

TO: Stony Creek Association Board
FROM: Janet Weithas
DATE: June 5, 2017
RE: Legacy Theater Planning & Zoning

The committee received an email on 5/30 from lawyer Tim Lee stating that there would be a meeting at Planning & Zoning on 6/1 regarding plaintiffs private parking and that all four lawyers will attend.

Committee, (Jake, Greg and Sam), did you advise anyone on the board or Dan Bullard of this email? If no, why not?

May I suggest that in the future Dan ask Tim Lee to cc him on all matters regarding the Legacy Theater so the board and association members are aware.

I am attaching copies of letters from First Selectmen Jamie Cosgrove dated 5/25/17 to Town Planner, Harry Smith, and a letter from Town Planner dated 5/26/17 to P&Z Commission. These letters were regarding the Legacy Theater and permanent parking from 4-8pm for the three plaintiffs and that it be put on their 6/1/17 Agenda under New Business.

These letters were forwarded to Dan Bullard on Tuesday 5/30 so that he could email the Association regarding the Planning & Zoning 6/1 meeting. Ted Ells also received a copy as Planning and Zoning did not advise him. Committee, did you receive this information and was it forwarded to Dan?

At this Planning & Zoning meeting on 6/1 the lawyers presented a packet of information to the Planning & Zoning committee and explained the permanent parking memorandum of understanding to the committee. Planning & Zoning said, we do not say no to the Memo of Understanding, and requested it go to the next RTM meeting on 6/14. Mr. Aniscovich, Town Lawyer, stated that the Police Department will not enforce the private parking permits, the plaintiffs will.

Can anyone on the Board or at this meeting explain how, why and when the parking of 4-8pm on Theater nights only, detailed in the 11/7/16 SCA Special Meeting minutes, were changed from 4-8pm permanent parking presented to the Planning & Zoning Commission on 6/1/17 by the lawyers.

It would be my recommendation that Ted Ells, Chair of Legal & Zoning, obtain a copy of the packet given to P&Z and the minutes pertaining to the parking from the 6/1 meeting so the Stony Creek Association can review before 6/14.

I have a question for Jim Walker. If the lawyers are not looking for the 4-8pm permanent parking to be an ordinance and present it as such to the RTM on 6/14/17, can the RTM okay this request at this meeting and it's all over? Or will it follow RTM procedure as outlined in the 5/2/17 SCA minutes. I believe an email should be sent out to the association as a reminder to attend the 6/14/17 meeting.

If the RTM does not okay the special parking permits it will then go back to superior court. At that time, again I suggest, the board remove itself as a plaintiff. If the board decides to stay on I recommend there be a vote to poll the residents on how they feel. This is our taxpayer monies going to the lawyers.

It appears that the board, the committee, and the lawyer are not on the same page when it comes to doing the right thing for the community as a whole. I believe that is your responsibility.

Regarding the Puppet House, how safe is it since nothing has been done in the interior since its purchase in 2013? Is the building a fire hazard to the community?



PLANNING AND ZONING COMMISSION

1019 Main Street, PO Box 150, Branford, CT 06405
Tel: (203) 488 - 1255, Fax: (203) 315 - 2188

**DRAFT AGENDA
PLANNING & ZONING COMMISSION
THURSDAY, JUNE 1, 2017
REGULAR MEETING 7:00 P.M.
BRANFORD FIRE HEADQUARTERS
45 NORTH MAIN STREET**

REGULAR MEETING 7:00 P.M.

PUBLIC HEARINGS:

1. 26 Cherry Hill Road LLC-Applicant & Owner
26 Cherry Hill Road
Zoning Map Amendment/Master Plan Amendment-
PDD Modification
Application #17-3.2
A/R on 3/16/17, PH opened 4/20/17, PH continued from 5/18/17
2. Joel Laub- Applicant
LAM Properties (Thomas Holeva)-Owner
998 West Main Street
Special Exception- Car Sales
Application #17-5.1
A/R 5/4/17, PH set for 6/1/17
3. Wayne Sandford- Applicant
Branford Electric Railway Association-Owner
46-52 Alex Warfield Road
Special Exception & Coastal Site Plan - Wood Shop
Application #17-5.2
A/R 5/4/17, PH set for 6/1/17

MINUTES: 05-18-17

CORRESPONDENCE:

OLD BUSINESS:

1. 35 Jefferson Road LLC ,c/o Jeffrey Brandfon (member)-Applicant & Owner
35 Jefferson Road
Special Exception- Storage Trailer
Application #17-5.9
A/R 5/18/17, PH set for 6/15/17
2. William C. Lyons-Applicant
Barbara R. Lyons-Owner
190 Damascus Road
Special Exception-Interior Lot
Application #17-3.4
A/R on 4/6/17, PH opened 5/4/17, PH closed 5/18/17, continued from 5/18/17

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3. William C. Lyons-Applicant
Barbara R. Lyons-Owner
190 Damascus Road
ReSubdivision-One (Interior) Lot
Application #17-3.3
A/R on 4/6/17, PH opened 5/4/17, PH closed 5/18/17, continued from 5/18/17
4. Stonewall Lane Associates LLC.-
Charles F. Shelton Jr. (Managing Member)-Applicant
Andrew Porto-Owner
10 Cedar Street
Special Exception Modification- Office Building
Application #17-5.4
A/R 5/18/17, PH set for 6/15/17
5. KIOP Branford, LLC-Applicant & Owner
1025-1091 West Main Street
Site Plan Modification- New Lighting
Application #17-5.5
A/R 5/18/17, Tabled to 6/1/17
6. Michael J. Bennett, (Bennett & Smilas Associates, Inc.-Applicant
101 North Branford Rd., LLC-Owner
101 & 115 North Branford Road
Special Exception- Industrial Building
Application #17-5.7
A/R 5/18/17, PH set for 6/15/17
7. David I. Scheer-Applicant & Owner
2 Spring Rock Road
Coastal Site Plan Modification
Application #17-5.8
A/R 5/18/17, Tabled to 6/1/17

NEW BUSINESS:

1. Vincent Chiocchio-Applicant & Owner
157-171 Thimble Island Rd
Special Exception Modification-Multi Family Residence
Application #17-5.10
To be A/R, PH to be set or waiver request approved
2. CGS Section 8-24 Granting Exclusive Rights to utilize designated parking spaces on a public road at certain times of the day related to a proposed Settlement Agreement with respect to litigation concerning the Legacy Theatre, Inc. (Thimble Islands Road).
3. Request for a bond release of \$3,717.00 for site improvement work located at 17 Sound View Heights.
4. Leslie Greengard & Janice Blustein-Applicants & Owners
45A Cocheco Avenue
Coastal Site Plan
Application #17-5.11
To be A/R

OTHER BUSINESS:

1. Planner's Report
2. R-1 Zoning Regulation Amendment Update



TOWN OF BRANFORD PLANNING AND ZONING DEPARTMENT

1019 Main Street, Branford, CT 06405 ☉ Tel: (203) 488 - 1255, Fax: (203) 315 - 2188

TO: Planning and Zoning Commission Members

FROM: Harry A. Smith, AICP *HAS*
Town Planner

DATE: May 26, 2017

RE: **Review of Proposal to grant Exclusive Rights to utilize designated parking spaces on a public road at certain times of the day related to a proposed Settlement Agreement with respect to litigation concerning the Legacy Theatre, Inc. (Thimble Islands Road) pursuant to Section CGS 8-24 of the General Statutes.**

Proposal: C.G.S. Section 8-24 referral to grant Exclusive Rights to utilize designated parking spaces on a public road at certain times of the day related to a proposed Settlement Agreement with respect to litigation concerning the Legacy Theatre, Inc. (Thimble Islands Road).

A letter regarding the proposal as well as a plan showing the areas regarding which Exclusive Rights are proposed to be granted is attached to this memo.

-APPLICATION DEADLINES-

Technically this is not an application, but a referral. The Commission is allotted 35 days after the "official submission of the proposal" by C.G.S. Section 8-24 to report on the referral (see statute excerpt below).

C.G.S. Section 8-24 is reproduced below:

Sec. 8-24. Municipal improvements. No municipal agency or legislative body shall (1) locate, accept, abandon, widen, narrow or extend any street, bridge, parkway or other public way, (2) locate, relocate, substantially improve, acquire land for, abandon, sell or lease any airport, park, playground, school or other municipally owned property or public building, (3) locate or extend any public housing, development, redevelopment or urban renewal project, or (4) locate or extend public utilities and terminals for water, sewerage, light, power, transit and other purposes, until the proposal to take such action has been referred to the commission for a report. Notwithstanding the provisions of this section, a municipality may take final action approving an appropriation for any proposal prior to the approval of the proposal by the commission pursuant to this section. The failure of the commission to report within thirty-five days after the date of official submission of the proposal to it for a report shall be taken as approval of the proposal. In

the case of the disapproval of the proposal by the commission the reasons therefor shall be recorded and transmitted to the legislative body of the municipality. A proposal disapproved by the commission shall be adopted by the municipality or, in the case of disapproval of a proposal by the commission subsequent to final action by a municipality approving an appropriation for the proposal and the method of financing of such appropriation, such final action shall be effective, only after the subsequent approval of the proposal by (A) a two-thirds vote of the town council where one exists, or a majority vote of those present and voting in an annual or special town meeting, or (B) a two-thirds vote of the representative town meeting or city council or the warden and burgesses, as the case may be. The provisions of this section shall not apply to maintenance or repair of existing property, public ways or buildings.

Plan of Conservation and Development (POCD):

While the Commission is not limited in its review of a C.G.S. Section 8-24 referral to information provided in the POCD, there is nothing specific regarding the granting of Exclusive Rights for parking on town roads or highways in the POCD.

CONSIDERATIONS FOR ACTION:

Although the Commission has thirty-five days to provide a report on the referral, the provision of a response as soon as possible has been requested to fit within the parameters of the on-going settlement process of the legal appeal noted in the First Selectman's May 25th letter.

BOARD OF SELECTMEN

BRANFORD, CONNECTICUT



JAMES B. COSGROVE
First Selectman

JOSEPH E. HIGGINS, JR.
JOHN J. AHERN

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May 25, 2017

Mr. Harry Smith, Town Planner
Planning and Zoning Office
Branford Town Hall
P.O. Box 150
Branford, CT 06405

Dear Harry:

In July 2014 the Town's ZEO approved a Tenant Fit-Up application submitted by Legacy Theatre, Inc. (Legacy) respecting 128 Thimble Islands Road. That decision was appealed to the Zoning Board of Appeals, which appeal was denied by the ZBA on November 18, 2014.

In January, 2015 the Stony Creek Association (the "SCA") and four individual property owners, Eleanor and James Stach, Robert E. Alling, Jr. and Joan P. Johnson, (together, the "Individual Plaintiffs") appealed that denial to the Superior Court.

Since that time, Legacy, the SCA and the Individual Plaintiffs have engaged in lengthy negotiations to settle the appeal. Recently, the SCA voted to approve a draft settlement agreement which also has the support of the Individual Plaintiffs. The agreement was subsequently submitted to Town Staff (including the Town Engineer, Town Planner, ZEO, Police Chief, Fire Chief, and Fire Marshal) for review and comment.

The proposed settlement agreement includes a provision that would grant to certain individual property owners an exclusive right to utilize designated parking spaces on a public road at certain times of the day. Accordingly, pursuant to Section 8-24 of the Connecticut General Statutes I am referring this proposed settlement agreement to the Commission and request that it be placed on the agenda for consideration at the next regularly occurring Commission Meeting.

Thank you.

Very truly yours,

James B. Cosgrove
First Selectman