditions is met, the Chairman can then sign the release of the conditional approval.

Chairman Auwood asked whether the conditional approval would change the status of the previous conditions that the Commission had attached to the earlier approval. M. Wujtewicz stated that all conditions and modifications that were approved by the Commission for the earlier approval are still in effect with this change.

**MOTION:** Made by M. Mazzella, seconded by J. Bunkley to authorize conditional endorsement of the plans, and set the bond amounts to \$10,000.00 for Erosion and Sedimentation Control for the work within the proposed right of way and \$50,000.00 for the work within the existing rights of way of Shawandasse Road and Oswegatchie Road.

**VOTE:** 3-0

Discussion of Amendments to Section 21 of the Waterford Zoning Regulations (Signs)

A. Piersall stated that an application for this amendment will be brought to the Commission for receipt.

Mago Point Regulation Review

The Commission received draft regulations for Mago Point.

**9. ADJOURNMENT**

**MOTION:** Motion made by J. Bunkley, seconded by M. Mazzella, to adjourn the meeting at 8:37.

**VOTE:** 3-0

Respectfully Submitted,

  
Dawn Choisy  
Recording Secretary