



TOWN OF OXFORD
PLANNING & ZONING COMMISSION
S.B. Church Memorial Town Hall
486 Oxford Road, Oxford, Connecticut 06478-1298
www.Oxford-CT.gov

Planning & Zoning Commission
Regular Meeting Minutes
Tuesday, December 7, 2021
7:30 PM – Main Meeting Room
S.B. Church Memorial Town Hall

The meeting was accessible online by using the following information:

Meeting Link:

<https://zoom.us/j/6727345461?pwd=d3NvbG8zWmNSWnlVQmgrZGdBNyt6dz09>

Meeting ID: 672 734 5461

Passcode: 588851

Join by Phone: +1 929 205 6099

I. CALL TO ORDER

Chairman Cocchiarella called the meeting to order at 7:33 PM.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

Present: Joshua Dykstra, Pete Zbras, John Kerwin, Dave Sauter, Pat Cocchiarella, Brett Olbrys, Dan Wall, and Jesse Schremmer.

Also Present: Kevin McSherry, Land Use Counsel and Jessica Pennell, Coordinator.

IV. SEATING OF ALTERNATES

No alternates were seated.

V. PUBLIC HEARINGS

A. Recessed Public Hearings:

1. **Z- 21-133 [COMM] – 60 Oxford Road** – Owner & Applicant: Pitt-Conn Holdings, LLC, 15 Apple Drive, Oxford, CT 06478 – Proposed “Dunkin Donuts”

***(Special Exception – Article 10, and Article 7 - Section 7.7.3.2- Drive Thru Window)
(60-day extension received on 11/16/2021)***

Commission Secretary Olbrys read the following correspondence into the record:

a. Letter dated 11/24/2021 from Donald W. Smith, Jr., P.E.

Donald Smith, Jr. 56 Greenwood Circle, Seymour, CT engineer representing the applicant. submitted a revised plan based on the discussion at the last meeting. He briefly outlined the changes that were made to the plans, which were also explained in his letter dated 11/24/21.

Kevin McSherry, Land Use Counsel, addressed the commission regarding their motion at the last meeting to hire a traffic engineer for this project, and have the applicant pay for it. He noted that traditionally, the applicant provides the study, and the Commission hires a traffic engineer to do a peer review if they think it is necessary.

Commissioners and Attorney McSherry had a lengthy discussion regarding items relating to the traffic study.

Attorney McSherry advised the Commission on the options that were available to them if they choose to have the applicant present them with the traffic study instead of hire a traffic engineer to do a study on behalf of the Commission. He noted that if a traffic study is submitted with an application, usually, it is reviewed by the Town Engineer.

Mr. Smith expressed that he had brought up why the applicant did not submit a traffic study with the application at the previous hearing. He explained that the traffic study, especially going into the holidays, will cause a significant delay in the process.

Attorney McSherry advised the Commission to rescind the motion they made at the last meeting to hire a traffic engineer to perform a traffic study, on the Commission's behalf, for this application. He suggested that the Commission have the applicant hire a traffic engineer and submit the study under the regulations for a special exception.

Commissioners commented and discussed Attorney McSherry's suggestions.

Attorney McSherry also noted that a peer review of the applicant's traffic study is also an option after the Town Engineer's review.

Commissioners and the applicant discussed the timeline for a traffic study during the holidays.

MOTION BY Commissioner Jesse Schremmer to rescind the Commission's request that they hire a traffic engineer to perform a traffic study for this application, and bill it to the applicant.

Second by Commissioner Dan Wall.

Chairman Pat Cocchiarella called for a roll call vote.

Ayes – (Dan Wall, Brett Olbrys, Dave Sauter, Jesse Schremmer)

Nays – (Pete Zbras, John Kerwin)

Motion to rescind passed 4-2.

MOTION BY Commissioner Dave Sauter to have the applicant submit a traffic study as part of their application.

Second by Commissioner John Kerwin.

Chairman Pat Cocchiarella called for a roll call vote.

Ayes – (John Kerwin, Pete Zbras, Dave Sauter, Dan Wall)

Nays – (Brett Olbrys, Jesse Schremmer)

Motion to have the applicant submit a traffic study passed 4-2.

Don Smith raised his concerns about the timeframe with the request that they now submit a traffic study. He noted that timeframe is going to be “pretty short”.

MOTION BY Commissioner Dave Sauter to recess the public hearing to the next meeting (1/4/2022).

Second by Commission Secretary Brett Olbrys.

All (7) Ayes.

Motion passed unanimously.

B. New Public Hearings – NONE

C. Future Public Hearings – NONE

VI. REGULAR MEETING BUSINESS

A. Amendments to the Agenda

B. Audience of Citizens – (Items not listed on the Agenda)

C. Correspondence

D. Old Business – Matters on which a Public Hearing was held:

1. **Proposed Amendment to the Zoning Regulations** - *Proposed 18-month Moratorium on retail sales, manufacture, and cultivation of Marijuana/Cannabis.*

Commission Secretary Brett Olbrys questioned the role of the Board of Selectmen in regards to this amendment.

Attorney McSherry explained that the Board of Selectmen have to make a determination if they want to allow for the retail sale of marijuana in Town.

Attorney McSherry and Commissioners discussed the purpose of the moratorium. Attorney McSherry explained that the moratorium would delay any applications, and give the Commission, and the Board of Selectmen time to determine how to handle the new cannabis legislation, and how it will be applied in Oxford.

Chairman Pat Cocchiarella requested that Attorney McSherry prepare a motion for the next meeting.

Attorney McSherry stated that he would prepare a motion with the language for the moratorium for the next meeting.

2. **Z-21-142 [VCMUD] – 400 Boulder Pass – Owner & Applicant:** The Residences at Quarry Walk, LLC in c/o Attorney Dominick Thomas, 315 Main Street, P.O. Box 313, Derby, CT

(Re-subdivision – Article 6, Section 6.2.4)

Attorney Dominick Thomas presented the map for the re-subdivision that was approved by the Commission on 11/16/21.

Chairman Pat Cocchiarella stated that the Commission need to authorize the Chairman and Commission to sign the mylar.

MOTION BY Commissioner John Kerwin to authorize the Chairman and Commission Secretary to sign the mylar.

Second by Commissioner Dave Sauter.

All (7) Ayes.

Motion passed unanimously.

E. Old Business – Other Matters

1. **Z-02-237 – Mountain Road Estates – “Meadowbrook Estates”** *(Bond Release Request)*
(Referred to Jim Galligan on 11/16 for final inspection)
2. **Z-09-106 – Lot 11 – Woodruff Hill Industrial Park, 62 Prokop Road** – Applicant & Owner: Tomsuwa, LLC, 297 White Street, Danbury, CT 06810 *(Extension Request)*
(Discussion with Possible Action)

Jessica Pennell, Coordinator briefly summarized the reason why this item is on the agenda. She explained that the wetlands approval had expired, and she and Attorney McSherry were notified of the expiration by the IWEO. She also noted that the site plan has not changed from the original application.

Attorney McSherry stated that wetlands needed to approve it before the Commission could grant the extension.

Commissioners discussed briefly the application expiration date and timeframe under the statute.

Attorney McSherry stated that it fell within the timeframe of the statute; it just needs to be extended due to wetlands approval.

MOTION BY Commission Secretary Brett Olbrys to approve the extension request for Z-09-106. The new expiration date is September 3, 2023.

Second by Commissioner Dave Sauter.

All (7) Ayes.

Motion passed unanimously.

F. New Business – Schedule a Public Hearing - NONE

G. New Business – Other

1. **Show cause hearing – 36-40 Hunter’s Mountain Road – Recessed on 11/6/2021**

Attorney McSherry gave a brief update on 36-40 Hunter’s Mountain Road. He stated that they are still in wetlands.

Commissioner John Kerwin questioned if the ZEO could charge a daily fine.

Attorney McSherry stated that the ZEO could assess a daily fine. He noted that there are many different agencies and departments working with the owner to devise a restoration plan.

2. **Z-21-166 [VCMUD] – 315 Center Rock Green, Suite 2, 2nd Floor** – **Owner:** Oxford Towne Center, LLC – **Applicant:** “Law Office of Andrew J. Pianka, LLC”, Andrew J. Pianka, 18 Lake Drive, Oxford, (*Use Permit*)

MOTION BY Commissioner John Kerwin to approve application Z-21-166 with the following standard conditions:

1. Applicant and their assigns must comply with all representations made at the Planning & Zoning Commission meetings and/or the public hearings regarding this application.
2. Compliance with the Statement of Use dated 10/13/2021.
3. Compliance with the W.P.C.A. approval dated 10/15/2021.
4. Compliance with the Oxford Zoning Regulations as of this date.
5. Per Article 3, Section 3.19.1 of the Zoning Regulations, the applicant shall be responsible for rendering payment for any outside experts the Commission assigns to review this application.

Reason for approval is that it meets Oxford Zoning Regulations in effect as of this date.

Second by Commissioner Jesse Schremmer.

All (7) Ayes.

Motion passed unanimously.

3. **Z-21-167 [VCMUD] – 315 Center Rock Green, Suite 3, 2nd Floor** – **Owner:** Oxford Towne Center, LLC – **Applicant:** “Miller Investment”, William M. Miller, Jr., 2 Deanna Drive, Oxford (*Use Permit*)

MOTION BY Commissioner Pete Zbras to approve application Z-21-167 with the following standard conditions:

1. Applicant and their assigns must comply with all representations made at the Planning & Zoning Commission meetings and/or the public hearings regarding this application.
2. Compliance with the Statement of Use dated 11/8/2021.
3. Compliance with the W.P.C.A. approval dated 10/15/2021.
4. Compliance with the Oxford Zoning Regulations as of this date.
5. Per Article 3, Section 3.19.1 of the Zoning Regulations, the applicant shall be responsible for rendering payment for any outside experts the Commission assigns to review this application.

Reason for approval is that it meets Oxford Zoning Regulations in effect as of this date.

Second by Commissioner John Kerwin.

All (7) Ayes.

Motion passed unanimously.

H. Zoning Enforcement

There was no discussion/action under Zoning Enforcement.

I. Minutes

1. **MOTION BY Commissioner Dan Wall** to approve the 10/5/2021- Regular Meeting Minutes as presented.
Second by Commissioner Jesse Schremmer.
All (7) Ayes.
Motion passed unanimously.
2. **MOTION BY Commissioner Dan Wall** to approve the 10/19/2021- Regular Meeting Minutes as presented.
Second by Commissioner Pete Zbras.
All (7) Ayes.
Motion passed unanimously.
3. **MOTION BY Commissioner Dan Wall** to approve the 11/16/21- Organizational Meeting Minutes as presented.
Second by Commissioner Pete Zbras.
All (7) Ayes.
Motion passed unanimously.

J. Invoices

MOTION BY Commissioner Dan Wall to approve reimbursement for Jessica Pennell for the cost of transcription services for the 10/20/20 Meeting.

Second by Commission Secretary Brett Olbrys.

All (7) Ayes.

Motion passed unanimously.

K. Other Business

- a. Pre-application review of use of property located at 81 Newgate Road pursuant to §7-159(b) of the CT General Statutes.

Commission Secretary Brett Olbrys read the following statement regarding the Pre-application review of use of property:

Notwithstanding any other provision of the general statutes, prior to the submission of an application for use of property under chapters 124, 126, 440 and 541 or any other provision of the general statutes authorizing an authority, commission, department or agency of a municipality to issue a permit or approval for use of such property, such authority, commission, department or agency or authorized agent thereof may separately, jointly, or in any combination, conduct a pre-application review of a proposed project with the applicant at the applicant's request. Such pre-application review and any results or

information obtained from it may not be appealed under any provision of the general statutes, and shall not be binding on the applicant or any authority, commission, department, agency or other official having jurisdiction to review the proposed project.

Commissioner John Kerwin questioned if the Commission needed to have a regulation in place in order to hold pre-application meetings.

Kevin McSherry, Land Use Counsel stated that the Commission can adopt a regulation that outlines pre-application meeting procedures, but the statute gives the applicant an opportunity to address the Commission informally with a proposed idea or project and receive non-binding feedback before submitting a formal application.

Attorney Dominick Thomas, 315 Main Street, Derby, CT was present representing his client, the owner of 81 Newgate Road. He noted that he has been working with staff, counsel, and the ZEO to address issues that have come up regarding activities taking place on his client's farm over the summer; it became a popular place to have weddings. He stated that he has submitted a copy of a draft regulation to the Commission members to address these issues. He explained that he has similar experience with this type of regulation, addressing agritainment, in other towns. He stated that farms are trying to find ways to supplement their income.

Attorney Thomas and the Commission discussed the regulation and the Commission brought up their items of concern.

Commission members voiced concerns about the enforcement of the regulations, the noise, the traffic, the parking, and the impact the proposed regulation could have on the surrounding residential properties. There was also a concern that this could be considered "spot zoning".

Attorney Thomas stated the agritainment would be a special exception and that the Commission would have the discretion to put conditions on the any approvals. He explained that it would not be considered "spot zoning" because it would apply to any parcel in Town that met the criteria outlined in the regulation. He noted that he has had some experience with the Commission when he proposed the amendment to add "farm wineries" to the regulations, which was approved by the Commission.

Commissioner John Kerwin brought up 7-159(b) and noted that it talks specifically language about a proposed project. He questioned whether a text amendment qualifies as a project.

Attorney Thomas stated that the text amendment is the first step in the project. He noted that his client can't apply for anything until there is a regulation in place.

Attorney McSherry stated that he thinks it is appropriate to discuss this as a pre-application meeting.

Chairman Pat Cocchiarella asked if Commission members had any comments.

Commissioner John Kerwin agreed that it is important to protect agriculture but not put it on the backs of the residential community, or affect the property values of the residential community. He stated that he is concerned that the area is not conducive to having large outside events that may affect the neighbors. He stated that there would need to be a way to have events without impacting the neighbors. He also commented that this could be considered "spot zoning".

Attorney Thomas stated that he doesn't agree that this regulation is "spot zoning". He also stated that there are numerous ways to address noise concerns. He briefly went over some of the ways that the Commission would be able to address specific concerns through the special exception, with conditions put in place by the Commission.

Commissioner Dave Sauter stated that the conditions that can be part of the special exception approval, but he is concerned that enforcing those conditions and requirements would be difficult.

Commissioner Dan Wall stated that this type of use is something that the Commission should explore and discuss further.

Commission Secretary Brett Olbrys commented that he had concerns regarding the number of events, the noise, and some safety issues.

Attorney Thomas stated that he understood the Commission's concerns and there are changes that they can consider making to the text amendment to address some of those concerns.

Commissioner Pete Zbras stated that he is concerned about the noise affecting the neighbors in the area.

Chairman Pat Cocchiarella wanted to clarify that the Town does have a noise ordinance, that applies to the residential area, and complaints of excessive noise would be responded to by the police.

Commissioner Jesse Schremmer questioned if this type of application will come up again, and if the Commission should be planning to regulate it for the future.

Commission Secretary Brett Olbrys questioned the events, and would like to see more a more specific outline in the proposed regulation.

Attorney Thomas addressed questions relating to the types of events that would be allowed under the proposed regulation.

Commission Alternate Joshua Dykstra questioned how many farms we have in Town, and how many would meet the regulation. He stated that this type of use may be something that the Commission may need to plan for in the future.

Chairman Pat Cocchiarella asked if Commissioners had any other comments or questions.

There were no other comments or questions from the Commission.

Attorney Thomas concluded his presentation of the pre-application meeting with the Commission.

b. Organizational Meeting Item F (2) – Tabled from 11/16/21 *(No discussion or action)*

c. Any other items the Commission deems necessary for discussion.

MOTION BY Commission Secretary Brett Olbrys to approve the 2022 Meeting Schedule as presented.

Second by Commissioner John Kerwin.

All (7) Ayes.

Motion passed unanimously.

L. Adjournment

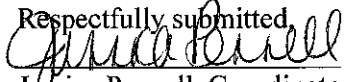
MOTION BY Commissioner John Kerwin to adjourn the meeting at 9:20 PM.

Second by Commissioner Pete Zbras.

All (7) Ayes.

Motion passed unanimously.

Respectfully submitted,



Jessica Pennell, Coordinator
Planning & Zoning Commission

22 MAR 14 AM 11:09
TOWN OF OXFORD, CT
Margaret A. Whit
TOWN CLERK