

TOWN OF KENT
PLANNING AND ZONING COMMISSION
41 Kent Green Boulevard
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Phone (860) 927-4625 Fax (860) 927-4541

July 9, 2020 REGULAR MEETING MINUTES
VIA ZOOM CONFERENCE

The Town of Kent Planning and Zoning Commission held a regular meeting on Thursday, **July 9, 2020 at 7:00 p.m.**

1. CALL TO ORDER

Chairman Winter called the meeting to order at 7:02 p.m. and reviewed the standard Zoom procedures for this meeting.

2. ROLL CALL AND APPOINTMENT OF ALTERNATES IF REQUIRED

Commissioners Present: Matt Winter, Karen Casey, Marc Weingarten,
Darrell Cherniske, Alice Hicks, David Birnbaum,
Wes Wyrick, and Anne McAndrew

David Birnbaum was elevated to voting status.

Staff Present: Donna Hayes, Land Use Administrator

3. READING AND APPROVAL OF MINUTES:

3.A. Regular Meeting Minutes of June 11, 2020.

Mr. Wintergarten moved to approve the Regular Meeting Minutes of June 11, 2020. Mr. Wyrick seconded and the motion carried unanimously.

4. PUBLIC COMMUNICATIONS (ORAL): N/A

5. OLD BUSINESS:

5.A. PUBLIC HEARINGS (Possibility of closure, discussion and decision on the following):

Chairman Winter looked for a motion to reopen the continuation of the public hearing and reread the notice.

Mr. Wintergarten moved to reopen the public hearing for Modification to Applications #106-18SP and 107-18C at 7:08 pm. Mr. Birnbaum seconded and the motion carried unanimously.

Darrell Cherniske and Wes Wyrick recused themselves. Anne McAndrew was seated as a voting member.

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- 5.A.1.** Modification to Applications #106-18SP and 107-18C, by High Watch Recovery Center, Inc., for 54 Carter Road (Map 14 Block 22 Lot 6); 62 Carter Road (Map 14 Block 22 Lot 7); and the 15.48-acre unimproved parcel of land (Map 14 Block 21 Lot 23, Parcel I.D. #1486) abutting the northerly line of Carter Road and the southeasterly line of 47 Carter Road, for a special permit and site plan approval for the following: Construction of two-story addition (including offices, 218-seat lecture hall and 12-bed detoxification wing) to existing administrative and clinical office building at 62 Carter Road; single story addition and kitchen expansion to dining hall at 62 Carter Road; addition of detoxification service at 62 Carter Road; increase in total residential in-patient bed count from 78 to 90 at 62 Carter Road; conducting therapeutic activities (including temporary housing of staff) associated with the treatment of drug and alcohol addiction at 54 Carter Road; constructing expanded landscaping/vegetative screening, driveway entrance, parking area, retaining wall and stormwater detention basin at 54 Carter Road and 62 Carter Road; constructing new septic system on Parcel I.D. #1486; and associated site work on all three parcels. **Modifications to include: construction of exterior staircase; proposed future metal gazebo; creation of 3 additional detox therapy/group session rooms; creation of 5 additional office spaces; creation of elevated walkway from second floor of detox building; associated roofline adjustment due to creation of additional office spaces; removal of two-tiered wall system; removal of connecting sidewalk at the northeast corner of the pharmacy; slight site alterations due to an additional egress stair; new exterior walk-in cooler and freezer; and, reduction of parking spaces.**

Donna Hayes reported that Anchor Engineering reviewed the modifications and had questions which have been addressed by Milone and MacBroom to Anchor Engineering's satisfaction. Michael Doherty of Milone and MacBroom reported that the addition of a level spreader was approved by Anchor. Additionally, it was confirmed for Anchor that emergency services have approved reductions in the access width.

Donna Hayes reported that the DEEP has submitted an approval. She has received both approvals from TAHD for the dining hall modifications. Ed Matson of KVFD submitted a letter stating that they are in agreement with the changes.

The TAHD has approved the change in the main portion of a campus and the increase in the number of the offices. It was noted that the application submitted was for the medical offices, 14 detox beds and a 200 seat auditorium. This is in conflict with the modification submitted to the Commission, which was for 12 detox beds. Mrs. Hayes suggested that this be clarified. A representative from High Watch explained that the additional beds are for quarantine only.

Jason Perillo explained that the Office of Health Strategy has only approved 12 beds and High Watch will have staff for 12 patients in detox; however, they are not limited to utilize them for detox. Chairman Winter noted that the Commission should consider the responsibility placed upon the ZEO to enforce the number of beds in use.

Chairman Winter identified an e-mail that was distributed to the Commission members from Linda Palmer regarding her communications with the DEEP about the septic systems.

Anne McAndrew questioned whether the quarantine rooms are for the patient that get sick or for incoming patients. It was advised it could be for either. She also inquired as to the number of beds in the infirmary and it was noted that there are two rooms and two beds in total.

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Chairman Winter looked for more questions from the Commissioners or public.

Mr. Perillo asked that the Commission vote tonight regarding this matter. Paul Jorgenson and Mike Doherty had nothing further to add. Donna Hayes reminded those present for High Watch that they do not have a Zoning permit for the work being performed on the Dining Hall. Also, a final sign-off is needed from the Fire Marshal. Mr. Perillo confirmed that they will take care of this asap.

Mr. Wintergarten moved to close the public hearing for Modification to Applications #106-18SP and 107-18C at 7:43 pm. Ms. McAndrew seconded and the motion carried unanimously.

Mr. Winter stated that he is satisfied with the explanation regarding the number of beds and does not think the burden of this will fall upon the ZEO regarding enforcement as it falls under the jurisdiction of the Office of Health Strategy. Mr. Winter understands the changes and feels they make sense.

Ms. Casey question whether the number of quarantined beds on the Certificate of Need will be two. Mr. Winter noted that he does not believe there will be a change to the Certificate of Need. She asked how the additional two new rooms will be classified. He explained that per the applicant it is the number of people they are allowed to serve that is limited, which is 90. Donna Hayes clarified that the Certificate of Need has not yet been approved and they will not get their Zoning Certificate of Compliance to operate until they receive their Certificate of Need. Mrs. Hayes noted that the two quarantine rooms are described in the draft Resolution of Approval.

Mr. Wintergarten moved to accept the draft resolution of approval for Modification to Applications #106-18SP and 107-18C. Mr. Birnbaum seconded.

Discussion: The group agreed to Exclude #2, #3, and #6 and renumber appropriately. The notation regarding the number of beds was omitted as well.

Motion carried 5-1

The following Resolution was accepted:

WHEREAS, Applications #106-18SP and 107-18C, were submitted to the Planning and Zoning Commission (Commission) by High Watch Recovery Center, Inc., for 54 Carter Road (Map 14 Block 22 Lot 6); 62 Carter Road (Map 14 Block 22 Lot 7); and the 15.48-acre unimproved parcel of land (Map 14/Block 21/Lot 23, Parcel I.D. #1486) abutting the northerly line of Carter Road and the southeasterly line of 47 Carter Road, for a special permit and site plan approval for the following: Construction of two-story addition (including offices, 218-seat lecture hall and 12-bed detoxification wing) to existing administrative and clinical office building at 62 Carter Road; single story addition and kitchen expansion to dining hall at 62 Carter Road; addition of detoxification service at 62 Carter Road; increase in total residential in-patient bed count from 78 to 90 at 62 Carter Road; conducting therapeutic and related activities (including temporary housing of staff) associated with the treatment of drug and alcohol addiction at 54 Carter Road; constructing expanded landscaping/vegetative screening, driveway entrance, parking area, retaining wall and stormwater detention basin at 54 Carter Road and 62 Carter Road; constructing new septic system on Parcel I.D. #1486; and associated site work on all three parcels.

WHEREAS, the applicant submitted a request for the following modifications: **Modifications to include: construction of exterior staircase; proposed future metal gazebo; creation of 3 additional detox therapy/group session rooms; creation of 5 additional office spaces; creation of elevated walkway from second floor of detox building; associated roofline adjustment due to creation of additional office spaces; removal of two-tiered wall system; removal of connecting sidewalk at the northeast corner of the pharmacy;**

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slight site alterations due to an additional egress stair; new exterior walk-in cooler and freezer; and, reduction of parking spaces.

WHEREAS, the Commission opened the public hearing on the modification request on June 11, 2020 and continued the public hearing to July 9, 2020.

WHEREAS, the Commission closed the public hearings on the modification on July 9, 2020.

WHEREAS, following the close of the public hearings, the Commission conducted deliberations on the modifications on July 9, 2020.

THEREFORE, BE IT RESOLVED, that upon a motion made by Mr. Weingarten and seconded by Mr. Birnbaum the Commission approves the above listed modifications to Applications #106-18SP and 107-18C subject to the following limitations and conditions:

1. The Commission considers the factual representations made by the applicant and its agents, representatives and consultants with regard to the nature, scope, location, extent, timing, frequency and all other aspects of the proposed use to have been critical in the Commission's determination that the Special Permit could properly be approved. Therefore, this approval incorporates by reference all such factual representations as though expressly made conditions of this approval, except as may be modified by subsequent conditions of this resolution. The applicant's factual representations include, but are not limited to, those made at the public hearing and in the following documents:
 - A. Overall Site Plan by Milone & MacBroom, Sheet SP, dated December 4, 2018 and revised to May 11, 2020.
 - B. Overall Site Plan – Proposed Site Modifications, Sheet SP-REV, dated May 11, 2020
 - C. Site Plan – Layout by Milone & MacBroom, Sheet LA-1, dated December 4, 2018 and revised to May 11, 2020.
 - D. Site Plan – Grading by Milone & MacBroom, Sheet GR-1, dated December 4, 2018 and revised to May 11, 2020.
 - E. Site Plan – Utilities by Milone & MacBroom, Sheet UT-1, dated December 4, 2018 and revised to May 11, 2020.
 - F. Building Code Information, by Silver/Petrucelli + Associates, Sheet A003, dated June 21, 2019, revised April 1, 2020.
 - G. Code Plans – Basement & Lower Levels, by Silver/Petrucelli + Associates, Sheet A004, dated June 21, 2019, revised March 31, 2020.
 - H. Code Plans – Upper & Main Levels, by Silver/Petrucelli + Associates, Sheet A005, dated June 21, 2019, revised April 1, 2020.
 - I. Basement Floor Plan- Building C Part 1, by Silver/Petrucelli + Associates, Sheet A103, dated June 21, 2019, revised February 21, 2020.
 - J. Lower Level Floor Plan – Building B, by Silver/Petrucelli + Associates, Sheet A112, dated June 21, 2019, revised March 3, 2020.
 - K. Lower Level Floor Plan – Building C Part 1, by Silver/Petrucelli + Associates, Sheet A113, dated June 21, 2019, revised March 24, 2020.
 - L. Lower Level Floor Plan – Building C Part 2, by Silver/Petrucelli + Associates, Sheet A114, dated June 21, 2019, revised March 24, 2020.
 - M. Upper Level Floor Plan – Building A (basement), by Silver/Petrucelli + Associates, Sheet A121, dated June 21, 2019, revised March 24, 2020.

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- N. Upper Level Floor Plan – Building B, by Silver/Petrucelli + Associates, Sheet A122, dated June 21, 2019, revised April 14, 2020.
 - O. Upper Level Floor Plan – Building C Part 1, by Silver/Petrucelli + Associates, Sheet A123, dated June 21, 2019, revised March 24, 2020.
 - P. Attic Floor Plan – Building B, by Silver/Petrucelli + Associates, Sheet A132, dated June 21, 2019, revised March 24, 2020.
 - Q. Attic Floor Plan – Building C Part 1, by Silver/Petrucelli + Associates, Sheet A133, dated June 21, 2019, revised March 24, 2020.
 - R. Roof Plan – building B, by Silver/Petrucelli + Associates, Sheet A142, dated June 21, 2019, revised April 1, 2020.
 - S. Exterior Elevations – Partial, by Silver/Petrucelli + Associates, Sheet A301, dated June 21, 2019, revised April 1, 2020.
 - T. Exterior Elevations – Partial, by Silver/Petrucelli + Associates, Sheet A302, dated June 21, 2019, revised April 1, 2020.
 - U. Door Schedule – Building A and B, by Silver/Petrucelli + Associates, Sheet A910, dated June 21, 2019, revised March 31, 2020.
 - V. Door Schedule – Building C1 and C2, by Silver/Petrucelli + Associates, Sheet A911, dated June 21, 2019, revised March 30, 2020.
 - W. Floor Plans, by Silver/Petrucelli + Associates, Sheet A101, dated June 14, 2019, revised June 5, 2020.
 - X. Enlarged Kitchen Plan, by Silver/Petrucelli + Associates, Sheet A103, dated June 14, 2019, revised June 5, 2020.
 - Y. Exterior Elevations, by Silver/Petrucelli + Associates, Sheet A301, dated June 14, 2019, revised June 5, 2020.
2. All required approvals from the Town of Kent Fire Marshal for the proposed modified uses must be obtained, and copies of such approval(s) submitted to the Land Use Office, before a Zoning Permit shall be issued.
 3. As represented by the applicant, the two additional spaces identified as “detox swing space/quarantine room” and “detox future growth” on Code Plans – Basement & Lower Levels, by Silver/Petrucelli + Associates, Sheet A004, dated June 21, 2019, revised March 31, 2020 shall be used solely for the purposes of quarantine.
 4. Any changes in the actual uses as represented during this modification process shall require a modification of this Special Permit. The Commission does not, by this condition, guarantee that it will approve any such modification.
 5. Each condition attached to this modification to the special permit approval is an integral part of the approval and inseparable from it. Should any of the conditions attached hereto be found by a court of competent jurisdiction on appeal to be void, then, in that event, the special permit granted herein shall be void and of no legal effect.
 6. The violation of any of the conditions of this modification may be grounds for revocation of the special permit pursuant to Section 10470.3 of the Zoning Regulations.

Wes Wyrick and Darrell Cherniske were reseated and Alternate Anne McAndrew stepped down from voting status.

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5.B. DISCUSSION AND POSSIBLE DECISION

5.B.1. Planning schedule for the rewrite of the Subdivision Regulations dated June 1, 1995.

Tabled

6. NEW BUSINESS:

6.A. PUBLIC HEARINGS: (Possibility of closure, discussion and decision on the following):

6.B. DISCUSSION AND POSSIBLE DECISION

6.B.1. General Statutes 8-24 Referral: Kent Village Center Streetscape Master Plan Improvements prepared by Milone & MacBroom, dated April 2018, as may be amended, and received by the Town of Kent Land Use Office on July 6, 2020

Donna Hayes explained that the Commission is not being asked to approve the bonding or granting of this project. The Commission is being asked to approve is the site plan presented by Milone & MacBroom. Chairman Winter noted that it would be unprofessional to approve the plan that was submitted to this Commission as it is illegible. Mike Doherty of Milone & MacBroom stated that he was unaware this was coming before the Commission; therefore, he had not been involved in submitting this plan. Donna Hayes explained that this is all that was available to the town for submission to the Commission.

Mike Doherty shared his screen showing the master plan graphic and briefly described the project noting that the project will be bid with granite sidewalks and with an alternate of asphalt sidewalks. The lights poles noted are not part of the project. He reported that they are still working with DOT for approval. In most cases there will not be in road work as part of this project. Crosswalks are still being considered.

Mr. Winter noted that from a safety standpoint the crosswalks should be enhanced and the pole at the corner near the gas station should be adjusted.

Mr. Wintergarten moved to accept the following resolution:

Resolved: The Planning and Zoning Commission of the Town of Kent, exercising the authority of the Planning and Zoning Commission pursuant to Section 8-24 of the General Statutes, having reviewed the Kent Village Center Streetscape Master Plan Improvements prepared by Milone & MacBroom dated April 21, 18, as may be amended, and received by the Town of Kent Land Use Office on July 6, 2020, hereby approves said Master Plan.

Mr. Wyrick seconded and the motion carried unanimously.

6.B.2. Robert Fisher, Esq. and Ari Raskas for Birch Hill Recover Center, 46 Maple Street, Kent Realty, LLC Map 4 Block 12 Lot 6, preliminary discussion regarding relatively minor site plan revisions and concerns over condition #16 in the special permit approval.

Donna Hayes and Chairman Winter discussed whether the unchanged site plan was approved as part of the special permit application. Rob Fisher, Attorney for Birch Hill, noted that fencing was a change included in Birch Hill's approval; however, there have been no changes to the site to date. He understands that a modification may require a public hearing.

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Brian Baker of Civil 1 reviewed the overall site plan noting that this is mostly cosmetic changes including the striping of spacing, partial paving, a new generator location, tree pruning, lighting, and the previously approved chain link fence. Mark Dupree added that the existing generator tank will be removed. The new generator will have an above ground tank and a sound enclosure. The group discussed tank location, sound decibels omitted and the timing of the scheduled maintenance runs to insure the neighboring properties would not be disturbed.

Donna Hayes agreed that this would be a modification to the site plan approved for Birch Hill. Chairman Winter queried the Commission as to whether they find these to be significant changes to warrant a public hearing.

Donna Hayes explained that the Condition in question is the one that states a minimum of two emergency technician to be onsite at all times. Attorney Jeff Garman reported that this condition in concern might violate labor laws due to the requirement that they be members of the KVFD. This may unfairly limit an applicant's eligibility for employment due to the requirements of the KVFD. Additionally, it is unlawful to forcefully require volunteerism without pay during working hours.

Ari Raskas and Brad Greenstein reviewed a PowerPoint presentation explaining an alternative to Condition #16. Mr. Greenstein, CEO, reviewed staffing and safety protocols exceeding regulatory requirements that will meet the intent of #16. Staffing will have an EMT skill set; trained for emergency response.

Chairman Winter polled the Commission as to whether this change is significant enough to require a public hearing. Ari Raskas reported that they have reached out to AMR Ambulance Transport to contract with them for nonemergency service transport to alleviate any stress upon KVFD and will provide materials for employees to consider KVFD volunteer opportunities. He noted that call volume has been reduced since High Watch has privately contracted ambulance services.

The Commission agreed that the applicant should be directed to apply to change the site plan and apply separately to change the condition of approval. It was determined that the site plan modification does not warrant a public hearing; however, the change to condition #16 will require public input.

Mr. Wyrick moved to schedule a public hearing for August 13, 2020 Robert Fisher, Esq. and Ari Raskas for Birch Hill Recover Center, 46 Maple Street, Kent Realty, LLC Map 4 Block 12 Lot 6, to modify condition #16 in the special permit approval. Ms. Hicks seconded and the motion carried unanimously.

7. STAFF REPORT:

8. REPORT OF OFFICERS AND COMMITTEES:

- 8.A.** Subdivision Regulation Sub-Committee - previously tabled.

9. OTHER COMMUNICATIONS AND CORRESPONDENCE:

- 9.A.** Administrative Permits and Certificates of Compliance – June 8, 2020 to July 2, 2020. Confirmed received.
- 9.B.** Connecticut Siting Council's Notice of Public Hearing for Docket #488 - Homeland Towers, LLC and New Cingular Wireless PCS, LLC d/b/a AT&T application for Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a

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telecommunications facility located at one of two sites: Kent Tax Assessor ID# M10, Block 22 Lot 38 Bald Hill Road or 93 Richards Road, Kent, CT

Chairman Winter suggested that documentation be submitted in writing to memorialize this Commission's position as discussed at the December meeting. Donna Hayes reported that the attorney representing the Town in this matter has requested an affidavit attesting to the fact that the letter that was submitted by John Johnson in December regarding this Commission's opinion is still in force. The Commission agreed that Chairman Matt Winter should represent the Commission at the public hearing to stand by the Regulations, submit testimony and answer subsequent questions regarding what had been discussed in December.

9.C. Monthly Financials - July, 2019 - May, 2020

Donna Hayes reported that P&Z is way above budget regarding revenue and will be turning back a lot of money for year end.

9.D. Connecticut Federation of Planning and Zoning Agencies Quarterly Newsletter, Summer 2020-confirmed received

10. Open session involving discussion and possible action on Pending Litigation: The Roberti Family, LLC v. Town of Kent, Connecticut and Kent Planning and Zoning Commission of the Town of Kent, Connecticut; and, Potential Litigation: High Watch Recovery Center Main Project Proposed Design Changes.

It was noted that Donna Hayes will continue to work with the attorneys and will report back to the Commission on any developments.

Due to the Covid-19 pandemic, the Executive Session to discuss the pending litigation was held at a special meeting beginning at 6:00 p.m. on July 9, 2020.

11. Open session involving discussion and possible action on Pending Litigation: High Watch Recovery Center Main Project Proposed Design Changes.

It was suggested that the agenda description be changed to "potential claim" from "potential litigation".

Due to the Covid-19 pandemic, the Executive Session to discuss the pending litigation was held at a special meeting beginning at 6:00 p.m. on July 9, 2020.

ADJOURNMENT

Mr. Wyrick moved to adjourn at 10:0 p.m. Ms. Casey seconded and the motion carried unanimously.

Respectfully submitted,

Tai Kern

Tai Kern, Land Use Clerk

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