

Hearing Items

1. Request for Extension for Extended Stay Hotel

This request, which is outlined in a letter from Attorney John Fallon dated April 28, 2011, is for a six month extension of the approval for a Hyatt Extended Stay Hotel on Commerce Drive from May 5, 2011 to November 5, 2011. This letter replaces an earlier letter sent on January 17, 2011 which requested a longer extension of time. The Extended Stay Hotel project was originally approved in October 2008 with a requirement that construction begin in May 2009. Subsequently two one year extensions were granted extending the date that construction must start to May 5, 2011.

The current request would extend the total time from approval to construction start to three years. This request is in accordance with a newly adopted zoning regulation pertaining to project timing that has been in effect since April 13, 2011. The new regulation allows a total of up to three years from approval to construction start.

2. Proposed changes to Professional Office Overlay Zone.

Update: The applicant has indicated that he will be submitting a letter withdrawing the portion of his proposal pertaining to parking standards on corner lots and will instead seek a variance from this parking requirement. That letter has not yet been received.

The hearing on this item was continued following discussion at the March 16 and April 20th P&Z meetings.

Background: Two changes were proposed by Atty. Ray Rizio to the Professional Office Overlay Zone to accommodate a proposed professional office use on White Plains Rd. The first change would allow professional office use on properties that were subdivided subsequent to application of the Professional Office Overlay Zone (formerly know as the Design District) in a particular area. The second change would modify the regulations regarding parking in front and side yards in this overlay zone. The proposed revised regulations would allow parking in the side yards and front yards if buffered and if not directly in front of the dwelling.

Analysis: Staff recommends in favor of removing the prohibition of professional office use on properties subdivided after the date the overlay zone was applied to a particular property. The Commission already has discretion on a case by case basis to deny any proposed professional office use that appears to be detrimental to the Town or the surrounding neighborhood due to visual, traffic, parking, ingress and egress and other factors. Therefore, this prohibition appears unnecessary.

Staff recommends against a zoning text amendment allowing parking in any portion of a front yard or in side yards closer to the street line than the dwelling even on corner lots because multi space parking lots, even if well buffered, are visible and generally incompatible with residential neighborhood character. In individual instances where a home or lot proposed for a professional use has an unusual configuration or where an unusually large side yard exists and where rear parking meeting the zoning regulation

requirements is not feasible, on a case by case basis, an applicant could apply for a variance from these parking requirements to the Zoning Board of Appeals.

The applicant's original proposed language changes are shown below. The portion that the applicant has recently agreed to drop is shown in blue

Section 2.1 Professional Office Overlay Zone

2.1.1 Statement of Purpose

To provide homeowners in a designated area the opportunity to preserve the basic structure of, and single family appearance of, homes in a residential neighborhood by providing additional uses of a professional nature which will preserve the residential character of the remaining homes in an area that has uses other than single family homes.

2.1.2 Location

For purposes of this regulation, the Professional Office Overlay Zone shall be located:

1. Along White Plains Road (Rte. 127) from the intersection of Unity Road and White Plains Road, extending northwesterly to the intersection of Reservoir Avenue and White Plains Road,
2. Along east side of Main Street from the Merritt Parkway, extending southerly to the Bridgeport City line and along west side of Main Street from the eastern entrance access driveway of the Trumbull Mall southerly to the Bridgeport City line, and
3. Properties at 17, 29 and 37 Church Hill Road.

All properties having frontage on White Plains Road or lower Main Street or an existing easement for access onto White Plains Road or lower Main Street within the limited areas described above shall be included, except for the following: (Note: Boundary description on file in Town Clerk's Office and Planning and Zoning Office.)

4. Properties zoned for multi-family and/or affordable housing shall not be included.
5. ~~No property along White Plains Road subdivided after the effective date that these regulations were applied to White Plains Road (July 13, 1995) shall be included.~~
6. ~~No property along lower Main Street subdivided after the effective date that these regulations were applied to lower Main Street (August 19, 2009 and August 18, 2010) shall be included.~~

2.1.3 Conditions

1. Parking shall be permitted in the rear yard and the side yard with landscaped buffers [provided to screen visibility of the parking area from White Plains Road, lower Main Street and Church Hill Road](#); ~~parking is prohibited in a front of the dwelling. yard, and side yard parking shall be no closer to the street line than the dwelling.~~
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3. Commercial building and parking at 6540 Main Street

Update: The applicant has indicated that this project will be significantly modified. However, revised drawings and description were not available at the time of this writing.

Background: This is a request to construct a 12,000 square foot two story commercial building (with a mix of retail, service and office uses) and 42 parking spaces at the north end of Long Hill Green just to the south of Marissa's Restaurant. A previous similar proposal for developing this property with a 6,000 square foot one story commercial building and 48 parking spaces was approved in 2007. However, that project was never built.

Rezoning: The property is currently zoned primarily B-C Long Hill Green. However, the applicants are applying for a rezoning to accompany the Special Permit because a small sliver on the northern edge of their property is in another zone and the applicant's legal research indicates that when the B-C Long Hill Zone was adopted some of the residentially zoned streets in the Long Hill Green area were not properly zoned to B-C Long Hill Zone to match the zoning on the surrounding parcels. Staff is in agreement that the clean up rezoning proposal is appropriate.

Parking: 42 parking spaces are proposed with this project. The use mix proposed would generate demand for approximately that number of spaces based on data from the Institute of Transportation Engineers. The actual demand would depend on the precise mix of uses and could vary over time as different uses occupy the building. If the uses are more heavily weighted to retail vs. office, the demand may exceed 42 spaces. There are an additional 157 parking spaces on the neighboring Marissa's site (which is on the same land parcel) that is connected by a footbridge across a stream from the proposed project. Although less convenient, some of these spaces could be used at times to accommodate demand from this project. However, at other times Marissa's existing parking lot is completely full.

A previous (2007) P&Z approval for an earlier version of this project had 48 parking spaces and included a condition that the parking spaces closest to Whitney Avenue be reoriented and better buffered from the street. This proposal has doubled the size of the building but actually reduced the parking provided by 6 spaces. The parking spaces closest to Whitney Avenue have not been reoriented and the buffering has not been changed in this proposal.

Due to the lack of parking it may be advisable to condition the approval on limiting the retail component of the project to no more than 50% of square footage of the project and/or to require that the upper floor uses be limited to office. The applicants should be asked to explain why the parking total has been reduced from the previously approved project.

B-C Long Hill Green Zone compliance: This new zone was established to provide the ability for developers to propose mixed use developments including retail, office, service and residential. It also allows flexibility for waiving usual setback and other zoning requirements in order to create a more pedestrian oriented environment and traditional village atmosphere in the area around the historic Long Hill Green.

The proposed structure is a typical automobile oriented suburban development with the building set back far from the street and surrounded by parking. The site is lower than the surrounding streets and is not particularly oriented toward Long Hill Green. As proposed, it would not contribute to a village atmosphere or pedestrian oriented environment around the green. A sidewalk shown in the plans would provide some connection to the green area.

Despite an intent to encourage pedestrian orientation and a village atmosphere, the Town's regulations do not require buildings around Long Hill Green to have small setbacks or to otherwise be oriented toward the street. However, the Commission does have discretion to request modifications to the proposal to achieve a more pedestrian oriented environment and traditional village atmosphere.

Architecture and Urban Design: The BC-Long Hill Green Zone does not require a particular style of architecture—only that new structures be compatible with existing surrounding structures in terms of materials, building siting, architecture and landscaping. The regulations in this zone also call for use of staggered or off set facades and varied facade materials to avoid a barracks or dormitory appearance.

The proposed project has a repetitious appearance and a lack of setbacks or articulation and is, therefore, somewhat inconsistent with these guidelines. The Commission has discretion to request a different façade treatment that is more consistent with the guidelines in the B-C Long Hill Green Zone

Landscaping and Engineering conditions of approval: The subject property is located on the same parcel of land as the existing Marissa's Restaurant and a Duncan Donut Store. Various P&Z Special Permit approvals pertaining to this parcel have been granted in the past several years. Several of these approvals included conditions that have not yet been met. The Town Attorney has advised that the Commission has discretion to make the current approval subject to completion of these earlier unmet conditions.

These conditions include a landscaped fifty foot wide conservation easement along Farrar's Brook and 40 marked parking spaces on the south side of the property. The Commission also requested that loam and gravel on the property be removed. The Town Tree Warden, Warren Jacques, met in 2009 and 2010 with the Marissa's owners and requested landscaping in the north parking lot area and a finalized landscape plan for the entire site (not including the area of the current application). This has not yet been received and no landscape work has begun on this property. Also, the loam and gravel has not yet been removed.

Approval should be subject to completion of landscaping on the entire existing site including the north parking lot, the conservation easement and the site now being proposed for a commercial building as recommended by the Town Tree Warden. The bond amount suggested by the Tree Warden is as follows: \$40,000 for the new building site, \$25,000 for the conservation easement and \$25,000 for the north parking lot for a

total of \$90,000. Currently there is no bond on file. Approval should also be subject to any site bonding requirement from the Town Engineer and removal of the loam and gravel.

Signage and Lighting: Signage and lighting requirements are similar to those in the standard B-C zone. The information on this proposed project received to date does not address signage or lighting. Unless this information is provided during the hearing, the applicants may need to return to the P&Z Commission in the future for signage approval as required by the zoning regulations. A previous approval on the Marissa's property contained a condition calling for any new lighting to be "colonial in style to match the nearby green lighting".

Pending Applications

1. Proposed change to B-C Commercial Zone regarding automotive uses

Update: Attorney Rizio has indicated that he will send a letter agreeing to drop his original proposal in favor of the staff proposed language regarding parking and landscaping around automobile related businesses.

Background

A hearing on this item was held and closed on March 16, 2011. Attorney Ray Rizio proposed two changes to the regulations regarding automobile related commercial uses. One change, which was approved on March 16, 2011, eliminated the existing 1500 foot separation requirement between automobile related commercial uses (repair shops, filling stations, salesrooms etc.) A second proposed change, which was discussed on March 16 and April 20, 2011, has not yet been acted upon. This change would have modified the prohibition on parking automobiles outside of a building in this zone by allowing registered vehicles to be stored in the front yard of a building.

During the March and April discussions on this issue, staff was directed to examine parking regulations for automotive businesses in other towns and to design regulations that would be enforceable, not drive these businesses away and yet still protect the Town from excessive auto parking blight. Specific suggestions were to consider regulating the number and location of cars that can be parked outside an automotive business, and landscaping or berming to mitigate the appearance. Some commissioners also suggested that auto dealerships should no longer be allowed in the Town.

Trumbull currently has approximately 12 automotive businesses. Nine of these include gas stations. Three are auto repair businesses with no gas sales. A majority of the gas stations also have auto repair facilities. There are no automobile dealerships although those are permitted by the existing zoning regulations. Only four of the existing automotive uses are located in a commercial zone. The others, including several on Main Street, one on Nichols Rd. and one on Shelton Rd. are non conforming uses, most or all of which have been in existence for many years and are grandfathered uses.

All auto repair and gas stations are required to obtain an operating permit from the Zoning Board of Appeals and must meet certain ZBA and State requirements. A maximum of 12 autos may be parked on site. Some of the automotive uses have at times exceeded this limit. In response to citizen complaints and drive by observations,

the Zoning Enforcement Officer (ZEO) has attempted to enforce this limit. Often cars are removed following a warning from the ZEO but reappear again days or weeks later.

Analysis

As a practical matter, virtually all the automotive businesses in this and other towns have automobiles stored on site. Enforcing the existing prohibition on parking automobiles outside of an automotive business would put most or all of these establishments out of business. Only a few of the automotive businesses in Trumbull are located on parcels with vacant land in the rear that could accommodate parked cars. A majority of the automotive businesses have parked cars located in front or on the sides of the properties.

The negative impacts and complaints about cars parked around automobile oriented businesses in Trumbull are primarily related to businesses located in residentially zoned areas. In commercial zones, all types of use that are permitted (retail, office, service uses) are currently allowed to have parking lots in front, sides and rear. Any new restrictions on this including number and location of cars, landscaping etc. should be applicable to all commercial uses.

An analysis of the zoning regulations in other towns indicates that most other towns have several different commercial zones. In many cases automotive businesses are not allowed in denser, more pedestrian oriented downtown and neighborhood commercial districts, particularly those near residential areas, but are allowed in commercial areas oriented toward auto oriented businesses on major thoroughfares and highways. In these highway oriented business zones automotive service, repair and sales establishments are allowed and are permitted to have cars parked outside.

The Valley Council of Governments recommended that autos should not be stored outside in locations adjacent to residential zones. Enforcing a provision banning storage of autos in auto related businesses adjacent to residential zones would result in closure of existing auto businesses that are non conforming uses in the residential zones including most of the gas stations in Trumbull and is, therefore, not recommended. However, due to the inherent conflict between residential and auto business uses, It would be appropriate to require landscaped buffers and/or fencing around automotive uses that are either located in a residential zone or are bounded by residential uses.

Staff recommendation

Staff recommends that provision 3.1.4.8 b be replaced by a provision that landscaped buffers and/or fencing be required around automotive businesses that are either located in a residential zone or are bounded by residential uses. It is also recommended that this regulation be amended to conform to the Town's longstanding limitation that no more than 12 vehicles may be parked outside of an auto sales, repair or garage building during hours that the facility is not open.

The staff recommended language regarding landscape buffering and fencing is kept fairly general because the advice of the Town Tree Warden is that each site is somewhat unique and a one size fits all landscape requirement will not work well. It would be preferable to have the Tree Warden work with each applicant to develop an appropriate screening requirement on a case by case basis.

Staff does not recommend eliminating the provision for auto dealerships. While sites are not available in Trumbull for a large auto dealership, a smaller specialized auto sales business could possibly locate away from any residential neighborhoods in the commercially zoned portions of of Rte 111 or 25 and could bring substantial tax revenues to the Town.

The changes proposed previously by Attorney Rizio and those that are currently proposed by staff are shown below.

Changes previously proposed by Attorney Rizio

Section 3.1.4. - Special Permit.

The following Uses are allowed only upon the issuance of a Special Permit by the Commission in accordance with Article XV of these Regulations:

8. Automobile salesrooms, gasoline filling stations and garages for the storage and repair of not more than 15 motor vehicles, subject to the following conditions and restrictions:
 - a. All automobile repair work, with the exception of emergency work, shall be conducted wholly within a building;
 - b. Automobiles shall not be stored or displayed outside of a building in the front yard of any building. Non registered vehicles may not be stored outside of the building;
 - c. No entrance or driveway to any building within which such a use is conducted shall have less than 20 feet of clear width at any point;
 - d. No entrance or driveway to any premises on which any such use is conducted shall be situated within a radius of 200 feet from a lot used or reserved to be used for: a college or school; a hospital; public playground or park; a church or public library, provided that no such use shall be deemed to be non-conforming by reason of a subsequent erection or development of any such college, school, hospital, playground, park, church or library.
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Changes proposed by Staff

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- a. All automobile repair work, with the exception of emergency work, shall be conducted wholly within a building;
- b. No more than 12 vehicles may be displayed or stored outside of an automobile s shall not be stored or displayed outside of a building. salesroom, gasoline filling station or garage during hours when such a business is closed.
- c. Any automobile salesroom, gasoline filling station or garage that is located adjacent to a residence or residentially zoned property shall be buffered by walls, fences and/or vertical landscape screening as recommended by the Town Tree Warden and Planning and Zoning Commission.
- d. No entrance or driveway to any building within which such a use is conducted shall have less than 20 feet of clear width at any point;
- e. No entrance or driveway to any premises on which any such use is conducted shall be situated within a radius of 200 feet from a lot used or reserved to be used for: a college or school; a hospital; public playground or park; a church or public library, provided that no such use shall be deemed to be non-conforming by reason of a subsequent erection or development of any such college, school, hospital, playground, park, church or library.