



**RECEIVED**

*By Darlene Brady at 9:27 am, Jan 18, 2022*

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

**REGULAR MEETING MINUTES**

The Planning and Zoning Commission held a regular meeting via zoom on January 13, 2022 at 7:00 p.m.

**1. CALL TO ORDER**

Chairman 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, Matthew Winter

Staff Present: Donna M. Hayes, LUA

**3. READING AND APPROVAL OF MINUTES:**

**3.A.** Regular Meeting Minutes of December 9, 2021.

*Mr. Manes moved to approve the regular meeting minutes of December 9, 2021 as presented. Mr. Cherniske seconded and the motion carried unanimously.*

**4. PUBLIC COMMUNICATIONS (ORAL):**

No action taken.

*Mr. Manes moved to hear agenda item 6.B.4. prior to hearing 6.B.1. Mr. Cherniske seconded and the motion carried unanimously.*

**5. OLD BUSINESS:**

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

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No action taken.

## **5.B. DISCUSSION AND POSSIBLE DECISION**

### **5.B.1. Clarification on the baseline of operations and aspirations of Club Getaway.**

Ms. Hayes reported that she spoke with Attorney Dwight Merriam, who is working with Mr. Schreiber, regarding an update on the definition. Attorney Merriam said that at this point in time he has nothing to share with the Commission and asked that the matter be tabled to the next regular meeting.

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

### **5.B.2. 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.**

The Commission asked if Ms. Hayes had received any directive information from the Board of Selectmen regarding this request. Ms. Hayes replied that she copied the exact wording from First Selectman Speck's email as the subject line for this agenda item and had no further information. She did remind the Commission that they had referred the regulation of food trucks to the BOS almost 18 months ago and no action other than a moratorium was taken by them. The Commission discussed the reasons for the referral to the BOS and asked Ms. Hayes to create a letter to the BOS stating that they believe that the regulations were sufficient to address the possibility of a food truck as a home occupation under a special permitted use but other than that they believed that general requests for food trucks should be handled via an ordinance.

*Mr. Birnbaum 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. Manes 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.

*Mr. Birnbaum moved to add agenda item 9.E., Communication from Mr. John Casey, dated 1/13/2022, to the agenda. Mr. Manes seconded and the motion carried unanimously.*

## **6.B. DISCUSSION AND POSSIBLE DECISION**

### **6.B.1. Discussion and possible decision on the scheduling of a public hearing to change the December 7, 2021 Town of Kent Zoning Regulations to opt out of certain**

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subsections of Public Act 21-29, accessory apartments and parking requirements for residential uses.

Ms. Hayes explained that this was added to the agenda at the request of Attorney Zizka in order to bring the current zoning regulations in line with Public Act 21-29. It was decided that the discussion will take place at the public hearing which will be scheduled for March 10, 2022.

*Mr. Manes moved to schedule a public hearing for March 10, 2022. Mr. Birnbaum seconded and the motion carried unanimously.*

Mr. Wyrick and Mr. Cherniske recused themselves from the following discussion. Mr. Manes assumed the role of Chairman and elevated Mr. Winter and Ms. McAndrew to voting status.

**6.B.2.** 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. **Modification to include: operation of an optional and partially subsidized day care to be utilized by its employees at the location formerly known as 54 Carter Road, Map 14 Block 22 Lot 16.**

Ms. Hayes explained that High Watch was before them for a modification to the existing special permit to allow for the operation of a daycare in the building that was formerly known as 54 Carter Road (the “red” building). During the special permit process, the building’s use was changed to “art therapy”; this modification would change the use of the “red” building. She also asked the Commission to make a decision as to whether or not they thought a public hearing would be required for this modification.

Mr. Perillo was present, representing High Watch. He explained that the proposal was for a pre-school, daycare center for 12 children or less. These children will be the children of only High Watch employees. Since the daycare would be for pre-school age children, no buses will be dropping off additional children. When asked about the hours of operation, Mr. Perillo replied that the center would be open from 7:00 a.m. to 5:30 p.m. The operation would be limited to 5 days per week because they did not see the need for weekend care at this point in time, but that could change. Ms. Hayes said that if that were to happen, they would have to come back to modify the permit.

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Ms. Hayes asked if Mr. Perillo had begun conversations with the Fire Marshal or Torrington Area Health. He replied that he had not; Ms. Hayes suggested that these should be conditions of approval should the approval be given. Mr. Perillo said that all of these requirements would have to be met in order to obtain their state license.

Mr. Manes asked Mr. Perillo about the extent of renovations needed to the building and the area in general. He asked this in order to better understand whether or not he thought a public hearing would be necessary. Mr. Perillo replied that he felt the changes would be very minor in nature and did not believe that any major renovations had to be done to the interior of the building. With regard to the exterior, a swingset, fencing and playground area would be created.

*With no further questions, Mr. Birnbaum moved to continue the discussion to the next regular meeting. Mr. Winter seconded. During discussion it was decided that there was no conversation about whether or not the next meeting would be a public hearing or not and it was felt that Mr. Perillo needed clarification of what the Commission would like to see at the next meeting. Mr. Birnbaum withdrew his motion.*

Mr. Winter clarified the information that the Commission would be looking for at the next meeting and then discussion was had on whether or not a public hearing was necessary.

*Mr. Winter moved to continue the discussion to a public hearing at the February 10<sup>th</sup> meeting. Ms. Casey seconded. A poll was taken of the Commission members with Ms. Casey, Ms. Hicks and Ms. McAndrew voting in favor of discussing the modification during a public hearing. Mr. Manes, Mr. Birnbaum and Mr. Winter were not in favor. Since the vote was a tie, the motion did not carry.*

*Mr. Birnbaum moved to continue 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. **Modification to include: operation of an optional and partially subsidized day care to be utilized by its employees at the location formerly known as 54 Carter Road, Map 14 Block 22 Lot 16,** to the February 10, 2022, meeting. Mr. Winter seconded and the motion carried unanimously.*

Mr. Wyrick and Mr. Cherniske returned to the meeting at this point in time.

- 6.B.3.** Discussion and possible decision on the scheduling of a public hearing to change the December 7, 2021, Town of Kent Zoning Regulations with regard to restaurant outdoor dining.

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Ms. Hayes explained that this was the second topic that was added to the agenda at the request of Attorney Zizka in order to bring the current zoning regulations in line with the Public Act 21-29. It was decided that the discussion will take place at the public hearing which will be scheduled for March 10, 2022.

*Mr. Manes moved to schedule a public hearing for the March 10, 2022, meeting. Mr. Birnbaum seconded and the motion carried unanimously.*

**6.B.4.** John Casey for Kent Green, LLC, change of use from restaurant to artist studio, 12 Kent Green Boulevard, Map 19 Block 42 Lot 8.

Mr. Casey explained that this new use will be located in a portion of the old Rojas Tacos restaurant. He explained that he cut the size of the old restaurant in half since he wants to get out of the restaurant rental business. The new use will be to provide art lessons to children of all ages. The use of “artist studio” was questioned, but it was mentioned that the dance studio does dance lessons for children and this was similar in concept.

*Mr. Manes moved to approve John Casey for Kent Green, LLC, change of use from restaurant to artist studio, 12 Kent Green Boulevard, Map 19 Block 42 Lot 8. Mr. Birnbaum seconded and the motion carried unanimously.*

**7. STAFF REPORT:**

No action taken.

**8. REPORT OF OFFICERS AND COMMITTEES:**

**8.A.** POCD Subcommittee

Ms. Hayes reported that she will be meeting via zoom with Glenn Chalder of Planimetrics on January 14<sup>th</sup> to discuss the material for the January 27<sup>th</sup> meeting.

It was noted that now that Mr. Winter was back on the Commission, it might be advantageous for him to be reappointed to this subcommittee in Mr. Birnbaum’s place. Mr. Birnbaum was agreeable stating that this would give him more time to commit to the Affordable Housing Plan.

*Mr. Manes moved to re-appoint Mr. Winter to the POCD Subcommittee, taking the place of Mr. Birnbaum. Mr. Birnbaum seconded and the motion carried unanimously.*

**9. OTHER COMMUNICATIONS AND CORRESPONDENCE:**

**9.A.** Administrative Permits and Certificates of Compliance: Dec. 6, 2021 to Jan. 7, 2022

Received. No action taken.

**9.B.** Monthly Financials – July through November, 2021

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Received. No action taken.

- 9.C.** Email communications to Commissioner Hicks from Mr. Ken Cooper dated December 11, 2021 and December 12, 2021.

Received. No action taken.

- 9.D.** General discussion: Commission's business, i.e. commissioner's information, terms, party, procedures for public notification of meeting, public hearings, etc. and any other administrative /business practices for our commission.

A general discussion was held with regard to the clarification of the procedures. Ms. Hicks mentioned that she had not received the commissioner's information list which Ms. Hayes said she would send along. She also questioned whether or not party affiliations were of consideration in the make up of the Commission. Ms. Hayes said that she would speak to Ms. Brady, the Town Clerk, for an explanation. A discussion was held on the responsibilities of alternates when they are not elevated and when they were. A question was also raised about whether or not they could add an attendance clause into the By-Laws. Ms. Hayes said that she would check with the Town Attorney. In the meantime, Mr. Wyrick said that he would speak with Mr. Chavka regarding his attendance at the meetings. Ms. Hayes explained the current requirements of noticing meetings and the acceptance of information with regard to public hearings. A discussion was also held with regard to what is classified as a meeting and communication between a Commission member and the general public regarding business before the Commission.

- 9.E.** Communication from Mr. John Casey, dated 1/13/2022.

Mr. Casey's letter was accepted; 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.**
- 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.**
- 12. EXECUTIVE SESSION: Pending Litigation: Committee to Protect Rural Kent, LLC, Yewer, Dorothy and Yewer, David vs Town of Kent Planning and Zoning Commission, et al in Superior Court, Judicial District of Litchfield at Torrington dated December 21, 2021.**

*Mr. Birnbaum moved to go into executive session at 9:02 p.m. to discuss agenda items 10, 11 and 12 at the same time. Mr. Manes seconded and the motion carried unanimously.*

*The Commission came out of executive session at 9:52 p.m.*

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13. 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. Manes moved to follow the recommendations of the Attorney and have Donna Hayes report back to the Commission as this matter progresses. Mr. Birnbaum seconded and the motion carried unanimously.*

14. 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. Manes moved to follow the recommendations of the Attorney and have Donna Hayes report back to the Commission as this matter progresses. Mr. Birnbaum seconded and the motion carried unanimously.*

15. Open session involving discussion and possible action on Pending Litigation: Committee to Protect Rural Kent, LLC, Yewer, Dorothy and Yewer, David vs Town of Kent Planning and Zoning Commission, et al in Superior Court, Judicial District of Litchfield at Torrington dated December 21, 2021.

*Mr. Manes moved to follow the recommendations of the Attorney and have Donna Hayes report back to the Commission as this matter progresses. Mr. Birnbaum seconded and the motion carried unanimously.*

#### **ADJOURNMENT**

*Mr. Birnbaum moved to adjourn at 9:54 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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