



RECEIVED

By Darlene Brady at 11:15 am, Dec 13, 2021

TOWN OF KENT
PLANNING AND ZONING COMMISSION
41 Kent Green Boulevard, P.O. Box 678, Kent, CT 06757

REGULAR MEETING MOTIONS

The Planning and Zoning Commission had a regular meeting on Thursday, December 9, 2021 via zoom.

1. CALL TO ORDER

Mr. Wyrick called the meeting to order at 7:02 p.m.

2. ROLL CALL AND APPOINTMENT OF ALTERNATES IF REQUIRED

Commissioners Present: Wes Wyrick, Chairman; David Birnbaum, Karen Casey, Darrell Cherniske, Alice Hicks, Adam Manes, Anne McAndrew, Marc Weingarten

3. READING AND APPROVAL OF MINUTES:

3.A. Special Meeting Minutes of November 18, 2021 (6 p.m.).

Mr. Weingarten moved to approve the Special Meeting Minutes of November 18, 2021 (6 p.m.) as presented. Mr. Manes seconded and the motion carried unanimously.

3.B. Regular Meeting Minutes of November 18, 2021.

Mr. Manes moved to approve the Regular Meeting Minutes of November 18, 2021 as presented. Mr. Birnbaum seconded and the motion carried unanimously.

Mr. Birnbaum moved to add agenda item 6.B.5., Appointment of Ms. Hicks to the Housing Plan Steering Committee. Mr. Manes seconded and the motion carried unanimously.

4. PUBLIC COMMUNICATIONS (ORAL):

No action taken.

TOWN OF KENT PLANNING AND ZONING COMMISSION
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5. OLD BUSINESS:

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

No action taken.

5.B. DISCUSSION AND POSSIBLE DECISION

5.B.1. Application #'s 52-21SP and 53-21C, Paul Szymanski, P.E., Arthur H. Howland & Associates, for North Main Kent, LLC, 0 North Main Street, Map 3 Block 15 Lot 5, proposed conservation development of 13 lots.

Mr. Manes moved to approve Application #'s 52-21SP and 53-21C, Paul Szymanski, P.E., Arthur H. Howland & Associates, for North Main Kent, LLC, 0 North Main Street, Map 3 Block 15 Lot 5, proposed conservation development of 13 units via the following Resolution of Approval:

WHEREAS, Application #'s 52-21SP and 53-21C, North Main Kent, LLC, 0 North Main Street, Map 3 Block 15 Lot 5, conservation development of 13 units.

WHEREAS, the Planning and Zoning Commission (Commission) opened a public hearing on Application #'s 52-21SP and 53-21C on July 8, 2021, August 12, 2021, September 9, 2021 and October 14, 2021.

WHEREAS, the Commission closed the public hearing on all applications on October 14, 2021.

WHEREAS, the Commission conducted deliberations on the closed applications on November 18, 2021 and December 9, 2021.

WHEREAS, at the conclusion of deliberations, the Commission finds that the applications do not satisfy all of the relevant criteria for approval as submitted, but that they would satisfy those criteria if the following modifications, limitations and conditions are incorporated into an approval.

THEREFORE, BE IT RESOLVED, that upon a motion made by Mr. Manes and seconded by Mr. Birnbaum, the Commission approves Application #'s 52-21SP and 53-21C subject to the following modifications, 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:*

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- A. *Special Permit Application #52-21SP, dated May 19, 2021 and received on May 24, 2021.*
- B. *Site Plan Application #53-21C, dated May 24, 2021 and received May 24, 2021.*
- C. *Unit Phasing Intent, undated, received by the Commission at the October 14, 2021 meeting.*
- D. *An email from Gina M. Greenalch, Engineer for the CT DOT, to Paul Szymanski dated October 5, 2021, with an attachment entitled "Intersection Site Distance Plan", prepared by Arthur H. Howland & Associates, P.C., dated July 20, 2021 and revised to October 5, 2021.*
- E. *A letter from Gary Hock, Assistant Chief KVFD to Matt Winter, Chairman, Town of Kent Planning and Zoning Commission, dated October 13, 2021 with the following attachments: Site Development Plan, prepared by Arthur H. Howland & Associates, P.C., dated June 2, 2021, revised to October 7, 2021; Vehicle Turning Template Plan (Aerial Platform Fire Truck) TT.2, prepared by Arthur H. Howland & Associates, P.C., dated June 2, 2021, revised to September 15, 2021; and, Vehicle Turning Template Plan (Aerial Platform Fire Truck) TT.1, prepared by Arthur H. Howland & Associates, P.C., dated June 2, 2021, revised to September 8, 2021.*
- F. *A letter from Denise P. Lord, P.E., Lead Engineer for Barton & Loguidice, to Donna M. Hayes, Land Use Administrator, dated November 5, 2021.*
- G. *A letter to the Town of Kent Zoning Commission from Arthur H. Howland & Associates, P.C., dated October 12, 2021.*
- H. *A letter to the Town of Kent Planning & Zoning Commission from Arthur H. Howland & Associates, P.C., dated October 12, 2021.*
- I. *Cover Sheet (C.1), prepared for North Main Kent, LLC, prepared by Arthur H. Howland & Associates, P.C., dated June 1, 2021 and revised to October 13, 2021.*
- J. *Existing Conditions/Site Inventory Survey Map (EC.1) prepared by Arthur H. Howland & Associates, P.C., dated June 2, 201 and revised to October 7, 2021.*
- K. *Open Space Map (OS.1), prepared by Arthur H. Howland & Associates, P.C., dated October 5, 2021 and revised to October 13, 2021.*
- L. *Site Development Plan (SD.1a), prepared by Arthur H. Howland & Associates, P.C. dated June 2, 2021 and revised to October 13, 2021.*
- M. *Site Development Plan (SD.1b) prepared by Arthur H. Howland & Associates, P.C. dated October 12, 2021 and revised to October 13, 2021.*
- N. *Landscaping Plan (L.1), prepared by Arthur H. Howland & Associates, P.C., dated June 2, 2021 and revised to October 7, 2021.*
- O. *Sedimentation & Erosion Control Details (SES.1), prepared by Arthur H. Howland & Associates, P.C., dated June 2, 2021 and revised to October 13, 2021.*
- P. *Vehicle Turning Template Plan (Aerial Platform Fire Truck) (TT.1), prepared by Arthur H. Howland & Associates, P.C., dated June 2, 2021, and revised to October 7, 2021.*
- Q. *Vehicle Turning Template Plan (Aerial Platform Fire Truck) (TT.2), prepared by Arthur H. Howland & Associates, P.C., dated June 2, 2021, and revised to October 7, 2021.*
- R. *Intersection Site Distance Plan (ISD.1), prepared by Arthur H. Howland & Associates, P.C., dated July 20, 2021.*
- S. *Standard Detail Sheet (D.1), prepared by Arthur H. Howland & Associates, P.C., dated June 2, 2021 and revised to October 7, 2021.*
- T. *Standard Detail Sheet (D.2), prepared by Arthur H. Howland & Associates, P.C., dated June 2, 2021 and revised to September 15, 2021.*

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U. Standard Detail Sheet (D.3), prepared by Arthur H. Howland & Associates, P.C., dated October 13, 2021.

- 2. That an approval be presented to the Land Use Office from the WPCA for the Town of Kent prior to the issuance of a zoning permit.*
- 3. That a letter of approval be presented to the Land Use Office from Aquarion Water Company for the project itself and the proposed flow rates for the new hydrants prior to the issuance of a zoning permit.*
- 4. That proof of registration with the Connecticut DEEP for the General Permit for Discharge of Stormwater and Dewatering Wasters from Construction Activities be presented to the Land Use Office before the issuance of a zoning permit.*
- 5. That prior to the issuance of a Certificate of Zoning Compliance, proof that additional test pits were conducted during construction to confirm the suitability of the basins as designed be presented to the Land Use Office.*
- 6. That no gutters be installed on each structure but rather stone drip edges be installed in order to infiltrate the roof runoff.*
- 7. That the Home Owner's Association shall be responsible for ensuring the inspection and maintenance schedules, as defined as #13 of Mr. Szymanski's letter dated October 12, 2021 and identified as Exhibit G, are completed as defined.*
- 8. That all grass pavers installed on the property as a condition of approval by the Kent Volunteer Fire Department, be properly maintained and free of snow and ice during winter months.*
- 9. That screening to the south side of the property be maintained in perpetuity by the Home Owner's Association.*
- 10. That prior to the construction of individual homes, a pre-application shall be submitted to the Architectural Review Board for approval.*
- 11. That the Declaration of Covenants, Conditions and Restrictions (or "CC&Rs"), the Bylaws, the Articles of Incorporation, and the Rules be submitted to and approved by the Planning and Zoning Commission prior to the issuance of Zoning Permit(s) and any Certificates of Compliance.*
- 12. That the site plan be revised to either eliminate sites 3 and 13 from the property or move those sites to a place that will not block the viewshed of the open fields.*
- 13. Any changes to information represented during this application process shall require a modification of this Special Permit. The Commission does not, by this condition, guarantee that it will approve any such modification.*

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14. Each condition attached to this 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.

15. The violation of any of the conditions of this special permit approval may be grounds for revocation of the special permit pursuant to Section 10470.3 of the Zoning Regulations.

In granting the above special permit applications, the Commission finds that the proposed project as conditioned, modified and limited by this motion will conform to the requirements of the Rural District and that it satisfies the factors the Commission must consider in reviewing such amendments, as set forth in the Plan of Conservation and Development and the Zoning Regulations of the Town of Kent.

Adopted by the Kent Planning and Zoning Commission this 26th day of December, 2021.

Mr. Birnbaum seconded. During discussion, Ms. Hayes asked that the motion be amended to read: "... conservation development of 13 units." Instead of "... conservation development of 13 lots." Mr. Manes amended his motion, Mr. Birnbaum seconded the amended motion and the motion carried 5 – 2 with Mr. Wyrick, Mr. Manes, Mr. Birnbaum, Mr. Weingarten and Ms. Hicks voting yay and Ms. Casey and Mr. Cherniske voting nay.

5.B.2. Clarification on the baseline of operations and aspirations of Club Getaway.

Mr. Manes moved to continue the clarification on the baseline of operations and aspirations of Club Getaway to the next regular meeting. Mr. Birnbaum seconded and the motion carried unanimously.

6. NEW BUSINESS:

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

No action taken.

6.B. DISCUSSION AND POSSIBLE DECISION

6.B.1. Election of officers and discussion/nomination on open alternate position.

Mr. Wyrick nominated Mr. Manes to the position of Vice Chairperson. Mr. Cherniske seconded and the motion carried unanimously.

Mr. Manes moved to recommend to the Board of Selectmen the appointment of Mr. Winter to the open alternate position. Mr. Birnbaum seconded and the motion carried unanimously.

6.B.2. Review and approval of By Laws.

Mr. Weingarten moved to approve the By Laws as amended. Mr. Manes seconded and the motion carried unanimously.

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- 6.B.3.** Request of the Board of Selectmen for the reconsideration by the Planning and Zoning Commission to update the Land Use regulations with respect to the vending of food via a truck or any other means.

Mr. Manes moved to continue Request of the Board of Selectmen for the reconsideration by the Planning and Zoning Commission to update the Land Use regulations with respect to the vending of food via a truck or any other means to the next regular meeting. Mr. Weingarten seconded and the motion carried unanimously.

- 6.B.4.** Request for determination: clear cut of approximately 1 acre of land at 0 Cobble Road for proposed construction of single-family dwelling in HorizonLine Conservation District with no issuance of a zoning permit.

Ms. Hayes reported that no additional information has been presented.

Mr. Manes moved to remove agenda item 6.B.4. from future agendas. Mr. Weingarten seconded and the motion carried unanimously.

- 6.B.5.** Appointment of Ms. Hicks to the Housing Plan Steering Committee.

Mr. Manes moved to appoint Ms. Hicks to the Housing Plan Steering Committee. Mr. Birnbaum seconded and the motion carried unanimously.

7. STAFF REPORT:

- 7.A.** Ms. Hayes reported that the Town will be holding an FOIA meeting on January 5, 2022, at 7:00 p.m. The link to the zoom meeting will be posted on the Town's website as we get closer to the meeting date.

No action taken.

8. REPORT OF OFFICERS AND COMMITTEES:

- 8.A.** POCD Subcommittee

No action taken.

9. OTHER COMMUNICATIONS AND CORRESPONDENCE:

- 9.A.** Administrative Permits and Certificates of Compliance

No action taken.

- 9.B.** Monthly Financials – July through XXXX, 2021

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Ms. Hayes reported that the monthly financials had not been submitted by the Treasurer and that is why nothing was provided. No action taken.

- 9.C.** Connecticut Federation of Planning and Zoning Agencies *Quarterly Newsletter* Fall 2021.

No action taken.

- 9.D.** Warning of Public Hearing – Town of Sherman – To Consider Amendments to the Sherman Zoning Regulations.

No action taken.

- 9.E.** Letter from the ARPA Needs Assessment Committee dated December 2, 2021.

No action taken.

- 10. EXECUTIVE SESSION: Pending Litigation: High Watch Recovery Center, Inc. v Town of Kent Planning and Zoning Commission in Superior Court, Judicial District of Litchfield at Torrington dated November 27, 2020. Discussion of strategy and negotiations with legal counsel.**

Ms. Hayes reported that she had no information and did not feel it was necessary to enter the Executive Session.

- 11. EXECUTIVE SESSION: Pending Litigation: The Roberti Family, LLC v Town of Kent, Connecticut and Planning & Zoning Commission of the Town of Kent, Connecticut in the United States District Court for the District of Connecticut filed April 24, 2020. Discussion of strategy and negotiations with legal counsel.**

Ms. Hayes reported that she had no information and did not feel it was necessary to enter the Executive Session.

- 12.** Open session involving discussion and possible action on Pending Litigation: High Watch Recovery Center, Inc. v Town of Kent Planning and Zoning Commission in Superior Court, Judicial District of Litchfield at Torrington dated November 27, 2020.

Mr. Weingarten moved to follow the direction and advice of the Planning & Zoning Commission's attorney. Mr. Birnbaum seconded and the motion carried unanimously.

- 13.** Open session involving discussion and possible action on Pending Litigation: The Roberti Family, LLC v Town of Kent, Connecticut and Planning & Zoning Commission of the Town of Kent, Connecticut in the United States District Court for the District of Connecticut filed April 24, 2020.

Mr. Weingarten moved to follow the direction and advice of the Planning & Zoning Commission's attorney. Mr. Birnbaum seconded and the motion carried unanimously.

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ADJOURNMENT

Mr. Birnbaum moved to adjourn at 9:46 p.m. Mr. Manes seconded and the motion carried unanimously.

Respectfully submitted,

Donna M. Hayes

Donna M. Hayes, CZEO
Land Use Administrator

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