

**MOUNT POCONO PLANNING COMMISSION
REGULAR MEETING MINUTES
WEDNESDAY, AUGUST 15, 2018
7:00 P.M.**

Chairman K. Kirkwood opened the Regular Meeting at 7:00 P.M. with the following members present: Vice Chair R. Dorkoski, Commissioners V. Misuraca; M. Penn; H. Velasco; and, N. DeLano. Also present were Solicitor H. C. Connor; Borough Engineer C. Niclaus; Zoning/ Codes Enforcement Officer D. Noonan; and, Planning Commission Recording Secretary D. Jackowski.

Commissioner B. Harper was absent.

Representing Borough Council were Councilmembers D. Casole, T. Ford and President C. Williams. Also, in attendance was M. Hensel, Councilmember and Chairman of the Mount Pocono Municipal Authority.

APPROVAL OF MINUTES

Vice Chair R. Dorkoski moved to accept the Regular Meeting minutes of Wednesday, July 18, 2018, as presented. Commissioner N. DeLano seconded. Motion carried unanimously.

SUBMISSIONS

CKE Restaurant – Hardee’s Sketch Plan

Chairman K. Kirkwood stated that the Applicant is not in attendance this evening and he reminded everyone that that the proposed Hardee’s would be next to Perkins on SR 940.

Solicitor H. C. Connor sated that he had spoken with the Applicant’s engineer, Chris McDermott, indicating that they would like to be at next month’s Planning Commission meeting. It was explained that they are working on some parking issues pertaining to the project and this will be discussed at the next meeting.

Hirshland – Amended Final Land Development Plan

Representing the Hirshland Amended Final Land Development Plan were Cornelius Brown of Bohler Engineering and Attorney Craig Robert Lewis of Kaplin Stewart Attorneys at Law were in attendance.

A few of the major concerns with the plan is the stormwater basin at the front of the property would have to be moved back away from the right-of-way. It was acknowledged that if the stormwater basin is in the right-of-way, PennDOT has made it clear that any municipality would be responsible for its upkeep of anything in the right-of-way. Attorney C. Lewis stated that the diming of the lights and the hours of operation would be agreed to by all parties.

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Mount Pocono Municipal Authority Chair M. Hensel confirmed that there are forty-four (44) EDUs for this project.

Vice Chair R. Dorkoski stated that he would like to the drive through to be 12 feet wide instead of 10 feet wide as it appears on the plans.

Vice Chair R. Dorkoski moved to recommend the Hirshland Amended Final Land Development Plan with the following conditions from the Borough Engineer's review letter dated August 14, 2018, and that the Applicant must make the proposed drive through 12 feet wide instead of 10 feet wide. The rest of the recommended conditions with explanation are as follows:

Under Zoning Ordinance review: 4. adequate parking throughout the development for all the retailers; 5. width of the loading zones

Under SALDO review: 3. the connector road to allow emergency services is closer than shown on previous plan however the width of the driveway or change the angle to avoid the utility pole shown will be addressed by applicant. 5. Retail A may be underserved however this wouldn't be known until the final uses of the buildings and at that time the recalculation of parking should be done. 6.a. the lighting hours should be addressed under the Developer's Agreement. Also, the rest of the lighting comments should be addressed (6. b. through d.).

Under Stormwater Management review: 1.a. if this basin is not moved away from the right-of-way of SR 940 than the Borough consider as part of the Developer's Agreement as who is responsible for the stormwater in the right-of-way. 1.e. a statement from the Applicant is needed and needs to be shown on the plan.

Under General Comments: Also, to be included are the permits from the following outside agencies must be accepted and made as part of the conditions: 1. Approval from PA American Water Company; 2. Approval from the Mount Pocono Municipal Authority; 3. copy of the PA DEP permit; 4. copy of the NPDES permit; 5.a. - d. copies of all PennDOT Highway Occupancy Permits.

Zoning Ordinance Review

For purposes of calculating the required number of parking spaces, it was assumed that 80 percent of the total gross floor area would be open to the public. Floor plans justifying this assumption or alternate calculations demonstrating that adequate parking is available will have to be provided prior to issuance of building permits. ***The plans do not include parking calculations to show adequacy, but they appear to meet overall Average period Demand requirements of the Ordinance for Retail, Convenience and Fast Food = Added. Notes and covenants with parking calculations should be added to Sheet 3 where they appeared previously – Added, but convenience store calculation looks low. I don't have old Ordinance to check, this should be discussed. The current Ordinance***

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requires 8.4 parking spaces per 1,000 sf, or approximately 42 spaces versus the 21 proposed. There are ample parking spaces in this location, but Retail A is underserved.

The widths of the loading zones for Retail Buildings C, E & F are not wide enough to accommodate tractor trailers. Details with respect to the type and frequency of vehicles operating in conjunction with the proposed use must be provided to justify the loading and unloading areas proposed. See 215-22G. ***Buildings A, C and Convenience provide***

loading zones that can accommodate tractor trailer Use. Addressed for now. Specific uses will have to comply with the sizes needed when tenants are known during the building permit application. Condition.

Subdivision and Land Development Ordinance (SALDO)

The loading area for Retail Building C must be screened from the road in accordance 187-56F(4). ***This area is now the proposed fast food and Retail D buildings to the east. The proposed loading area is over 200' from the road, and the frontage is appropriately landscaped. Addressed. The proposed connection point to the adjacent Plaza in this area has now been moved closer to Rt. 940 and is shown as reserved rather than to be constructed. This may be an original condition of approval and should be discussed. The driveway connection is proposed to the property line. The adjoining area is mostly gravel and relatively flat allowing for emergency access – it may be advantageous to lessen the width of the driveway or change the angle to avoid the utility pole shown.***

The following comments relate to the lighting plan:

A revised A revised lighting ordinance was adopted by the Borough in November 2011. There are some new standards in that ordinance that should be considered for the revised layout, including: reducing lighting levels during periods of non-use of the facilities (215-351(6)(d)); utilizing automatic switching devices to extinguish light sources between 11:00pm and dawn (215-351(6)(I)); mounting fixtures at a maximum height of 20'. ***Luminaire lens height is at 20'. Other recommendations are not noted and should be discussed and noted on the plan as appropriate if applicable. Lighting hours and reduced levels have not been responded to. The Planning Commission should discuss this.***

Any lights not shown on the plans, such as building mounted fixtures, building facade lighting, sign lighting, flagpole lighting will have to comply with the new standards and must be shown on the plans submitted as part of the building permit application. **Recommended as a condition of approval. Notes added to lighting plan.**

Manufacturers' cut sheets showing the types of lights proposed in the fuel pump canopy and mounted on the convenience store building and providing sufficient information to demonstrate compliance with the new lighting standards must be provided. ***Fixture numbers are provided, but not the manufacturer. The plan allows for substitution with***

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required approvals. Recommended as a condition of approval. Notes were added to the lighting plan.

The proposed light distribution is not consistent with the IESNA recommendations for uniformity in the convenience store area (215-351(4)(a)). *The plan allows for substitution with required approvals meeting IESNA. Recommended as a condition of approval. Notes were added to the lighting plan.*

Stormwater Management

The following comments relate to storm water design issues. Note that the plan was reviewed for compliance with the prior stormwater ordinance (Ordinance 5 of 1994), which was in affect at the time the Conditional Use application for the project was submitted:

Revised calculation for the storm sewer along Route 940 must be submitted. Based on the prior calculations submitted by TPD. The 25-year design flows will back up in the center swale to an elevation greater than the elevation of the inlet grates in the gas station parking lot, resulting in the potential for water to flow back into the site toward the detention facilities and Mountain Drive. The design calculations for the on-site stormwater management facilities do not include any flow from the PennDOT right-of-way. The design should be checked for the 2-year and 50-year design flow rates to ensure compliance with the peak rate control requirements of the ordinance. If more flow is contributing to the basin than originally designed, the emergency spillway capacity will also have to be checked. This issue has been discussed with Bohler Engineering and the developer and must be addressed prior to the Borough applying for the PennDOT permit. *Not addressed, the Pond Report for the Bio-retention area lists a 12 x 30 orifice and a weir outlet, both of which are not shown on a detail or the plan. This could surcharge the 24" pipe under Rt 940 and back up into the gas station area inlet. Having the basin, fence and outlet control in the PennDOT right-of-way may not be accepted by PennDOT and is not recommended for the Borough to maintain. Based on Appendix B2 of PennDOT publication 282, it appears that the stormwater basin discharge is classified as a category 3 connection (3. Enclosed surface storm water facilities draining more than a proposed driveway or local road and physically or hydraulically connected to an existing or new highway storm water facility. Systems under this storm water facility category service development of the land in general and are connected to an existing or new highway storm water facility. The local government must be the applicant or a co-applicant with the landowner for these enclosed surface storm water facilities. An agreement between the landowner and the local government addressing funding for the future maintenance is recommended.) The applicant should consider revising the plan to eliminate the need for the Borough to be a Permittee in this situation. Further, the Borough should discuss if it is willing to be an applicant for this HOP, as well as what legal agreements and security measures would be required for an application.*

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The underground detention system has been revised to be about 1.5 feet lower than originally proposed and includes an additional length of pipe. The outlet structure design has also been revised. Design calculations must be provided. Note that the bottom

elevation of this detention system was already shown to be one foot deeper than the reported bedrock elevation in this area. The revision puts it 1.5 feet deeper into the bedrock. Some explanation to why it was necessary to lower the bottom of the basin should be offered. *Not addressed.* **While the underground basin detail on Sheet 30 has been revised to note over excavation and placement of engineered soil to address bedrock elevations, there should be an acknowledgement/recommendation added to the Permeability Report of 3/28/06 and/or a certification on the plan that this type of system is suitable for the rock conditions encountered.**

General Comments

The PA American Water Company will have to review and approve the water distribution plan for the revised plan. The water distribution system has been revised since the time of the Borough approval in 2006 and the last set of plans provided to us in 2007. A water main crossing of Route 940 at the main entrance drive is proposed. A Highway Occupancy Permit for this water line is required. The size and type of the existing line to which the connection will be made must be identified on the plan. It should also be noted that a waterline has recently been constructed on the adjacent plaza to the east (Kmart plaza), providing another potential point of connection. *Not addressed, but an additional connection point has been added from Mountain Drive.* **Condition.**

The revised plan will have to be reviewed and approved by the Mt. Pocono Municipal Authority. Note that pursuant to Article XIII of the Zoning Ordinance, sanitary sewer lines located in Wellhead Protection Zone 1 must be double sleeved. *Not addressed.* **Double-sleeve notes have been added to the plan, but sewer service is a significant concern in the Borough. It should be demonstrated that the MPMA has reviewed service plans and that capacity exists or has been reserved for this project.** **Condition.**

A copy of the PA DEP permit is required for the proposed wetland disturbance or evidence that a PA DEP permit is not required must be submitted. *Not addressed.* **Condition.**

A copy of the NPDES permit must be submitted. A modification of the NPDES permit will be required for the revised plan. *Not addressed.* **Correspondence from MCCD dated 8/6/18 indicated that the application had not been considered complete. A technical review may raise additional stormwater comments that affect the plans.** **Condition.**

Copies of all PennDOT Highway Occupancy Permits required for the work proposed within the Route 940 right-of-way must be submitted. Borough Engineer C. Niclaus' understanding is that four (4) separate permits are required as follows:

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Permit in the name of the developer/owner for the new driveway and lane improvements along Route 940.

Permit in the name of the Borough for the traffic signal. See separate review letter dated May 24, 2012 prepared by our traffic engineer. The installation and maintenance agreement must also be finalized. After speaking with Mr. Hirshland, my understanding is that a separate agreement will be prepared rather than including it with the development agreement as originally proposed.

Permit in the name of the Borough for the stormwater conveyance facilities in the Route 940 right-of-way. In addition to finalizing the required installation and maintenance agreement, there are some inconsistencies between the TPD and Bohler plans and some design issues that still need to be resolved prior to the Borough signing the permit application form. See the storm water comments in Item 9 below. It is recommended that for developments where the Borough must be the permittee for storm water improvements in the state highway right-of-way, the storm water facilities should be located on the developer's property and outside of the highway right-of-way to the maximum extent practical.

Permit in the name of the water company for the proposed water main crossing Route 940 at the driveway intersection. Note that this water line was not shown on the plans approved by the Borough in 2007.

Not addressed. The TPD plans submitted have not been reviewed by PennDOT. A technical review may raise additional access and stormwater comments that affect the plans. Condition.

Also, part of the motion is that the Planning Commission also recommends to Borough Council that it consider the extension of said plan for eight (8) months starting from October 2, 2018, to give the Applicant enough time to receive all its permits and comply with set conditions. Commissioner M. Pence seconded. Motion carried unanimously.

Petition for Zoning Ordinance Text Amendment – Sign Ordinance

Borough Council received a Petition for Zoning Ordinance Text Amendment and has asked the Planning Commission to review and comment on said Amendment. It was explained that this Amendment was presented by Attorney Craig Lewis who represents the Pocono Summit Realty c/o Mr. Lawrence Hirshland.

Attorney C. Lewis explained that the proposed Text Amendment would provide freestanding signage alternatives for Planned Commercial Developments. As applied to the proposed Shopping Center, the Text Amendment would reduce the overall number of freestanding signs permitted but provide for more useful information for the affected businesses and potential patrons.

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Vice Chair R. Dorkoski moved to recommend to Borough Council the following Text Amendment to the Sign Ordinance as follows:

ITEM 1

Chapter 215 Zoning, Section § 215-97 is hereby amended to add the following:

E. Alternative Freestanding Sign Option for Certain Planned Commercial Developments.

Planned Commercial Developments may, in lieu of the freestanding signs permitted in §§ 215-97.A & B, elect to install freestanding signs as follows: (i) one freestanding sign that identifies the development name; logo; developer; management; development location; address; and/or individual businesses within the development ("Directory Sign"); and (ii) one additional freestanding sign for each qualifying building not associated with a gas station identifying business(es) within such building(s) ("Freestanding Building Sign").

(1) Directory Sign Regulations. A Directory Sign permitted above shall comply with the following:

(a) Sign Area. The sign area shall not exceed 200 square feet;

(b) Sign Height. The sign height shall not exceed 25 feet.

(c) Individual Business Listing Size. The sign may include individual listings of businesses within the Planned Commercial Development. No individual business listing on the Directory Sign shall utilize letters, words and/or symbols less than 4 inches in height.

(2) Freestanding Building Sign Regulations. Freestanding Building Signs permitted above shall comply with the following regulations:

(a) Sign Area. The sign area shall not exceed 60 square feet.

(b) Sign Height. The sign height shall not exceed 20 feet.

(3) General Regulations for Directory and Freestanding Business Signs.

(a) Gas Station Signage. The freestanding signage permitted under this § 215-97.E shall be in addition to any freestanding signage permitted for any gas station within the Planned Commercial Development, provided however, that any gas station that is a part of a Planned Commercial Development that elects to proceed with freestanding signage in accordance with this § 215-97.E shall not be entitled to an additional freestanding sign otherwise permitted under § 215-92.B (company pole sign).

(b) Landscaping. Landscaping shall be provided for freestanding signage permitted under this § 215-97.E as required by § 215-81.A(6).

(c) Illumination. If illuminated, the freestanding signage permitted under this § 215-97.E shall be internally illuminated.

Commissioner V. Misuraca seconded. Motion carried unanimously.

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OLD BUSINESS

Proposed Chicken Ordinance

There was a lengthy discussion regarding the proposed Chicken Ordinance with the following items: under Appeals (3) the Zoning Hearing Board would not have any jurisdiction under this stand-alone Ordinance and with this being stated that *Zoning Hearing Board* should be omitted from this section. It was discussed that this Ordinance would protect both residents and the chickens. Enforcement of this Ordinance was also discussed, and it was suggested that chickens once registered would have to wear colored bands indicating who their owners are. Also, the amount of the fine should be investigated further.

It was agreed that Councilmember T. Ford will review the proposed Chicken Ordinance and bring an amended Ordinance to next month's meeting to be reviewed by the Planning Commission.

NEW BUSINESS

Proposed Fireworks/ Noise Ordinance Review

Chairman K. Kirkwood stated due to the lateness of the evening we will table the review of the proposed Fireworks/ Noise Ordinance until next month's Planning Commission meeting.

DISCUSSION

None

PROJECT UPDATES

None

LIAISON REPORTS

Borough Council

Councilmember D. Casole reported that the Bed & Breakfast Amendment was sent to the Monroe County Planning Commission for its review and the Hirshland project will be discussed at the August 20th Borough Council work session.

Zoning Hearing Board

None

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PUBLIC PARTICIPATION

There being no public participation and no further business coming before the Planning Commission, Commissioner V. Misuraca moved to adjourn at 9:30 P.M. Vice Chair R. Dorkoski seconded. Motion carried unanimously.

Respectfully submitted,

Diana Jackowski
Planning Commission Recording Secretary

DRAFT