



**TOWN OF KILLINGLY, CT
PLANNING AND ZONING COMMISSION**

MONDAY – SEPTEMBER 19, 2022

**Regular Meeting – HYBRID MEETING
7:00 PM**

**TOWN MEETING ROOM – 2ND FLOOR
Killingly Town Hall
172 Main Street
Killingly, CT**

THE PUBLIC IS ALLOWED TO ATTEND THE MEETING IN PERSON
OR THE PUBLIC MAY VIEW THIS MEETING AS DESCRIBED BELOW

MINUTES

THE PUBLIC CAN VIEW THIS MEETING ON FACEBOOK LIVE.
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RECEIVED
TOWN CLERK, KILLINGLY, CT
2022 SEP 26 AM 8:42
Elizabeth M. Wilson

- I. **CALL TO ORDER** – Chair, Keith Thurlow, called the meeting to order at 7:03 p.m.
- ROLL CALL** – Brian Card, Michael Hewko, Virge Lorents, John Sarantopoulos, and Keith Thurlow (all were present in person). Matthew Wendorf was absent with notice.
- Staff Present** – Ann-Marie Aubrey, Director of Planning & Development; Jonathan Blake, Planner I/ZEO; Jill St. Clair, Director of Economic Development (all were present in person).
- Also Present (in person)** – Attorney Evan J. Seeman; Robinson+Cole; Keith Kumnick, Commercial Real Estate Broker with Colliers International; Paul Archer, Archer Surveying; Patrick Johnson; Ulla Tiik-Barclay, Town Council Liaison; J.S. Perreault, Recording Secretary.
There were seven additional people seated in the audience.
- Present via Webex:** None.
- II. **SEATING OF ALTERNATES** – Keith Thurlow stated that Michael Hewko would be seated as a Voting Member for this meeting in the absence of Matthew Wendorf.
- III. **AGENDA ADDENDUM** – None.
- IV. **CITIZENS' COMMENTS ON ITEMS NOT SUBJECT TO PUBLIC HEARING** (Individual presentations not to exceed 3 minutes; limited to an aggregate of 21 minutes unless otherwise indicated by a majority vote of the Commission)

NOTE: Public comments can be emailed to publiccomment@killinglyct.gov or mailed to the Town of Killingly, 172 Main Street, Killingly, CT 06239. All public comment must be received prior to 2:00 PM the day of the meeting. Public comment received will be posted on the Town's website www.killinglyct.gov.

NOTE: To participate in the **CITIZENS' COMMENTS**– the public may join the meeting via telephone while viewing the meeting on Facebook live.

To join by phone please dial 1-415-655-0001; and use the access code 2633 929 2268 when prompted.

Keith Thurlow read aloud the above call-in information. There were no comments from the public in person, online or over the telephone.

V. COMMISSION/STAFF RESPONSES TO CITIZENS' COMMENTS – None.

VI. PUBLIC HEARINGS – (review / discussion / action)

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NOTE: To participate in THE PUBLIC HEARINGS – the public may join the meeting via telephone while viewing the meeting on Facebook live.

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1) Zone TEXT Change Ap #22-1294 – Rosemary & Thomas C. Clarie et als; proposed text amendment to Sections 436.1; 436.2; 436.3; 436.4.2; 436.4.3; 436.6.1.b; 436.2.2; and 450 of the TOK Zoning Regulations regarding permitted uses and requirements of the Business Park District – making changes to the Intent, General Requirements, Special Permitted Uses; Interior Circulation; Landscaping and Screening; replace Exemptions with Concept Plan Optional; Concept Plan; and Dimensional Requirements. CONT FROM 07/18/2022

Ann-Marie Aubrey noted that there were two items regarding this Application, not included in packets to Commission Members, which were provided at this meeting: 1) E-mail (dated September 19, 2022) from Anthony Pellecchia in support of the Application; and 2) Letter (dated September 19, 2022) from Kevin Olsen and Keith Olsen, Markover Hunting Preserve, in support of the Application.

Attorney Evan J. Seeman, Robinson+Cole, represented the Applicants. Keith Kumnick, Commercial Real Estate Broker with Colliers International, was also present. Attorney Seeman gave an overview:

- The Clarie family owns three parcels (totaling just under 200 acres) in the Business Park District: 308 Westcott Road; 310 Westcott Road; and 115 Mashentuck Road.
- Since the July 18th meeting, they have provided the following two additional items into the record: 1) Letter from Attorney Evan Seeman (dated September 12, 2022) in response to comments from Mark Tillinghast; and 2) Zone Text Change Slide Presentation (dated September 19, 2022).
- The purpose of this Application is to help facilitate development in the Business Park District which created approximately 20 years ago and, since then, has remained vacant. There are just over 300 acres in the Business Park District. There have not been any development applications in a number of years. This is the only BP District in Town and it is the only area that would be affected by this Application.
- The Regulations that they are proposing to amend fall within three categories: 1) Use – They are proposing to add warehouse and distribution as a principal use by special permit. It is currently allowed in the Zone, but only as an accessory use; 2) To reduce really restrictive setback requirements – Currently the Zone requires a setback of 750 feet for accessory warehouse and distribution use as well as associated parking. They are proposing to reduce it from 750 feet to 150 feet, which is still greater than other setbacks in other Zones for similar uses; and 3) They are proposing to no longer require a concept plan, but instead, make it optional. There is currently no concept plan in effect. They feel that the people who own the property should have a say in how it will be developed in the future.
- The Zone Text Change Slide Presentation (dated September 19, 2022) was displayed and Attorney Seeman narrated and orientated the area. He explained that 220 acres (70 percent) of the total 317 acres would be undevelopable as a result of the 750-foot setbacks. He explained that wetlands further restrict development potential in the Zone. This has made it difficult for anyone to develop property in the Business Park District. This is the most restrictive setback in Town. He said that other Towns in the region have imposed setbacks of 100 feet for industrial uses abutting residential zoning districts. He added that the proposed 150-foot setback is three times

greater than the setback of other zoning districts, including GC where distribution uses are subject to a 50-foot setback.

- Regarding properties/residences to the west of I-395, he explained that the distance from any potential development in the Business Park District would be hundreds and hundreds of feet away from these properties which are across I-395 to the west.
- Regarding nuisance, he explained that this Application will not create nuisance conditions such as noise, light, etc. because there is no development application being proposed and that any future application would have to be submitted as part of a special permit application. He referenced Section 740 of the Zoning Regulations.
- Regarding the POCD, Attorney Seeman noted that the POCD expressly calls out the Business Park District for development. He referred to, and read aloud from, Section 3.2 and from Section 2.

Keith Kumnick, Commercial Real Estate Broker with Colliers International, spoke about his experience/involvement with marketing the properties in the Killingly Business Park District since 2008. He emphasized two points: 1) The trend in the office market towards companies downsizing in space; and 2) The growth in the industrial market and how well-positioned the Business Park parcels are for that growth and how it aligns with the POCD. He explained how COVID and its restrictions/guidelines caused remote working beginning in the spring of 2020 leaving office spaces unoccupied or underutilized. It is anticipated that there will be an oversupply of office space on the markets for several years to come and there is talk about redevelopment of office property through demolition or rehab.

Mr. Kumnick explained that most of the inquiries he has received on the property over the years were for industrial use which is the far more active market sector. The property and its location offer a number of advantages: The considerable size of over 300 acres allows for development, but also allows for sensitivity to residential neighbors and other uses in the vicinity; It can support multiple users and provide employment opportunities for Town residents in addition to growth on the Grand List; Travel on local roads should be minimized due to its immediate proximity to I-350. Mr. Kumnick stated that he believes that the text amendment, providing for an additional permitted use, increases the prospects for development in the Business Park.

QUESTIONS/COMMENTS FROM COMMISSION MEMBERS/STAFF:

- **Brian Card** asked why they applied for a text change instead of a GC Zone change. Attorney Seeman explained that they had given it thought but, for purposes of continuity and potential development of the other parcels in the BP District, they felt that it made more sense to go with the text amendment application. He explained that the concept plan is not in the GC Zone, but would be an option with this text amendment, in the BP District.
Brian Card asked about how the integration would happen if a site plan had been approved in the BP District and then someone came forward with a concept plan that differs. Attorney Seeman explained that there is currently a procedure in the Regulations to amend the concept plan, which they are not proposing to change.
Brian Card asked about the building height difference. Attorney Seeman explained that the Business Park District had an exception for certain uses already (research and development) so they are proposing it for warehouse and distribution. He said that if the Commission is not comfortable with that piece of the Application, it is not the most critical piece. They are mainly hoping that the use will be allowed and for the setbacks to be reduced.
- **Keith Thurlow** spoke about the concept plan and accessibility to all of the lots. Attorney Seeman stated that they are open to ideas as they are trying to do what is best for the Town. He thinks that you would take it application by application.
Keith Thurlow asked if there is a market for R&D in a 40,000 s.f. building. If so, is there a need for more than 40,000 s.f. in today's market? He said that warehousing seems like a bigger issue requiring more than 40,000 s.f. Attorney Seeman stated that they are proposing to eliminate the current language regarding the accessory warehouse and distribution (40,000 s.f.) and replace with a principal special permit use of warehouse and distribution without the 40,000 s.f. limit and without being tied to research and development.
Keith Thurlow asked about the reason for the 150 foot setback number.

Attorney Seeman explained that it had been discussed at a pre-application meeting with Staff and the setback for similar uses in other zoning districts in Town have setbacks of up to 50 feet. Although 150 feet is three times as much as some other setbacks, it is a reasonable compromise to ensure no impacts to other nearby uses and it respects adjacent properties. He referenced Regulations Section 740 – Conditions of Approval, which states that the Commission has the authority to increase setbacks.

Ann-Marie Aubrey explained that they were also concerned about pre-existing uses (i.e. Markover Game Preserve) and giving anyone working in that area a sense of security and to have space in the case that a berm, wall or fence were required. There was discussion about different possible setbacks that could be set for BP District to other Zones.

There was discussion about how, in the early 2000's, the BP District had been proposed to be changed to Industrial, but failed. John Sarantopoulos spoke about his concern about Mashentuck Road being a dangerous road that would need a lot of work if it were to be where the access would be. He spoke in favor of a lesser than 150-foot setback since the Commission can make it higher.

Attorney Seeman explained that the Commission can impose greater setbacks, but cannot reduce them through a special permit application. He stated that the reduction is needed for an application to even be possible. They chose 150 feet because going from 750 to 50 is a big reduction. He also stated that Mashentuck Road was also discussed at the pre-application meeting with Staff and he said that he doesn't think that any access would be proposed for that Road, but it would be an issue if it were. Ms. Lorents stated agreement about Mashentuck Road. Keith Kumnick referred to the letter of support from the property owner, Anthony Pellecchia, which, he explained, is most likely where the access would be (close to I-395).

Ms. Aubrey referred to Dimensional Table "A" and explained about the individual parcels and the 750 feet not being on every lot (it is just the difference between the BP and the residential zone).

Mr. Thurlow asked if there are any right-of-ways accessing Mashentuck Road off of this property. He thought that someone had a right-of-way. Mr. Kumnick stated that he has been told that there is a right-of-way, but he has also been told that it is very narrow and could be as narrow as a footpath. Mr. Thurlow commented that we will not know how wide it is until it is surveyed. Mr. Kumnick stated, "Correct."

- **Brian Card** asked if the BP District has any frontage on Westcott Road. Mr. Kumnick stated that only the Pellecchia property does. Ms. Aubrey stated that there is frontage for the Business Park.
- **Jill St. Clair** stated that she is concerned that the 150-foot setback is still too egregious a threshold to meet. She supports the 50-feet and then, it could be increased. This has been underutilized for over 20 years.
- **John Sarantopoulos** asked if this would be considered spot zoning. Attorney Seeman explained that it is not because there are over 300 acres of property and includes 16-17 parcels.

QUESTIONS/COMMENTS FROM THE PUBLIC:

Ann-Marie Aubrey read aloud the letters received from the following citizens: 1) E-mail (dated September 19, 2022) from Anthony Pellecchia in support of the Application; and 2) Letter (dated September 19, 2022) from Kevin Olsen and Keith Olsen, Markover Hunting Preserve, in support of the Application.

- **Ulla Tiik-Barclay** asked how many of the residents of the area know about the Application. She commented that these Regulations were put in place to protect the residents of the area from such development as with Walmart. Ms. Tiik-Barclay also voiced concern regarding wetlands. Attorney Seeman explained that he does not know, but that there were some members of the public that came and spoke at the last meeting and that there are some people at this meeting as well. All notice requirements were met as part of this Application. Mr. Sarantopoulos commented that wetlands is not an issue for the PZC.
- **Kevin Olsen**, 699 Cook Hill Road, stated that, as a major abutter with the most at stake, they can live with the 150-foot setback rather than the 750-foot setback. He feels that the 150-foot setback may be the best for everyone involved. He said that the 50-foot may be another story. He feels that what they are asking for is appropriate.
- **Mark Tillinghast**, 79 Peckham Lane, speaking as an individual not representing EDC, stated that the EDC has not discussed this Application, at all, as a Commission. Regarding the concept plan, he said that there had been concern that someone could cut off the infrastructure at their property, half-way through, and there would be no way for the infrastructure to get to the back lots. He spoke about how the DOT had a lot of control over off-site traffic, noise, etc. and the PZC controls mainly the on-site conditions. He said that citizens are concerned about a lot of truck traffic.

Mr. Tillinghast asked how much off-site control the PZC would have over a large-scale development.

He commented that during the initial setting of the zone, he recalls one structure as the initial intent. He commented about walls along the highway that, it was found by the State, wouldn't really help with noise from truck traffic.

Regarding the POCD, Mr. Tillinghast mentioned about the intent to develop the three interchanges appropriate to each parcel.

Attorney Seeman responded to Mr. Tillinghast's comments:

A lot of the comments had to do with a particular development application about 20 years ago. He said that they are completely inappropriate and irrelevant for consideration by the PZC this evening. He said they may come into play if a future application is submitted.

Regarding the lack of access for back lots in the BP District, Attorney Seeman said that it is a non-issue and he referred to Section 436.2.g.

Regarding the PZC's authority regarding off-site impacts as they relate to traffic, Attorney Seeman stated, "Yes, it does have authority."

Regarding the comment about sound walls along the highway, Attorney Seeman stated that those were unique to a former application and are completely irrelevant to this Application before the Commission this evening as there is no site-specific development plan before the Commission.

On behalf of the Clarie family, Attorney Seeman asked that the Application be approved as they believe that it is good for the Town, advances the goals of the POCD, it can help add jobs, it can potentially attract new businesses, and potentially generate new tax revenues for the Town. He noted that the PZC has broad authority under the existing Regulations if a special permit application is submitted in the future.

ADDITIONAL QUESTIONS/COMMENTS FROM COMMISSION MEMBERS/STAFF:

- **Brian Card** referred to Section 436.2 and asked, if the bottom half of the lots get developed, how would the northern lots get to the access.

Attorney Seeman explained that the intent is to have any parcel in the BP District that develops, to provide access to a road or street (Westcott).

Mr. Card asked about deletion of the language regarding the remaining land.

Attorney Seeman explained that it is something that would be considered when an application is submitted. It may have to be through three easement or internal access-ways.

Mr. Card feels that some lots might be at a disadvantage without it being a requirement.

Attorney Seeman commented that he doesn't think so and that nobody has expressed concern to the Applicant or the Commission. He said that, in the future, the property owners in the BP District will, hopefully, work together and come to a solution.

- **Ann-Marie Aubrey** referred to Dimensional Table "A" regarding no minimum lot frontage. She explained that there is a presumption that anything within the BP is connected through the BP (like the Industrial Park). There was discussion regarding it not being required and it being private property. Ms. Aubrey referred to, and read from, Section 436.1 Intent of the Business Park District.
- **Jonathan Blake** explained that it is possible to be land-locked. He explained that the site plan of the first application is very important.
- **Brian Card** stated that developing the parcels is a good idea. He does not feel that the language is very well written and it needs to be cleaned up.

Regarding the question where the southern parcels get developed, should they provide access to the northern parcels, Attorney Seeman stated that it is similar to the idea of the concept plan. He explained that the northern parcels may not like the access-way that is proposed, they may not want access and they feel that having that as a requirement would inhibit development. That is why they proposed it as making it discretionary.

Motion was made by Virge Lorents to close the public hearing for **Zone TEXT Change Ap #22-1294** – Rosemary & Thomas C. Clarie et als; proposed text amendment to Sections 436.1; 436.2; 436.3; 436.4.2; 436.4.3; 436.6.1.b; 436.2.2; and 450 of the TOK Zoning Regulations regarding permitted uses and requirements of the Business Park District – making changes to the Intent, General Requirements, Special Permitted Uses; Interior Circulation; Landscaping and Screening; replace Exemptions with Concept Plan Optional; Concept Plan; and Dimensional Requirements. **CONT FROM 07/18/2022**

Second by Michael Hewko. No discussion.

Motion carried unanimously by voice vote (5-0-0).

2) **Special Permit Ap #22-1296** – Nutmeg Killingly JV LLC (Darien Post Rd LTD & Flanders Post Rd LP / Owner); 1076 North Main Street; GIS MAP 130, LOT 6; vacant bank bldg.; adult use cannabis retail establishment, under T.O.K. Zoning Regulations Section 420.2.2.r (under General Commercial Use); Section 567 Cannabis Establishments.

Paul Archer, Archer Surveying and Patrick Johnson represented the Applicant. Mr. Archer gave an overview (maps were displayed as discussed and photos, aerial as well, had been submitted and were included in packets to Commission Members):

- No proposed changes to the outside of the building.
- No proposed changes to lighting.
- They are proposing to add a generator (in the event of a power outage) on the northerly side, behind the building.
- Hours of operation: Monday – Friday 9 a.m. to 9 p.m.; Saturday – 9 a.m. to 4 p.m.; Sunday – 10 a.m. to 5 p.m.
- 20 full-time employees and 10 part-time employees.
- Mr. Archer stated that currently, there over 400 parking spaces and over 8 handicap spaces in the Plaza. He said that total building floor is 76,000.
- Mr. Archer explained about the 500-foot radius requirement and a map was displayed showing that there are none of the establishments, identified in the Regulations, within the 500-foot radius.
- Mr. Archer explained about the requirement for a 25-foot buffer zone for abutting a residential district. He indicated the two residential properties involved. Aerial photos demonstrate that he feels that the existing buffer is adequate to satisfy that requirement.
- Proposed signage is exactly the same as the former bank had used, so they are not proposing anything different than what had been allowed for the bank.

Patrick Johnson explained about the cannabis operation:

- Mr. Johnson noted two points of correction: 1) Hours of Operation: Monday – Thursday 9 a.m. – 8 p.m.; Friday and Saturday 9 a.m. – 9 p.m.; and Sunday 10 a.m. – 5 p.m.; and 2) He explained that they had received clarification that, because it is adult-use only, they are not allowed to use the term “dispensary.”
- Mr. Johnson explained about his experience in overseeing the opening of dispensaries.
- It is a 2,400 s.f. store, very secure because it was formerly a bank. The outside footprint to be exactly the same. Minor modifications to the inside. To create additional space between the back and the front.
- There will not be any odors. It is a retail store and all product will be in child resistant, sealed bags. There will be people monitoring to ensure that there is no consumption inside or on the premises.
- Deliveries to be minimal – two or three per week through the back (a typical delivery takes 15-20 minutes).
- They have contacted both local police and fire department. No issues encountered. They are working with police regarding traffic. Mr. Johnson explained that there is currently more than enough parking, so parking should not be an issue. The fire department would like the sprinkler system to be upgraded, which is already being done for the existing Plaza.
- He said that it should be a pretty seamless addition into this Plaza.

QUESTIONS/COMMENTS FROM COMMISSION MEMBERS:

- **Michael Hewko** asked if the security guards would be there during the hours of operation. Mr. Johnson stated that the security guards would be there 30 minutes before staff arrives and would stay 30 minutes after staff leaves, which is typical.
Michael Hewko asked if there is currently a fire panel for a fire alarm inside. Mr. Johnson did not know.
Mr. Hewko asked that he look into it and he noted that there should be a key for access (in the middle of the night) for the knox box to the panel room.
Mr. Johnson stated that this is typical and he said that they will have a call tree so that the support staff and Head of Security will have someone to contact if there is an issue.
- **Virge Lorents** asked about the need for the rigorous personnel safety training. Mr. Johnson explained that it is probably less so for the customers, but really for security reasons. He explained that a lot of it is State regulated (consistent with every state) and that it will be more secure than a bank.
- **Keith Thurlow** asked if the security guards are permanent or temporary. Mr. Johnson explained that one permanent security guard would be there at all times and that they will work with local police to see if they want additional security detail for the first two weeks. He said that this would be mostly

for traffic because lines may form early on. However, he does not anticipate that at this location. The permanent security guard would be outsourced with a local security firm.

- **Brian Card** noted that the Hours of Operation in the current Application were stated as Saturday 10 a.m. – 5 p.m. and Sunday 9 a.m. – 9 p.m. (backwards). Needs to be corrected. Mr. Card asked if the existing vegetation that Mr. Archer referred to, is on the residential property or on property owned by the Applicant. Mr. Archer explained that he believes that the trees were planted as a buffer when the development was first put in and he believes that they belong to the commercial development. Mr. Card asked that the 25-feet of vegetative buffer, to be maintained, be shown on the plans. He explained that, if the vegetation is on the residential property, it could be removed (it would not be part of this Application). Mr. Archer stated that he will add it to the plans and he stated that the owner of one of those residential parcels applied for a zone change. Ann-Marie Aubrey explained that the owner of the parcel on Valley Road has applied for a zone change from commercial to residential because he wants to put solar on his roof. **Brian Card** asked that the parking calculations be provided on the site plan. Mr. Archer explained that they had spoken with Staff about this and he said that they are not adding anything, it is an existing condition. Mr. Card explained that one of the conditions that he is looking for is that something be put on the record stating that parking has been addressed. **Brian Card** asked about lighting (wall packs) being added to the exterior of the building. Mr. Archer stated that no lighting is being proposed. Mr. Johnson stated that they are evaluating the situation. He explained that all of the cameras work without lighting, so if they were to add lighting, it would be two or three around the building to add a little more security and for optics for the customers. It would be dark-sky compliant. Mr. Card asked that detail for the lighting be put on the plans.

There were no questions or comments from the public.

QUESTION/COMMENTS FROM STAFF:

- **Ann-Marie Aubrey** suggested that the public hearing be continued to next month if the Commission wants more information, or she asked if the Commission would just want the corrections to be made to the site plan before it gets recorded. Mr. Card stated that his opinion is that it needs to be in the Application so we know what it look like.
- **Jill St. Clair** stated that it would be great to have that space activated as it has been underutilized for quite some time.
- **Jonathan Blake** stated that an assessment had been done by Fire Protection Testing, Inc. on the facility to identify any issues with any of the businesses in both buildings. They identified some things (in the pump room which has a knox box on the outside), but he did not see anything regarding a fire panel, whether there is an individual panel for the unit or if there is one panel for the building. Mr. Blake commented that, conditions regarding the buffer, could be identified to be required to be filed with a submitted mylar.
- **Ann-Marie Aubrey** stated that the parking lot is what it is, but the calculations could be provided. Regarding the buffer zone, measurements could be provided to Staff. She explained that if the public hearing is closed tonight, it should be made a requirement to show the buffer zone and the parking lot calculations on the mylars and that they be submitted to Staff. If, for some reason, there is something less than that, they would have to show how they are going to improve it. She said it could be done at the Staff level, but it is up to the Commission.

Motion was made by Brian Card to continue the public hearing for **Special Permit Ap #22-1296** – Nutmeg Killingly JV LLC (Darien Post Rd LTD & Flanders Post Rd LP / Owner); 1076 North Main Street; GIS MAP 130, LOT 6; vacant bank bldg.; adult use cannabis retail establishment, under T.O.K. Zoning Regulations Section 420.2.2.r (under General Commercial Use); Section 567 Cannabis Establishments, to the next regularly scheduled meeting of the Planning and Zoning Commission to be held on Monday, October 17, 2022, Town Meeting Room, 2nd Floor, 172 Main Street, at 7:00 p.m.

Second by Virge Lorents. No discussion.

Motion carried unanimously by voice vote (5-0-0).

VII. UNFINISHED BUSINESS – (review / discussion / action)

1) Zone TEXT Change Ap #22-1294 – Rosemary & Thomas C. Clarie et als; proposed text amendment to Sections 436.1; 436.2; 436.3; 436.4.2; 436.4.3; 436.6.1.b; 436.2.2; and 450 of the TOK Zoning Regulations regarding permitted uses and requirements of the Business Park District – making changes to the Intent, General Requirements, Special Permitted Uses; Interior Circulation; Landscaping and Screening; replace Exemptions with Concept Plan Optional; Concept Plan; and Dimensional Requirements. **CONT FROM 07/18/2022**

Motion was made by Virge Lorents to approve **Zone TEXT Change Ap #22-1294** – Rosemary & Thomas C. Clarie et als; proposed text amendment to Sections 436.1; 436.2; 436.3; 436.4.2; 436.4.3; 436.6.1.b; 436.2.2; and 450 of the TOK Zoning Regulations regarding permitted uses and requirements of the Business Park District – making changes to the Intent, General Requirements, Special Permitted Uses; Interior Circulation; Landscaping and Screening; replace Exemptions with Concept Plan Optional; Concept Plan; and Dimensional Requirements.

Second by Michael Hewko.

There was discussion regarding possible amendments to the motion:

- Mr. Thurlow suggested changing the setback to 150 feet for the northern border and to 50 feet for the side lines for the rest of the district. Mr. Blake suggested the following language: “Shall be located at least 50 feet from the boundary of any residential district or residential use. In the event of bordering a game preserve, setback to be a minimum of 150 feet or more.”
- Mr. Thurlow stated that he prefers that the Zone be changed to General Commercial.
- Mr. Card stated that, from discussion regarding the motion, he feels that there are a lot of additional changes that need to be done and thought through, especially on the concept plan. He feels that an optional concept plan is not appropriate for the BP District. The changes proposed are eerily close to GC, but not quite, so he asked, “What is the purpose of the BP District if we are just migrating it over. So, if we’re going to go through the BP District, we should go through the BP District and make it clear and concise.” He does not feel that the proposed language is clear and concise. Regarding the 150-foot setback, he said it is a cascading effect with the changes that need to occur. He feels that the whole thing needs to be gone through and cleaned up vs. just adding this in.

Mr. Thurlow asked if the Commission wants to take it on as a text change and deny the Application.

Ms. Aubrey asked for clarification as to what the Commission wants.

Mr. Thurlow explained that he agrees with Mr. Card, adding that it has been modified multiple times over the years.

Ms. Lorents suggested that it may make sense to get rid of the Regulation since it had been created 20 years ago and nothing ever happened there.

Mr. Sarantopoulos stated agreement with Ms. Lorents and stated that he feels that setbacks should remain the same and he stated that the PZC can ensure that the residents are protected in that area but, concerning the setbacks on the other sides, he feels we should stick with what we’ve got. He feels that warehousing could be addressed.

Ms. Aubrey stated that the language may not have been conducive to give the people the ability to do what they needed to do. She suggested that Staff could clean it up or work with the Applicant to clean it up.

Mr. Blake explained that there are parallels being drawn to GC, but there would be other uses to consider and there are distinct differences between GC and the BP District, not just setbacks (e.g. there is no retail in the BP District). He explained that the Applicant (who is representing land owners) has come to the PZC with language that could work for them (as written). Staff would not argue about looking at this, with the Commission, on a broader scope, but regardless of the Commission’s decision on this Application, it would have to come, potentially, with another application. The public hearing is closed, so to look at this under a broader approach, the Commission would need to approach it as a second step. If you go to change the text after an application is submitted, that application is under the Regulations at that time. This would be something for the Commission to discuss.

Mr. Card stated that the Commission is in agreement that a step needs to be taken to move forward, the question is which step. For this Application, maybe the BP District is appropriate and the Regulations will need to be modified, maybe GC is more appropriate, maybe the Industrial Park is more appropriate.

Discussion continued.

Ms. Aubrey asked for clarification regarding what the direction of the Commission is: They agree with the possibility of warehousing at this location, but this may not be the language that the Commission would agree with. She explained that amendments could be made to the Motion on the floor.

Mr. Thurlow stated that it being a primary use and the 40,000 s.f. being eliminated is a step in the right direction.

There was discussion regarding reducing the setback from 150 feet to 50 feet. Mr. Card cautioned against going less restrictive than what was advertised to the public. He feels that reducing the building height from 60 feet to 50 feet would be okay because it would be more restrictive.

Discussion continued.

Ms. Aubrey explained that if this Application were approved, it could be the first step in changing the Regulation. Then, Staff could be instructed to go through the concerns of the Commission. She suggested a five-minute recess.

Motion was made by Michael Hewko to have a five-minute recess at 8:58 p.m.

Second by Virge Lorents. No discussion.

Motion carried unanimously by voice vote (5-0-0).

Keith Thurlow called the meeting back to order at 9:05 p.m.

Ms. Aubrey stated that Staff made some phone calls to verify the following:

- The public hearing was advertised properly;
- We discussed everything that was in the public hearing;
- This is the Commission's general discussion, so the Commission can make changes as it sees fit.
- The Commission can go less restrictive because of the above.

Mr. Thurlow asked if there are any amendments to the Motion.

Motion was made by Brian Card to make the following Amendment to the Motion to approve **Zone TEXT Change Ap #22-1294:**

- Per Section 450 – Dimensional Requirements, change to reduce the maximum building height from 60 feet to 50 feet (in keeping with warehouses in General Commercial).

Second by Michael Hewko. No further discussion.

Motion (Amendment #1) carried unanimously by voice vote (5-0-1).

Motion was made by Michael Hewko to make the following second Amendment to the Motion to approve **Zone TEXT Change Ap #22-1294:**

- To change Sections 436.3.i.1 and 436.4.3.b regarding setback requirements: 1) To reduce the setback requirement for residential structures from 150 feet to 50 feet; and 2) To add the setback requirement of 150 feet from any game preserve.

Second by John Sarantopoulos.

There was discussion regarding the following:

- Defining game preserve.
- The Commission will still have the ability to increase the setback higher than 50 feet.
- Mr. Card commented that, although the Attorney was consulted, he is still uncomfortable with going less restrictive than what was publicly noticed.

Motion (Amendment #2) carried by voice vote (4-1-0). Brian Card was opposed as he is not comfortable with going with less restrictive than what was publicly advertised.

There were no further amendments.

Main Motion (#3), As Amended, carried by voice vote (4-1-0). Brian Card was opposed.

Motion was made by Brian Card to set the effective date for Zone TEXT Change Ap #22-1294 for Tuesday, November 22, 2022, at 12:01 a.m.

Second by Michael Hewko. No further discussion:

Motion carried unanimously by voice vote (5-0-0).

Ms. Aubrey asked if there are further instructions for Staff. Mr. Thurlow stated to review and address Mr. Card's recommended changes.

2) **Special Permit Ap #22-1296** – Nutmeg Killingly JV LLC (Darien Post Rd LTD & Flanders Post Rd LP / Owner); 1076 North Main Street; GIS MAP 130, LOT 6; vacant bank bldg.; adult use cannabis retail establishment, under T.O.K. Zoning Regulations Section 420.2.2.r (under General Commercial Use); Section 567 Cannabis Establishments.

Continued to Monday, October 17, 2022.

VIII. NEW BUSINESS – (review/discussion/action)

1) **Zone MAP Change Ap #22-1297** – Sangasy, Thavone (Applicant/Owner), Seng, Chahn (Owner); 7 Valley Road, GIS MAP 130, LOT 29, ~0.5 acres – request to change from General Commercial Zone to Low Density Residential Zone under Article IX of the T.O.K. Zoning Regulations. Receive application, and schedule for public hearing, suggested hearing date of October 17, 2022.

Ann-Marie Aubrey stated that the Application is complete.

Motion was made by Virge Lorents to receive and schedule a public hearing for **Zone MAP Change Ap #22-1297** – Sangasy, Thavone (Applicant/Owner), Seng, Chahn (Owner); 7 Valley Road, GIS MAP 130, LOT 29, ~0.5 acres – request to change from General Commercial Zone to Low Density Residential Zone under Article IX of the T.O.K. Zoning Regulations, for the next regularly scheduled meeting of the Planning and Zoning Commission to be held on Monday, October 17, 2022, Town Meeting Room, 2nd Floor, 172 Main Street, at 7:00 p.m.

Second by Michael Hewko. No discussion.

Motion carried unanimously by voice vote (5-0-0).

IX. ADOPTION OF MINUTES – (review/discussion/action)

1) Regular Meeting Minutes – AUGUST 15, 2022.

Motion was made by Brian Card to approve the Minutes of the Regular Meeting of August 15, 2022.

Second by John Sarantopoulos. No discussion.

Motion carried unanimously by voice vote (5-0-0).

X. OTHER / MISCELLANEOUS – (review / discussion / action)

1) **Special Permit – Ap #22-1286** – by American Storage Centers, LLC, for 551 Westcott Road, GIS MAP 214, LOT 5, ~3.8 acres; GC; request to construct 6 new buildings & convert 1 existing building for a self-service storage facility; under TOK Zoning Regulations Sections 420.2.2(q). Applicant is requesting a second extension to file the mylars and the approval letter, due to delays in receiving approval from CT DOT.

Ann-Marie Aubrey explained that they are requesting a 30-day extension and that they had only requested 60 days for the first one.

Motion was made by Virge Lorents to approve the request for a second filing extension (30 days) to file the mylars and the approval letter (due to delays in receiving approval from CT DOT) for **Special Permit – Ap #22-1286** – by American Storage Centers, LLC, for 551 Westcott Road, GIS MAP 214, LOT 5, ~3.8 acres; GC; request to construct 6 new buildings & convert 1 existing building for a self-service storage facility; under TOK Zoning Regulations Sections 420.2.2(q).

Second by Michael Hewko. No discussion.

Motion carried unanimously by voice vote (5-0-0).

XI. CORRESPONDENCE - NONE

XII. DEPARTMENTAL REPORTS – (review/discussion/action)

A. Zoning Enforcement Officer's & Zoning Board of Appeal's Report(s)

Jonathan Blake explained that the ZBA did not meet this month, but will be meeting next month as they have received applications.

B. Inland Wetlands and Watercourses Agent's Report

Jonathan Blake explained that the IWWC have had a few approvals, but they have been Staff level. The IWWC is short on Members, but there is an interview scheduled with the Town Council next month for a new Member. There are applications that have been received. There was discussion.

XIII. ECONOMIC DEVELOPMENT DIRECTOR REPORT

Jill St. Clair reported:

- Requesting an 8-24 review for the Brickyard Park.
- 140 Main Street has all clearances, they are busy with construction, to be completed in May 2023.

XIV. TOWN COUNCIL LIAISON REPORT

Ulla Tiik-Barclay reported on the recent actions/discussions/appointments of the Town Council. Upcoming public hearings:

- October 11, 2022 – Public Hearing on the Windham 4-H Dam Project (ARPA funds);
- October 11, 2022 – Communications and LUCAS (Automated CPR Device) for the Fire Departments (ARPA funds).
- October 11, 2022 – 249 Bailey Hill Road (permanent drainage easement) and 146 Pineville Road (creation of a directed drainage).

XV. ADJOURNMENT

Motion was made by John Sarantopoulos to adjourn at 9:29 p.m.

Second by Virge Lorents. No discussion.

Motion carried unanimously by voice vote (5-0-0).

Respectfully submitted,

J.S. Perreault
Recording Secretary