

**TOWN OF KENT**  
**PLANNING AND ZONING COMMISSION**  
41 Kent Green Boulevard  
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2015 JUL 10 A 11:57

BY *Donna Hayes* TOWN CLERK

**JULY 9, 2015 REGULAR MEETING MINUTES**

The Town of Kent Planning and Zoning Commission held a regular meeting on Thursday, July 9, 2015 at 7:00 p.m. in the Kent Town Hall.

**1. CALL TO ORDER**

Mr. Johnson called the meeting to order at 7:01 p.m.

**2. ROLL CALL AND APPOINTMENT OF ALTERNATES IF REQUIRED**

Commissioners Present: John Johnson, Chairman; Richard Chavka, Darrell Cherniske, Alice Hicks, Adam Manes, Marc Weingarten, Matt Winter, Wes Wyrick

Staff Present: Donna Hayes, Land Use Administrator  
Jennifer Calhoun, Land Use Clerk

Mr. Johnson elevated Mr. Chavka and Mr. Weingarten to voting status.

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

**3.A. Special Meeting Minutes of June 1, 2015.**

Mr. Johnson asked that the 4<sup>th</sup> paragraph on page 4 be changed to read as follows: "With regard to section 6.730.3 on page 92, Mr. Johnson said that he would not like to limit the camps to a certain time frame and used Club Getaway's proposed plan to partner with Camps Road Farm on farming educational programs as an example."

*Mr. Weingarten moved to approve the Special Meeting Minutes of June 1, 2015, as amended. Mr. Cherniske seconded and the motion carried unanimously.*

**3.B. Regular Meeting Minutes of June 11, 2015.**

Mr. Johnson asked that the second "circulation" word be removed from the 7<sup>th</sup> line of the first paragraph under agenda item 6.B.3. on page 3.

*Mr. Weingarten moved to approve the Regular Meeting Minutes of June 11, 2015 as amended. Mr. Cherniske seconded and the motion carried unanimously.*

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**3.C. Special Meeting Minutes of June 25, 2015.**

*Mr. Winter moved to approve the Special Meeting Minutes of June 25, 2015, as written. Mr. Weingarten seconded and the motion carried unanimously.*

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

No action taken.

**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. Rewrite of Zoning Regulations**

Mrs. Hayes noted that there would be no more meetings until September 24, 2015. After that, they would set up an informational meeting and then a public hearing for public approval. Mrs. Worthington, from the audience asked if the public would be voting on the new zoning regulations and Mr. Johnson stated that they would not, and that the Commission does so. Mrs. Worthington stated that it is a misconception in the town that the townspeople would be voting on the regulations.

**5.B.2. Anderson Acre Farm, LLC, modification to applications 44-14SP and 45-14C, 1 Anderson Acres Road, operation of farmstand, Map 16 Block 24 Lot 16.**

Mrs. Hayes noted that she had still not heard from Emily Murphy, who runs the farm, and suggested that this agenda item be removed from the agenda until more information is submitted. The Commission agreed.

**5.B.3. John Suscovich for 33 Camps Road, LLC, preliminary discussion on proposed hop harvest festival and pig roast, 33 Camps Road, Map 17 Block 28 Lot 30.**

John Suscovich was present for the discussion. He explained that there was an annual party on this property before he had moved in. He added that to harvest hops efficiently, they would need an expensive piece of machinery and instead had come up with the idea of having a party and the people present could assist with harvesting the hops. He projected that they would receive 100 guests. The difference with this year is that they would like to charge for the event. They would like the event to be on September 5, 2015.

Mr. Manes was concerned that because Mr. Suscovich was charging for the event, it would be a commercial endeavor. He added that if he was just having the party and not charging, then he would not question it.

Mr. Johnson added that the selling of tickets threw him off.

Mrs. Hayes was concerned with the amount of cars that may be present and wondered if it would be a family-type of event. Mr. Suscovich stated that he would like for it to be family oriented, but that he could not promise that.

Mr. Wyrick asked if Mr. Suscovich could ask for donations at the event instead of charging. Mr. Suscovich stated that it was an option.

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Mr. Suscovich explained agritourism, any agriculturally based operation or activity that brings visitors to a farm, and that charging for these activities is the modern way for farms to stay out of the red.

Mr. Winter stated that a farm tour would be an accessory use to the farm.

Mr. Cherniske stated that farms need to find alternative revenue streams to stay alive.

It was noted that Mr. Suscovich would like to charge \$10-\$30 for the party.

Mr. Manes noted that the Commission may not be okay for all the farms in Kent doing this type of an event as an accessory use.

Ms. Hicks asked about the time of the event and Mr. Suscovich stated that he would like it to run from 11-4.

Mr. Wyrick asked about the parking for the event and Mr. Suscovich noted that it would be on the property.

Ms. Hicks asked about bathrooms and Mr. Suscovich stated that they had bathrooms in the houses, but if they anticipated more that those bathrooms could hold, they would rent a port-o-potty.

Mr. Cherniske wondered about the people that just showed up to volunteer and not eat at the pig roast. Mr. Suscovich noted that they would use wristbands for the event and those people without wristbands would not be charged and could volunteer to harvest for free, but would not be able to eat.

Philip Metzidakis, from the audience, explained that he lived on Camps Road and he thought the Fourth of July parties that had pre-existed Mr. Suscovich were great and that he thought this event would be lovely and could not imagine why the Commission would have any objection to it.

Mr. Manes explained that the Commission did not have any objection to the event itself, it was the charging of the event.

Mr. Chris Garrity, from the audience, stated that a farm, by its nature, is a business. He explained that farms charge for corn mazes. He thought that this event would be an extension of that.

The Commission had no further questions. The Commissioners all agreed that this event and the charging for the food, would be an accessory use for the farm and no motion was necessary.

## **6. NEW BUSINESS:**

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

- 6.A.1.** Application #'s 41-15SP and 42-15C, Karren and Chris Garrity for SiSG, LLC, 39 North Main Street, change of use from residential to mixed residential and commercial, Map 19 Block 15 Lot 17.

Mr. Johnson opened the public hearing at 7:34 p.m. and read the legal notice into the record.

Chris and Karren Garrity were present for the application. Mr. Garrity went on to explain that this property had been 3 apartments for at least 40 years. They have already renovated 1 apartment, landscaped and painted. They would like to convert one bedroom in the front to an office for Mrs. Garrity. That office would be 484 square

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feet. He added that the major consideration was the parking on site because it does not conform to the regulations. The regulations require 2.5 parking spaces for each apartment. There are 2 spaces on site, but they are pre-existing, non-conforming. He added that the building is wedged in between Monsarrat Dentistry and Pantages Jewelry.

Mr. Winter noted that the business use would need to park on the street.

Mr. Garrity stated that this house has never had conforming parking, but it has worked for 40 years.

Mr. Winter added that this property was up against these specific parking regulations because of the change of use. Under section 18.1.3.9.B, all or part of the parking may be waived because it is a commercial use and public parking is within 500 feet.

Mrs. Hayes asked if the tenant's cars would be gone while Mrs. Garrity was conducting business. Mrs. Garrity noted that that may not always be the case.

Mr. Johnson stated that the residents could always work it out themselves, but that when you start mixing office space, that causes potential friction.

Mrs. Garrity stated that her clients and she would park on Main Street.

Mr. Winter stated that they had proposed a change of use to mixed residential and commercial, but what is the commercial use. It was noted that that use would fall under section 8.1.10, offices.

Mr. Manes added that he thought that the office proposal was less intensive than keeping the apartment there.

The Commission discussed placing a sign on the property that the pre-existing, non-conforming parking is for tenant's use. They decided to leave that up to the property owner.

The Commission then discussed the intensity of the office use. Mr. Johnson noted that he would like to see the permit conditioned to allow only one professional and no staff or employees and that if, in the future, the office would need more employees, the property owners could return for a modification.

Mr. Garrity noted that he would be asking for exceptions from the building department for the handicap parking space as well as the handicap ramp. He added that the intensity of villages is expanding.

Mr. Weingarten stated that parking on Main Street on the weekends is tough and Mr. Garrity noted that it was constantly moving though.

The Commission had no further questions and/or comments and they decided to close the public hearing.

*Mr. Wyrick moved to close the public hearing for application #'s 41-15SP and 42-15C. Mr. Manes seconded and the motion carried unanimously.*

*Mr. Wyrick move to accept the waivers, as stated in the letter from Ms. Garrity, to sections 4.3.7., 4.3.8., 4.3.9., 4.3.10., 4.3.11., 4.3.12., 4.3.13., and 4.3.14. Mr. Cherniske seconded and the motion carried unanimously.*

The Commission, again, discussed the intensity of the office and having one professional only. The sign was discussed again also. The Commission agreed to allow the property owner to make the choice of posting the sign on the property.

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*Mr. Winter moved to approve Application #'s 41-15SP and 42-15C, Karren and Chris Garrity for SiSG, LLC, 39 North Main Street, change of use from residential to mixed residential and commercial, Map 19 Block 15 Lot 17 with the condition that the commercial business be limited to one professional with no employees and no staff. Mr. Manes seconded and the motion carried unanimously.*

**6.A.2.** Application # 43-15SP, David Birnbaum for 33 Camps Road, LLC, 33 Camps Road, on-site sales for off-site consumption and tours and tastings, Map 17 Block 28 Lot 30.

Mr. Johnson opened the public hearing at 8:28 p.m. and read the legal notice into the record.

Barry Labenz was present for the application. He explained that he was coming forward with what he thought was the second part of the special permit process for tastings, tours and retail sales. They would like to do this seasonally from March to November. There are 28 parking spots proposed as well as 1 paved handicap spot. He explained that growlers are large resealable containers that they would refill with beer. He would be allowed by the State to provide 1 person with 9 liters a day. The tastings are limited to 2 oz. and because they only have 4 types of beers, one person could potentially consume up to 8 oz. He added that his beers have a low alcohol content. He added that if it was busy and there was a line, the people waiting could take a walk outside because they would not be doing these sales in the winter. The farmstand would also be open during the times that the brewery is open.

Mr. Johnson stated that the tours and tasting were originally considered, but thought the growler club was more.

Mr. Manes noted that he did not see how different this was than many of the wineries around the area.

Mr. Cherniske added that if this was a radish club, no one would be concerned, but because it is alcohol, he assumed it was different.

Mr. Johnson stated that this activity was proposed on Camps Road, not the road that Hopkins Vineyard is located, which sees a higher traffic volume. He added that the retail sales are not for an agricultural product and that he was hung up on the fact that it was alcohol sales. He stated that he was okay with the tours and tastings, but the growler club struck him differently. He added that it would also be adding more retail to a rural area.

Mr. Manes stated that he was not really worried about the volume of people for the retail sales.

It was noted that a septic system would need to be installed for this use.

Ms. Hicks stated that in the beginning she remembered that this brewery would be wholesale, not retail. She added that a retail operation in a rural district was a big deal.

Mr. Labenz explained that he was allowed to brew 5,000 barrels a year and continued to explained how many liters that would be.

Mr. Chavka stated that the retail proposal was no different than what they heard months ago.

Mr. Manes asked that if milk and eggs, things that are made on farm could be sold on the farm, why wouldn't this be allowed.

Mr. Suscovich, from the audience, stated that he had 25 CSA members and that they usually come once a week and, therefore, always have retail traffic on the property.

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Mr. Johnson stated that the CSA was a low intensity and that the growler club and tastings would be more intensive. He added that this was manufacturing and it was not like canning green beans.

Ken Atlas, from the audience, asked how they could have tastings on site if Mr. Labenz says there will be no on-site consumption. Mr. Labenz stated that there would just be 2 oz. tastings. No consumption of any alcohol sold there would be permitted. Mr. Atlas was also concerned with traffic. He added that they already have major excavation trucks traveling the road.

Mr. Johnson stated that the retail sales was more intensive than he anticipated. He thought the tours were great. He thought the proposal of 50-100 growler club members was a lot.

Mr. Labenz stated that if they were that busy with the growler club, they would deal with it.

Kristen Atlas, from the audience, voiced her opinion about the traffic from this operation and did not understand why they needed to sell their beer there when it was already for sale in town.

Mr. Labenz stated that they were not allowed to sell growlers at a liquor store or restaurant, just the brewery.

Mr. Weingarten stated that he was concerned about the traffic and drinking.

Mr. Winter asked about the proposed driveway curb cut widening. Mrs. Hayes noted that he would need approval from the town highway foreman as well as a driveway permit from the Land Use Office. Mrs. Hayes handed out pictures of the site that she had taken showing the inside of the brewery as well as the parking lot. Mr. Winter noted that it was gravel and would therefore sheet flow and that no drainage was proposed.

Mr. Weingarten wondered if liquor stores had set hours. It was noted that they do and the times were also explained to Mr. Weingarten.

Mr. Johnson stated that he felt this proposal was retail of the manufacturing, not retail of the agriculture. He added that he thought the hours seemed like a lot. He noted again that the tours do not bother him.

Mr. Cherniske suggested removing a day for the growler club to limit the hours.

Mr. Weingarten thought that staying open until 7:30 p.m. was too late.

Mr. Winter asked if there would be any proposed lights and Mr. Labenz stated there were no changes.

Mrs. Atlas, from the audience, stated that the traffic from the CSA versus this retail establishment would be a lot more.

Mr. Johnson stated that in his mind, this proposal was part of manufacturing, but tied to agriculture.

Mr. Winter wondered if the manufacturing of beer was different from wine or jelly.

Mrs. Hayes explained that the State recognizes beer as a product that can be sold at farmer's markets with a permit.

Mr. Johnson suggested that 50 people in the growler club would be a good start.

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Mr. Labenz stated that he would hate to limit it to only 50 people and deny people from enjoying their beer and being a part of the growler club.

The Commission decided that there was no additional information needed from the applicant and the public had spoken. At this point they decided to close the public hearing.

*Mr. Wyrick moved to close the public hearing for application #43-15SP. Mr. Manes seconded and the motion carried unanimously.*

Mr. Cherniske noted that they could propose the cut back of hours.

Mr. Manes stated that he did not even know why the growler club was listed on the hours.

Mr. Winter stated that limiting the growler club did not seem efficient. He thought that limiting the times and days seemed better.

Mr. Johnson noted that he thought it was fair for the neighbors to limit the application.

After some discussion, the Commission agreed on hours, days and the growler club limits.

*Mr. Manes moved to approve Application # 43-15SP, David Birnbaum for 33 Camps Road, LLC, 33 Camps Road, on-site sales for off-site consumption and tours and tastings, Map 17 Block 28 Lot 30 and read the following Resolution of Approval into the record:*

*RESOLVED: That the Kent Planning and Zoning Commission approve the applicant's Application #43-15SP, David Birnbaum, 33 Camps Road, seasonal tours, tastings and retail sales, Map 17 Block 28 Lot 30.*

*This resolution is approved subject to the following 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, the applicant shall be bound by all such factual representations as though expressly made conditions of this approval, except as modified by this resolution. The applicant's factual representations include, but are not limited to, those made in the following documents:*
  - A. Special Permit application dated June 10, 2015.*
  - B. An undated document entitled "Propose for Kent Falls Brewing Company's Public Opening".*
  - C. A site plan entitled "Site Improvements for for a Proposed Micro-Brewery and Future Projects" by Landtech, dated 5/17/2013 and revised to April 29, 2015.*
  - D. Floor plans for The Food Cycle, LLC by Stephen Lasar Architects, dated March 3, 2014 and revised to June 30, 2015.*
- 2. The hours of operation will be limited to Saturday and two other days per week with a closing time of 7:00 p.m.*
- 3. The growler club will be limited to 100 members.*

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4. *That 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 is void and of no legal effect.*
5. *The violation of any of the conditions of this special permit approval may be grounds for revocation of the special permit pursuant to section 4.15.8 of the Zoning Regulations.*

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*In granting the above special permit application, the Commission states on its record that, in the Commission's judgment, the proposed project 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 27th day of July, 2015.*

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

No action taken.

#### **7. STAFF REPORT:**

Mrs. Hayes updated the Commission on happenings in the office.

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

No action taken.

#### **9. OTHER COMMUNICATIONS AND CORRESPONDENCE:**

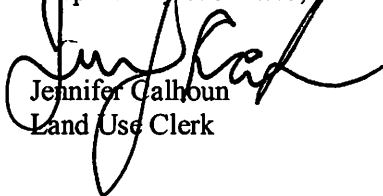
##### **9.A. Administrative Permits and Certificates of Compliance**

No action taken.

#### **10. ADJOURNMENT**

*Mr. Winter moved to adjourn at 9:50 p.m. Mr. Weingarten seconded and the motion carried unanimously.*

Respectfully submitted,

  
Jennifer Calhoun  
Land Use Clerk

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