

MINUTES
Planning and Zoning Commission
November 10, 2016

The West Haven Planning & Zoning Commission held a Special Public Hearing and Special Meeting on Thursday, November 10, 2016, in the Harriet North Room, 2nd Floor, City Hall, 355 Main Street, West Haven, CT at 7:00PM

Present: Commissioners Hendricks, Mullins, Cohen, and Standish, ZEO Conniff, Assistant City Planner Killeen, Commissioner of Planning and Development Riccio, Corporation Counsel Amendola, and Pullman and Comley Attorney, Gary O'Connor. Absent were Commissioners Posey, Biancur, and Suggs.

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES: Commissioner Standish made a motion to approve the meeting minutes of October 25, 2016 as presented; seconded by Commissioner Mullins and passed unanimously.

Public Hearing

1. **872 Orange Avenue (AKA 872 Boston Post Road).** Applications for approval of a Special Permit, a Site Plan Review, and Automotive Location to operate an automotive repair shop on property located in an RB (Regional Business) District, pursuant to Table 39.2 and Sections 44, 60, 85 and 92 of the West Haven Zoning Regulations. Applicant: Yasin Buyukkaya; Owner: Joseph Valente. File # SP 16-236, #SR 16-237, and #CAL 16-238.

The applicant, Yasin Buyukkaya of 807 Miller Place, Baldwin, NY came forward to explain his application.

Mr. Killeen confirmed that Mr. Buyukkaya had submitted the proof of mailings to the Planning and Development office already. Mr. Buyukkaya wants to open a full time mechanic shop at 872 Orange Avenue, with hours on Weekdays from 8AM to 5PM and on Saturday from 8 AM to 1PM with two employees. Commissioner Hendricks read the series of nine draft conditions that the Commission is considering for this use.

Mr. Buyukkaya reviewed the list and agreed to all of the conditions.

The City Building official submitted an email today, in which he stated he had no comment on the continued use of the existing building for automotive repairs with the

exception that the new owner tenant might need building permits if they decide to renovate or expand the existing building in the future, depending on the scope of work. If the existing building has a commercial garage then a safety inspection must follow.

Commissioner Mullins raised a question about the restriction on flags in condition number seven. After discussion it was decided that the flag restriction should be modified since it is common for businesses to have an American flag, which is different than one used for advertising purposes. It was also noted that businesses are allowed a 30-day promotional event.

Loretta Smith, 73 Orford Street

Test-driving cars should not be allowed on Orford Street since it is a dead end. She asked that this become one of the conditions of approval. They should turn onto Boston Post Road, not Orford Street. The street is narrow and children can get hurt. Mrs. Smith was also concerned about cars being parked near Boston Post Road and blocking the sidewalk.

William Smith, 73 Orford Street

Mr. Smith reiterated what Loretta said. Streets are narrow and children can get hurt so it should be a part of the conditions to not have test-driving on Orford Street.

Chairwoman Hendricks asked Mr. Buyukkaya if he would agree to a condition that there be no test driving on Orford Street. The applicant answered that he would comply with that condition and that he agrees with Mr. and Mrs. Smith.

There was no further public input or comments from the applicant.

Commissioner Standish made a motion to close the public hearing on these applications. Motion was seconded by Commissioner Mullins and passed unanimously.

2. **Proposed Amendments to the Zoning Regulations.** Application for approval of multiple text changes to the City's Zoning Regulations as follows:
 - 1) To include public access walkways as part of the Open Space calculation within comprehensive development (or redevelopment) plans;
 - 2) To eliminate the restriction on the use of at grade parking lots within the WD (Waterfront Design) District;
 - 3) To modify Area and Bulk Requirements in the WD District as follows: reduce Maximum Building Coverage from 40% to 35%;

increase Maximum Impervious Surface Coverage from 20% to 55%; increase Maximum Lot Coverage from 60% to 80%; and reduce Minimum Open Space from 40% to 30%; and 4) to amend Parking Standards to allow the use of Shared Parking under certain conditions, with the approval of the Planning and Zoning Commission. Proposed text changes would amend Section 2.2, Section 36.2, Table 36.1, and add a new Section 60.13.3 to the West Haven Zoning Regulations. Applicant: City of West Haven, CT. File # ZR 16-232.

3. **Proposed Changes to Zoning Map for Properties Located at 30 Main Street, 32 Main Street, 38 Main Street, 40 Main Street, 48 Main Street, 32 Bayview Place, 20 Bayview Place, and the Southeast Corner of Main Street and Bayview Place.** Application for approval of Changes to the Zoning Map for multiple properties currently located in the R-3, R-4 (Residential), OS (Open Space) and WD (Waterfront Design) Districts to the WD (Waterfront Design) District under Section 36, Section 86 and Section 92 of the West Haven Zoning Regulations. Applicant: City of West Haven, CT. File # ZM 16-233.

Gary O'Connor attorney from Pullman and Comley said he was here to discuss the text change application and the zoning map change application. Mr. O'Connor asked Mr. Killeen to explain his efforts to notice this application and to summarize the comments from the various agencies that had reviewed these applications.

Assistant Planner Killeen read the affidavit of mailing and notices for file #ZR 16-232 and ZM 16-233 into the record, and this affidavit was added to the file. In schedule A, notices were sent, including the one for adjoining municipality of New Haven on Sept. 29, 2016. Notice to the Regional Planning Agency, the Connecticut Office of Long Island Sound Programs, and the West Haven Harbor Management Commission were all mailed on Sept. 30, 2016. It was also sent to Councilman Eberle. On Oct. 27, 2016, 31 mailings were provided to property owners within 200 feet of the location of the proposed zone change. Based on conversations with this commission, display ads were provided in the West Haven voice and the New Haven register. The applications were also filed in the City Clerk's office as of October 27, 2016. Properties that were subject to the proposed zone changes were also posted with signs on October 26, 2016. Mr. Killeen summarized the comments from the CT DEEP, the South Central Connecticut Regional Planning Agency and the West Haven Harbor Management Commission.

Attorney O'Connor: The same text amendment was bought before this commission and a similar zoning map, both approved by the Planning and Zoning Commission on June 6, 2016. Both text change and zoning map approvals were appealed to the court

but because of certain procedural issues and technical difficulties, the court vacated both approvals on Sept 19, 2016. A new application was filed around Sept 25, 2016. By way of history, the Planning and Zoning Commission established the Waterfront Design District in 2006. In 2014, the Planning and Zoning Commission decided to amend the regulations for the WD districts, adding regional shopping centers as a permitted use in the district. The City tonight is proposing certain text changes and zoning changes in order to provide additional flexibilities in development of WF development district while still providing open space for the public. The City is proposing four different amendments to the zoning regulations. These include modifying the definition of open space, modifying several coverage standards in the waterfront district (Section 36.1), modifying the description intent of the waterfront development district in section 36.2, and providing for shared parking in Section 60.13.3. The City also filed application to amend the zoning map to expand the WD District, and this involves 8 properties. The commission must determine that the proposed text and map changes are consistent with the city plan of conservation and development and the best interest of the welfare of the community, and they are consistent for the following reason: permits for efficient and commercially viable development of the properties within the WD District, facilitates a greater amount of development within a smaller area, giving access to the shoreline assets, which promotes recreation and employment opportunities and supports the quality of life, and third it can contribute to the redevelopment of the area and will consist of a number of uses. It will allow the properties to be more fully utilized.

Vincent McDermott, senior vice president of Milone & MacBroom

He was engaged by the City to review the proposed amendments and zone changes and provide his professional opinion on these applications. He provided written comments dated November 10, 2016, which he reviewed with the Commission. He noted that the proposed changes are consistent with the City's Plan of Conservation and Development and are also consistent with sound urban planning and design principles.

Thomas Cody of Robinson and Cole, Hartford,

Attorney Cody spoke as a representative of SZS Enterprises LLC, who is the owner of property at 60 Elm Street in West Haven

Attorney Cody submitted a letter with attachments, re: Proposed Amendments to the West Haven Zoning Regulations, dated November 10, 2016. He summarized the points raised in his letter, and he expressed concern about the proposed use of shared parking in that it could be inconsistent with the conclusions of a recent Connecticut court case, *MacKenzie v. Planning & Zoning Commission*. It violates the statutory requirement of uniformity and puts the Planning and Zoning Commission in the position of varying zoning regulations as opposed to the Zoning Board of Appeals.

Attorney Cody then addressed the proposed zoning map change. He submitted a letter with attachments, re: Proposed Amendments to the West Haven Zoning Map..., dated November 10, 2016. He summarized the content of that letter, explaining that the City failed to file sufficient information in the City Clerk's office. He noted there was no metes and bounds description and no copy of the field cards for the individual properties.

MaryAnn Starkes, 81 Main Street

Her house is close to First Avenue and she has not received notices about these applications. She wondered how she could obtain information about what stage the plan was in, and what would be the impact on her property.

Commissioner Hendricks walked her through the process of when that information will be available. Commissioner Hendricks pointed out that we are still on the planning stage and if anything permanent happens, the homeowners will be notified. When we have the application to build, there will be notification, but there is no plan for development yet.

Attorney Ray Bershtein with Bershtein Volpe & McKeon in New Haven

Attorney Bershtein is here to represent the Haven Group. He wished to speak in favor of the two applications on behalf of the Haven Group.

Pat Bollettieri, 215 Westwalk

She is against the zoning change because it is in support of a plan that does not exist. What is urgency for approving this? This mall project has been going on for two years with little change? She urges the Commission to wait until the time is right to make these changes.

Michael Hickey, 32 Bungalow Lane

What is the rush? Where is the plan? Nothing is set in concrete. He is concerned about parking. What is going to happen to the taxpayers? When are we going to use the walk way and how are we going to get there? Referring to Thomas Cody, Mr. Hickey said that this meeting needs to end until everything is done properly or else Attorney Cody is going to take the City to court for not getting it done right.

Jane Whelan, 100 Aimes Drive

She is not in favor of decreasing the open space. She does not think that if you could have an access walkway as part of the open space, that you should also be able to increase the maximum lot coverage. It should be one or the other. If it was part of the Haven project, she would say the City might make an exception, but that is not the case. Any developers would be able to use this.

There being no additional speakers, Chairwoman Hendricks closed the public hearing on these applications.

Attorney O'Connor- we heard from some speakers tonight that raised some good points. With respect to Attorney Cody's remarks about the notice, he does believe in the zone change map application. There is sufficient notice and not only the individual property address listed. The tax map and the parcel are also listed on Appendix A. The actual size (in acres)+ of each lot, the zones they are in, all of that are listed. So we respectfully disagree. The zoning map is clear and all of the information is clear.

Commissioner Standish wants to confirm that everything was done correctly.

Attorney O'Connor says yes we did do everything correctly. There is no guarantee that they will not file an appeal, but we did everything we were suppose to

Commissioner Cohen- There seems to be case law against what we are doing. In your perspective, was the case law he was citing relevant or was it not looking at apples to apples?

Attorney O'Connor- There are cases that you can use to support your position, but that does not mean that they are accurate with our case here, but I will take a look at the case he mentioned.

Attorney Amendola – When you look at this, you have to see if the facts on their case match our case, or else that case is irrelevant.

Commissioner Hendricks made a motion to continue the public hearing on these applications to the next regular scheduled meeting on November 22, at 7PM in the Harriet North Room, 2nd Floor, City Hall, 355 Main Street, so all the other commissioners get a chance to get caught up, and the materials submitted tonight may be reviewed carefully. Commissioner Mullins seconded that motion and it was passed unanimously, 4-0.

Special Meeting

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Commissioner Mullins made a motion to approve these applications with the proposed conditions as modified during the Commission's hearing for File # SP 16-236, #SR 16-237, and #CAL 16-238. The conditions for approval will read as follows:

1. There shall be no sale of vehicles at this location.

2. No repairs shall be conducted outside of the building.
3. The applicant shall manage the workload of the business so that there are no excessive vehicles being parked on public roads or rights-of-ways.
4. There shall be no outside storage of parts, materials, batteries or containers.
5. Oil, other petroleum products, and any other toxic materials shall be handled properly so that they are not dumped into the City's sewer or allowed to leach into the groundwater.
6. Oil separators shall be installed, if required by the City Engineer.
7. There shall be no use of banners, flags or other devices designed for advertising purposes to draw attention to the site, aside from American flags and signs permitted under the City's Zoning Regulation
8. Dumpster location to be enclosed and approved by staff.
9. Striping in parking lot shall be clearly marked.
10. No test-driving of vehicles on Orford Street.

This motion was seconded by Commissioner Cohen, and the motion was passed 4-0.

Staff Reports

1. Update to City Plan of Conservation and Development
The workshop on Thursday, October 27th at 7PM at the Savin Rock Conference Center was successful. Over 50 people attended. There will be a meeting of the Steering Committee on November 17, and the consultant is hopeful he will be able to submit a draft of the Plan to the Planning and Zoning Commission by January.
2. TOD Regulations
No discussion. The public hearing has been scheduled for November 14, 2016 at 7:00 PM.
3. Update on Ad Hoc Committee to Study Adult-Oriented Businesses
Commissioner Mullins asked attorney Amendola if he emailed the committee member for the Ad Hoc Meeting information. Attorney

Amendola told him that he will check on that tomorrow and have it before the next meeting.

4. Proposed 2017 Meeting Schedule

Commissioner Hendricks motioned to adopt the proposed 2017 meeting schedule, seconded by Commissioner Mullins, passed unanimously, 4-0.

Adjournment

There being no further business, motion was made and seconded to adjourn the meeting at 9:20 PM. Motion passed, 4-0.