

## **Planning and Zoning Commission**

March 1, 2022 – 7:30 PM

### **Meeting Minutes**

**Note: This meeting was held online.**

#### **A. Call to Order**

W.Parsell called the meeting to order at 7:31pm

#### **B. Roll Call/ Seating of Alternates**

Joe Hall

Andy Marco

Doug Roberts

John Tehan

Bob Shabot

Walter Parsell

#### **Also Present**

Mike D'Amato - Land Use Agent

Rachael Burstein - Tyche Planning & Policy Group

Chris Roberts - Assistant Land Use Agent

#### **C. Applications Received**

a. PZ-22-5: Special Permit for Warehouse Addition. 136 Pinney Hill Road. DCR (Design

Community Residential Zone) Owner: Cassells Patricia ET AL Applicant: Sean Cassels.

W. Parsell asked if it was just to be received. M. D'Amato said yes this was just to be received and the public hearing would be scheduled for the next meeting.

b. PZ-22-7: Zone Change from R80 to DC (Designed Commercial). 25 Mihaliak Road Owner: CLB

Willington LLC Applicant: William Clark

M. D'Amato stated it was just to be received and staff would work on the legal notices and abutters mailings. W. Parsell asked how far in the future these would be on the agenda. M. D'Amato said they would be on the next meeting unless there was trouble getting out the legal notice and abutter mailings.

c. PZ-22-6: Special Permit Renewal Section 15 Excavation, Sand and Gravel at 66 Navratil Rd, Owner: Wayne C Williams Applicant: Lynn Godin

M. D'Amato explained this is a one-year renewal for a sand and gravel operation, and this would be scheduled for the next meeting as well as the Desiato property application which had already been received.

## **D. Public Hearing**

### **a. PZ-21-24 Special Permit for signage at Loves Travel Stop. 3 Polster Road Applicant: Betty Torstenson Owner: Love's Travel Stop & Country Stores Inc.**

G. McCracken explained that he believed everything was complete this time. He submitted the data for the LEDs on the pricing signs, nits and lumen data for daytime and nighttime levels. He said that the engineers produced a revised landscaping plan with the signs located in relation to landscaping. He noted that shrubbery at the base of the signs were addressed and that he believed that they covered everything the regulations required.

W. Parsell asked how the Lumen data looked.

M. D'Amato explained that the manufacturer, ESCO, submitted a memo listing specific foot candles for graphics by color and that he reviewed the Dark Sky Regulations and that the signs complied.

W. Parsell asked about the landscaping plan and asked for it to be shared on the screen.

M. D'Amato pulled up the landscaping plan and added that he drew in a callout to highlight the free-standing sign on Mihaliak Road that had been in question at the previous meeting. M. D'Amato showed the commission the highlighted sign and showed that landscaping had been added. He showed the plant list from the plan and noted that it proposed two clusters of Junipers 2-3 ft in height.

W. Parsell asked for clarification that the sign would be 15 feet high in total and that it wouldn't be 15 feet on top of a footing.

G. McCracken said that the engineers told him that the foundations would be nearly flush with the ground.

B. Shabot asked if the canopies would be lit on the outside of the bright yellow design, or if it would just be lighting shining down on the pumps. M. D'Amato noted that he was working with Loves because there was concern that the canopy that was put up. He said they are working on a response to that, and it is not necessarily the case that the red and yellow canopy would remain.

G. McCracken said that his understanding was that there would be no signs on the canopy and light would only shine down on the pumps. He said that he had asked if there would be signs on the canopy, but Loves had decided under the regulations it wouldn't work.

W. Parsell asked M. D'Amato when expected to hear a response about the canopy, he said that he expected a response by the end of the week. M. D'Amato added that all the architectural and facades were approved in the original planning and zoning permit and that this wasn't tied to the sign application.

W. Parsell opened up the floor to the public.

Ralph Tulis of 47 Village Hill Road stated that he did not feel his comments from the February 1<sup>st</sup> meeting had been recorded correctly. He emphasized that the sign as depicted on the application was 15 feet from the base plate of the post to the top of the sign. He said that the next issue is that G. McCracken had said that the foundation would be flush with the ground, although where the sign is situated is on a slope, and that one post would be higher than another. He noted that the regulations

did not address this issue. He questioned whether 15 feet should be measured from the short side, the tall side, or if it should be an average of the two sides. He again pointed out that the regulations don't cover this issue and that he thinks they should. He asked that his comments be corrected in the next minutes. He brought up his next concern which was with the canopy. He said one of the things the commission needs to be careful about is the definition of a sign. He said that a registered trademark is something that is displayed on a sign. He pointed out that the red and yellow design on the fuel canopy was a registered trademark of Loves Travel Stop. He shared his screen to show the logo and that it was a trademark. He said that logos are displayed on signs and in essence makes the whole canopy a sign. He told the commission to be careful about what they consider a sign. R. Tulis referred to B. Shabot's earlier concern about illumination of the canopy. He added that the colors and style of canopy was a signature of a Loves travel stop, adding that in other pictures of a Loves Travel Stop these canopies can be seen to be illuminated. He recommended that the commission consider these concerns carefully and that the applicant consider this carefully regarding the regulations and that the commission address the sign regulations with regards to height on a sloping surface. He added that the grade where that sign is going to be placed slopes up and that the retaining wall on the plan has not yet been built and that he's not sure that it will be built. R. Tulis stated that one of the things that was promised early on in this application was that the existing row of pine trees along Mihaliak road would remain intact, although on the plan that was shown it was depicted, they would be cut back. He said it would be important for the commission to consider the current and future state of the pine trees.

Kathy Demers of 48 Mason Road stated that she thought the signage was done tastefully and applauded Loves for keeping it simple. She agreed with R. Tulis about the commission being cautious about what goes on the canopy. She stated that she brought to M. D'Amato's attention earlier that day that the original design provided in public hearings in 2019 showed the canopy matching the fascia of the main building, with a Loves sign on it. She said that she assumed that signage issue with that would be taken up with the sign hearing at the current meeting. She noted that the canopy has been put up and contains the graphic design which is a trademark and could be considered a sign. She said that she imagined if they come up another idea of how to handle this that it will have to come back to the commission if it includes any signage. She stated that she had concerns about illumination, because its four sided and that if it were to become an illuminated sign then the light would shine into neighboring properties such as the Nipmunk State Forest. She said she hoped the commission considers the importance of minimizing light pollution. She added that she read the letter from ESCO talking about the foot candle specifications and noted that the dark sky organizations website recommends that the foot candles from the surface of signs be two-foot candles. She questioned how ESCO could say that their signs were compliant.

W. Parsell stated that Ralph brought up a good point regarding the trademark and asked M. D'Amato what his take was.

M. D'Amato stated that Connecticut has very specific case law regarding this issue. He said it was a CT Supreme Court case which said that towns can only regulate an advertising sign and that an advertising sign promotes a good or a service. M. D'Amato said he doesn't know that the colors red and yellow directly correlate with that as it could represent several other things like McDonalds, Shell, etc.

W. Parsell asked if those colors configured in the way of a trademark that would be promoting a good or a service.

M. D'Amato said the way he sees it they can't deem the canopy a sign.

W. Parsell asked M. D'Amato if he was still of the opinion that this issue should be separate from the signage hearing. M. D'Amato said yes, the canopies had to be built to the plans that the commission approved originally, and that the canopy shouldn't have any signs according to said plans. He noted that condition 31 of the original special permit for Loves said that all exterior lighting on the property should be compliant pursuant to the international dark sky regulations. He added that if there was concern about this once the site was operational, a photometric analysis could be one to verify. He recommended that the commission include a condition making it clear that they are approving a signage application, and not superseding any conditions approved prior in the original permit.

W. Parsell stated they would have to come up with a draft motion to include those concerns. Related to the question about sign height, M. D'Amato said he had written a condition saying that the maximum height of the freestanding sign should be 15 feet at its highest point.

R. Tulis respectfully disagreed with M. D'Amato regarding the colors red and yellow being a sign, he explained that when a corporation has a trademark on a certain pattern of colors then that is a logo which constitutes a sign in his opinion.

W. Parsell mentioned that M. D'Amato was dealing with the canopy either way as it did not match the original plans.

K. Demers reiterated R. Tulis's comments and added that it is a registered trademark and read of the definition of a trademark. She suggested legal council on this matter in case it becomes an issue with the applicant. She added that the dark skies association regulations is a template and wasn't sure how the council would enforce those standards. She suggested the commission look at this matter separately and address it through regulations as it would be difficult to hold this to an applicant.

G. McCracken responded to the concerns brought forward. He said that he would certainly be amenable in terms of averaging the slope on the sign for the height issue but if the commission decides the max height is 15 feet, then he would accept that. He noted that this Loves location had the most conservative sign package the company has ever done. He believed that Loves is doing its level best and hoped they would still be able to succeed in doing so. He added when the landscaping plan was laid out the idea was to have the sign visible to customers while not disturbing the landscape. He believed that it fit well, and it was appropriate, and the landscaping regulations were covered. He disagreed that the red and yellow pattern constituted a sign and noted that the canopy was covered as part of the special permit and would have to be built to those approvals. He noted that any signage on the original depiction of the canopy was not approved and that he was not saying that there would be any lettered signage or anything qualifying as an advertising sign in CT. Regarding the dark sky concerns, he noted that their manufacturer said that it complies, and was not aware that K. Demers was a lighting expert, and noted her comment and said that he would refer to the record and if there were issues then they could be dealt with in practice. He didn't anticipate any issues and added that this lighting was some of the most appropriate that you would find at any Truckstop in the state of CT. He believed that Loves has done its level best.

W. Parsell agreed that the signs should be somewhat visible, so trucks aren't wandering around the countryside.

B. Shabot motioned to close the public hearing. J Tehan seconded. **All in Favor, Motion Passed.**

W. Parsell asked M. D'Amato if he had conditions ready. He said he did and offered to share them with the commission. M. D'Amato read the conditions and shared them on the screen. The first was that the maximum height of the free-standing sign on Mihaliak Rd shall not exceed 15ft in height at its highest point.

M. D'Amato asked the commissions opinion on this and said he thought he could add the point about the sign being measured six inches from the highest point. W. Parsell said he agreed, and that they don't want to be ridiculous, but also don't want a super high sign.

The second was that the approval of this application does not modify, amend, or replace any of the approved criteria or conditions required by approvals PZ 19-12 and IWWA 19-1.

M. D'Amato added that not that anyone was saying this would happen but just wanted to make it clear. He added that the town does not have any regulations that enforce the standards of the dark sky association. He said what they've required is that applicants provide the commission with info proving that the dark sky requirements are met but they don't require the Dark Sky seal. He added that certainly it would be ideal to have them in the regulations and that staff was working on it, but it didn't leave them in a position where any of the approvals were shaky. He added that he was trying to craft a condition that the applicant will provide confirmation that lighting installed has to comply with what is proposed on the plan although he believed it to be redundant because they already have to comply with those proposals. The commission agreed.

A. Marco added that his interpretation of dark sky regulations was that it was to prevent light from escaping the property and that as long as it did not bleed into other properties then that was ok.

W. Parsell motioned to move PZ-21-24 Special Permit for signage at Loves Travel Stop. 3 Polster Road Applicant: Betty Torstenson Owner: Love's Travel Stop & Country Stores Inc. to unfinished business. B Shabot seconded. **All in Favor. Motion Passed.**

**b. PZ-22-4 Proposed Zoning Regulation Section 12.5: (new) Strategic Development Zone (SDZ)**  
**Applicant: Planning and Zoning Commission**

M. D'Amato gave a quick overview on this application saying that the commission had been working on this for some time. He said this would implement a new zone and is a special development district intending to provide a different approach for how a large strategic development would seek and get approval for a project. He emphasized that this is for large projects. He explained that there were two ways of going about the approval process. He added that the purpose of this regulation is to provide an option for property owners/developers who want tangible buy-in from the town to show tenants their project has been endorsed. He offered to go through the specifics with the commission.

W. Parsell said that the commission had a good understanding of the specifics and opened the floor for public comment.

R. Tulis called out regulation 15.1.3.3 a. and b. He said that they seemed to conflict each other, and he would like to understand how they work. He further explained that what M. D'Amato said was that this

applies to parcels 5 acres or more, but paragraph b. says not it a DC or DI zone, yet paragraph a. says the only place this can be applied is in a DC or DI zone.

M. D'Amato explained that paragraph a. says that parcels within existing commercial zones, DC or DI, are eligible for this zone, but if they are not in this zone then they must be at least 5 acres in size. He explained that if someone wanted to develop a parcel they wouldn't want someone to first do a zone change in order to be eligible for this zone, rather they would have to show they were larger than five acres.

R. Tulis asked where in the section it was stated that the development itself had to be large scale, five acres or more. M. D'Amato said that's the section they just read.

R. Tulis responded said that it says minimum parcel size, and asked what is to prevent say a Dunkin donuts from applying this to a site and only developing two acres.

M. D'Amato responded that the commission has full say, and would have to deem the use and development appropriate. He again reiterated that the commission has complete discretion in a special development zone.

R. Tulis noted that he was not against this and just wanted to understand this thoroughly.

K. Demers asked if the reason for the public hearing was to discuss the concept or look at this at a detailed level. She called out some of the formatting and explained it was difficult to read and understand. She asked if this was a process that was already developed and was being re-written, and noted that there was nothing about fire suppression. M. D'Amato responded to the question regarding formatting and said he would fix those issues. He added the final formatting would fit in with the existing regulations. He added that Commissioner Sinosky brought up fire suppression and that it would be included.

K. Demers clarified that she wasn't talking about just one page regarding her format concerns.

M. D'Amato reiterated that it would fit the existing regulations in final form.

W. Parsell asked if M. D'Amato would have time to clean this up by the next meeting. He said he would.

M. D'Amato asked the commission and the public if there were any questions for him. The commission said they understood it clearly. W. Parsell Motioned to close the public hearing. J Tehan seconded. **All in Favor. Motion Passed.**

#### **E. New Business**

None

#### **F. Unfinished Business**

**a. PZ-21-24 Special Permit for signage at Loves Travel Stop. 3 Polster Road Applicant: Betty Torstenson Owner: Love's Travel Stop & Country Stores Inc.**

M. D'Amato displayed the proposed conditions

J. Tehan Motioned to Approve

PZ 21-24: Special Permit for Signage at Loves Travel Stop. 3 Polster Rd shall. Applicant Betty Torstenson, Owner Loves Travel Stop and Country Store.

Conditions:

1. The maximum height of the free-standing sign on Mihaliak Rd shall not exceed 15ft in height at its highest point when measured at a point six inches above finished grade per the approved site plan.
2. The approval of this application does not modify, amend, or replace any of the approved criteria or conditions required by approvals PZ 19-12 and IWWA 19-1.

W. Parsell seconded. **All in Favor. Motion Passed.**

#### **b. Affordable Housing Plan: Review of Recommendation List**

M. D'Amato explained that the recommendation list was in the meeting materials, and it could be shared if anyone didn't see it.

R. Burstein asked if any recommendations stood out to anyone. W. Parsell asked that it be shared on the screen.

R. Burstein explained the breakdown of the list and went through it with the commission. She explained that the purpose was to give the commission a menu of items to choose from and she asked if there were any options that stood out.

W. Parsell asked who established the housing committee.

R Burstein said it would be the Board of Selectmen.

W. Parsell asked if this is what other towns were doing.

M. D'Amato said it depends on takeaways from the plan.

W. Parsell was concerned with the ability to keep a full commission.

R. Burstein said it depends on how much they decide to task a board with..

R. Burstein explained number ten on the list which was "implement 8-2i "inclusionary zoning" on developments over a certain size" she explained this would require developers to set aside a certain amount of units as affordable or pay a fee in lieu of affordable units. This fee would go towards a fund for the town to use towards affordable housing.

J. Tehan asked if that could be used towards the rent buy down option on the list.

R. Burstein indicated yes the money could be used towards anything related to affordable housing.

A. Marco asked for clarification on the meaning of as of right, in regard to PA 21-29.

M. D'Amato explained that PA 21-29 requires that all towns that opt in permit ADU's as of right.

W. Parsell asked if there was a penalty for opting out.

M. D'Amato said there was no direct penalty for opting out.

W. Parsell noted that it would be helpful that they find out penalties for not doing some of these items.

M. D'Amato explained that the commission should think of this like the POCD, and by adding these items to the plan won't implement them rather it will suggest the town implement them.

B. Shabot added that we should consider access to sewer and water when thinking of these issues.

B. Shabot and W. Parsell wanted to see more on number 17 regarding cottage clusters.

W. Parsell questioned number 10 regarding inclusionary zoning.

R. Burstein explained that the town sets the percentage of affordable units and if the developer opts out the pay a fee in lieu of those affordable units.

B. Shabot asked if this could be applied to over 55 housing units.

M. D'Amato said yes if they implemented an inclusionary zoning ordinance.

M. D'Amato suggested going into more detail regarding ADUs, Inclusionary zoning, and cluster development. He suggested using the recommendation list to refer to as they go through and develop the affordable housing plan to help give context going forward. The commission agreed.

W. Parsell questioned a recommendation suggestion exploring affordable housing problems for teachers, town employees, and first responders.

R. Burstein said it might make sense for some towns but not necessarily for Willington.

M. D'Amato explained that this list doesn't won't necessarily all be included in the plan, rather the commission can pick and choose what they want out of this list.

W. Parsell suggested having a meeting to specifically focus on affordable housing.

M. D'Amato suggested having a special meeting on April 5<sup>th</sup> at 7, and then roll into the regular meeting at 7:30. B. Shabot asked R. Burstein to flush out some of the items that they were discussing.

R. Burstein agreed to prepare the additional information for the Special Meeting

## **G. Approval of Minutes**

a. February 15, 2022

J. Tehan motioned to approve the minutes. B. Shabot seconded. **A. Marco and B. Shabot abstained, J. Tehan and W. Parsell in favor. Motion Passed.**

## **H. Correspondence**

### **I. Public Comment:**

K. Demers thanked the commission, and commended M. D'Amato for the work he does. W. Parsell thanked K. Demers for her diligence.



## **J. Staff Report/Discussion.**

### **a. POCD Implementation Update: Open Space**

C. Roberts explained that he would continue from last week going through the POCD and reviewing the goals. He explained that the next section of goals was to preserve open space. He explained the goal regarding implementing a demolition delay ordinance and asked the commission their opinion.

M. D'Amato explained some of the pros and cons of a demolition delay. The commission didn't think an ordinance was necessary.

C. Roberts explained the next goal of creating tax incentives for historical building and suggested exploring this in the South Willington Village District.

B. Shabot said he thought it was a good idea but noted that in order to be eligible for some credits the properties must be listed as historical.

C. Roberts made note of the goal regarding implementation of a noise ordinance.

M. D'Amato explained that the BOS explored this and there wasn't support for it.

C. Roberts noted the goal for the town to use public act 490 and noted that the BOS incorporated input from the PZC when updating those. He explained a goal regarding maintaining regulations surrounding sand and gravel operations.

B. Shabot noted that there are some smaller operations that fall through the cracks and don't follow the regulations. He suggested maybe using a bond for gravel operations.

### **b.**

W. Parsell asked M. D'Amato about complaints regarding Moose Meadow Road.

M. D'Amato explained that the contractor for the Love's property was hauling material off site and importing it to a property on Moose Meadow. He explained that at some point the property owner realized that there was damage being done to the road and they stopped. He said he had reached out to the project manager and asked him to stop this.

M. D'Amato explained that the problem that they ran into is that the road was not posted for not trucks or weight capacities, so there was nothing inherently wrong with the trucks on the road. It was just a matter of an old road failing.

## **K. Adjournment**

W. Parsell adjourned the meeting at 9:44pm.