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TOWN OF KENT PLANNING AND ZONING COMMISSION

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FEBRUARY 8, 2018 REGULAR MEETING MINUTES

The Town of Kent Planning and Zoning Commission held a regular meeting on Thursday, **February 8, 2018 at 7:00 p.m.** in the Kent Town Hall.

1. CALL TO ORDER

Chairman Johnson called the meeting to order at 7:00 p.m.

2. ROLL CALL AND APPOINTMENT OF ALTERNATES IF REQUIRED

Commissioners Present: John Johnson, Alice Hicks (stepped down 7:50), Karen Casey, Anne McAndrew, Darrell Cherniske, Wes Wyrick, Richard Chavka, Marc Weingarten, Matt Winter (arrived 7:05), Adam Manes

Staff Present: Donna Hayes, Land Use Administrator

Anne McAndrew was seated as a voting member.

Mr. Weingarten made a motion to add agenda items 5.B.1.a., 5.B.1.b., 6.B.1., and 9.D. Mr. Cherniske seconded and the motion carried unanimously.

3. READING AND APPROVAL OF MINUTES:

3.A. Regular Meeting Minutes of January 11, 2018.

Ms. Hicks moved to approve the Regular Meeting Minutes of January 11, 2018. Mr. Cherniske seconded and the motion carried unanimously.

3.B. Special Meeting Minutes of January 25, 2018

Ms. Hicks moved to approve the Special Meeting Minutes of January 25, 2018. Mr. Cherniske seconded and the motion carried unanimously.

4. PUBLIC COMMUNICATIONS (ORAL): No action taken.

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5. OLD BUSINESS:

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

5.B. DISCUSSION AND POSSIBLE DECISION

Ms. Casey moved to table 5.B.1.a to the end of the agenda. Mr. Winter seconded and the motion carried unanimously.

Mr. Winter was seated at 7:05 pm. Ms. McAndrew stepped down as a voting member.

5.B.2. Approval of Town of Kent Planning & Zoning Commission By-Laws

Mr. Winter moved to table the Town of Kent Planning & Zoning Commission By-Laws to the next meeting. Mr. Wyrick seconded and the motion carried unanimously.

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. Appointment of Steven Pener to the Architectural Review Board for a term to end August 10, 2019

Donna Hayes reported that there were two vacancies on the Architectural Review Board. Steven Pener is interested in filling one of these positions.

Mr. Wyrick made the motion to appoint Steven Pener to the Architectural Review Board for a term to end August 10, 2019. Ms. Casey seconded and the motion carried unanimously.

7. STAFF REPORT: No action taken.

8. REPORT OF OFFICERS AND COMMITTEES: No action taken.

9. OTHER COMMUNICATIONS AND CORRESPONDENCE:

9.A. Administrative Permits and Certificates of Compliance – reviewed

9.B. Connecticut Federation of Planning and Zoning Agencies Quarterly Newsletter, Winter 2018 - distributed

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9.C. Connecticut Federation of Planning and Zoning Agencies Annual Conference Notification.

Mrs. Hayes reminded the members that there are funds available in the budget if anyone wishes to attend this conference.

9.D. Response letter from Attorney Joe Williams, Shipman & Goodwin, regarding the use of 47 Carter Road, Map 14 Block 21 Lot 17.

Attorney Joe Williams came forward and the letter dated 2/2/18 from Attorney Williams was distributed to the Commission members. Mr. Williams also distributed a map showing the parcels in question. He reviewed the history of the property. He noted that High Watch had not been required to obtain permits for any of the uses on their additional properties with regard to whether it is contiguous to the main campus. Mr. Williams reviewed the proposed therapeutic uses for the property at 47 Carter Road. He explained that High Watch does not view any of these activities as accessory uses. The proposed uses will be part of the therapeutic uses consistent with High Watch's long time mission. He submitted for the record High Watch's mission statement and information about what they do. He explained that 47 Carter Road directly adjoins or touches the main parcel because the properties are owned to the center of the road; therefore, each parcel would touch at the middle of the road. He reviewed several definitions of the word contiguous taken from several resources. He cited the CT Supreme Court cases where lots were ruled to be contiguous because the property is owned to the center of the road.

A letter from Attorney Zizka dated 2/8/18 in response to Attorney Williams' 2/2/18 letter was distributed to the Commission members. Donna Hayes noted that Attorney Zizka commented that in the cases cited by Attorney Williams it is accurate that a property owner owns to the middle of the road with regard to real estate law; however, this does not apply to zoning law. This Commission already made the decision when the South Kent School came before them that lots divided by a road are not considered contiguous per the Zoning Regulations.

Adam Manes questioned how it was determined that High Watch owns to the center of the road. Attorney Williams advised that the courts have determined that all property is owned to the center of the road and the town merely owns a right of way.

Mr. Cherniske asked what the survey of the property shows. Attorney Williams reported that he has not viewed the property surveys; however, they will not contradict what the law and the State of CT says.

Chairman Johnson noted that the group needs to take the time to review the opinions from the two attorneys. Attorney Williams asked whether it would be okay if he and Attorney Zizka discuss this together. The Commission asked that all correspondence be directed through the Land Use Office.

It was noted that another option for High Watch to achieve their proposed use of 47 Carter Road would be by Special Permit.

Mr. Winter noted that the applicant asserts that the Commission approved the use at 54 Carter Road and questioned whether this was accurate. Vin Roberti, High Watch Facilities Director, stated that in 2003 or 2004 the P&Z Commission granted approval of use of this property for a dormitory; however, High Watch never obtained Fire Marshal approval. Donna Hayes agreed to review records regarding this matter. The

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group was reminded that 54 Carter Road is contiguous with the main campus via its lot line with no road between the two parcels.

Mr. Weingarten made a motion to continue the discussion of the proposed use of 47 Carter Road. Ms. Hicks seconded and the motion carried unanimously.

5.B.1. Rewrite of Zoning Regulations:

5.B.1.a. Discussion on new Sign Regulations, Section 8100.

The group confirmed their review of the proposed Sign Regulations, Section 8100. Mrs. Hayes reviewed some of the changes made with regard to the notations "to be determined". She clarified for Mr. Weingarten that lawful signs on public property would constitute the signs that the State erects.

Donna Hayes reported that Glen Chalder was not comfortable with Section 8130.8 because guiding traffic could create too much signage and he recommended that it be deleted. Mr. Manes noted that there is a limit of 4 signs written into this Regulation. The members agreed that this section should not be deleted.

The group discussed and agreed that images will be considered signage. The definition of a business sign will be changed to include identifying symbols.

Ms. Hicks stepped down at 7:50 p.m. and Anne McAndrew was reseated as a voting member.

It was confirmed that the amount of signage currently conforming will remain the same and the updated Regulations will not create pre-existing nonconformities.

Chris Garrity came forward and discussed the proposed Economic Enhancement Committee. He asked that for consideration of residential use on the mail level in the Village Commercial. It was confirmed that this has been addressed in the newly proposed Regulations. He also discussed the consideration of the accessory use of barns in the Village Commercial. It was noted that this concept was also captured in Version 6 of the proposed Regulations.

Village Incentive Housing was discussed. It was agreed that "gross acre" should be defined by Glenn Chalder. Additionally, the "minimum perimeter setback" language should conform to the other setback language referenced in the Regulations.

Donna Hayes confirmed that the maps will be available prior to the public hearing. The Commission agreed that the changes discussed this evening should be incorporated into the final draft of the proposed Regulations.

5.B.1.b. Scheduling of March 29, 2018, 7:00 p.m. Special Meeting Public Hearing for the discussion and possible approval of the Town of Kent Zoning Regulations.

Mr. Weingarten made a motion to schedule the public hearing March 29, 2018, 7:00 p.m. Special Meeting Public Hearing for the discussion and possible approval of the Town of Kent Zoning Regulations. Ms. Casey seconded and the motion carried unanimously.

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10. Executive Session. Pending Litigation: High Watch Recovery Center, Inc., v. Kent Planning and Zoning Commission; Birch Hill Recovery Center, LLC; Kent Realty, LLC in Litchfield Superior Court. Discussion of strategy and negotiations with legal counsel.

Mr. Winter made a motion to enter into executive session at 8:18 p.m. Mr. Wyrick seconded and the motion carried unanimously.

Mr. Winter made a motion to exit executive session at 8:42 p.m. Mr. Wyrick seconded and the motion carried unanimously.

11. Open session involving discussion and possible action on Pending Litigation: High Watch Recovery Center, Inc., v Kent Planning and Zoning Commission; Birch Hill Recovery Center, LLC; Kent Realty, LLC.

No action taken

12. ADJOURNMENT

Mr. Wyrick moved to adjourn at 8:43 p.m. Mr. Winter seconded and the motion carried unanimously.

Respectfully submitted,

Tai Kern

Tai Kern,
Land Use Clerk

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