

Subject to Approval

MADISON PLANNING AND ZONING COMMISSION REGULAR MEETING MINUTES March 18, 2021

The Regular Meeting of the Madison Planning and Zoning Commission was conducted Thursday, March 18, 2021, at 7 p.m., remotely, using Zoom Videoconferencing. The public was invited to participate remotely by joining the meeting through a Zoom webinar link password, telephone call-in number, and a webinar identification number. Log-in and call-in details were posted to the Town of Madison website (<https://www.madisonct.org/>), prior to the meeting.

MEMBERS PRESENT

Chairman Ronald Clark, Vice Chairman James Matteson, Secretary Elliott Hitchcock, Thomas Burland, John K. Mathers, Joseph Bunovsky, Jr., Giselle Mcdowall, Seonaid Hay, and Joel Miller.

MEMBERS ABSENT

None.

ALTERNATES PRESENT

Peter Roos, Ron Bodinson and Carol Snow.

OTHERS PRESENT

Director of Planning and Economic Development David Anderson. The meeting was recorded via Zoom Videoconferencing software for You Tube viewing.

The Regular Meeting of the Madison Planning and Zoning Commission was called to order at approximately 7 p.m. by Chairman Ronald Clark.

PUBLIC HEARING ITEMS:

20-16+CSP. Longshore Lane. Map 25, Lot 74-1. R-2 District. Owner/Applicant: Shorelands, LLC. Subdivision application to divide 22.38 acres into 5 lots. Also, Coastal Site Plan Review. Continued from February 18, 2021. **Tabled to April 15, 2021.**

21-03+CSP. 856 Boston Post Road. Map 39, Lot 8. R-2 District. Owner: Faith Whitehead; Applicant: 856 Boston Post Road LLC. Special Exception Permit Application to construct a single-family residential cluster development and associated site improvements, Also Coastal Site Plan Review.

Chairman Clark stated that in spite of his reasonable proximity to 856 Boston Post Road, with his residence on Scotland Avenue, he has no predisposition to the outcome of this application. In addition, the Planning and Zoning Commission has received a petition to intervene, from Attorney Keith Ainsworth, on behalf of William and Laurie Downes, and a motion to accept the petition would be needed.

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Chairman Clark made the motion to accept this request to intervene from Attorney Keith Ainsworth, on behalf of William and Laurie Downes; it was seconded by Vice Chairman James Matteson and unanimously approved.

Vote to accept the request to intervene passed, 9-0-0.

IN FAVOR: Chairman Clark, Vice Chairman Matteson, Secretary Elliott Hitchcock and Commissioners John K. Mathers, Thomas Burland, Giselle Mcdowall, Seonaid Hay, Joseph Bunovsky, Jr., and Joel Miller.

OPPOSED: None.

ABSTAINED: None.

Director of Planning and Economic Development David Anderson stated that this is the first opportunity to hear this application; the Planning and Zoning Commission did a site walk in small groups outside of a quorum. The procedure for the public hearing was outlined, as follows: the applicant gives the presentation; the commission asks questions; the intervener asks questions and introduces evidence; the commission asks questions of the intervener; the hearing is then opened to the public for questions, during which hands are raised to be recognized; once chosen to speak, those asking questions are to identify themselves, then speak; and after all questions are asked, the commission asks the public to speak in favor of or in opposition to the application. Chairman Clark stated that there are two presentations, this evening, and it will be impossible to close the public hearing and for the Planning and Zoning Commission to deliberate and make a decision, tonight. The Planning and Zoning Commission needs a comprehensive report from the Inland Wetlands and Watercourses Agency, which meets April 5, 2021, and since the commissioners will be unable to deliberate or even decide the application, Chairman Clark stated that the public hearing could go until, perhaps, 9:30 p.m., and then be continued to the April 15, 2021 Planning and Zoning Commission meeting. Mr. Anderson opened the session to Attorney Keith Ainsworth, who stated that he would prefer to defer from public comment. Mr. Anderson invited Attorney Christopher McKeon, representing 856 Boston Post Road, LLC, to speak. Mr. McKeon stated that first a presentation of the application would be made and once finished, questions would be answered, then the intervener would make his presentation, conclude, and then answer questions. Mr. Ainsworth stated that the public is here to hear the application, not the intervener, and there is still information to be seen, so it is not possible to finish, tonight. Chairman Clark stated that he does not want to veer away from the public hearing process, adding that it is on the safe side to proceed as the Planning and Zoning Commission would normally proceed.

Property Owner Faith Whitehead has owned the site for 35 years, and 856 Boston Post Road, LLC, is a family operation, according to Mr. McKeon. Application presenters would include, Licensed Professional Engineer Michael Ott, Architects Greg Nucci and Kelsy Janus, Landscaper John Cunningham, and Explosives Expert Richard Hosley. The application is for a special exception permit for a small cluster development, governed by Section 3.12 of the Madison Planning and Zoning Regulations; the application also includes a coastal site plan review application, which has also been submitted, according to Mr. McKeon. The application meets all requirements, including that of Section 4, governing the process involved in obtaining a special exception permit, requirements of the Downtown Village District (DVD), and those of the site plan review, in the general requirements, according to Mr. McKeon. The application appeared before the Inland Wetlands and Watercourses Agency on March 1, 2021, and that public hearing will resume April 5, 2021, according to Mr. McKeon, who also stated that the

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application was presented before the Advisory Committee on Community Appearance (ACCA) on March 9, 2021, where it was agreed to take on ACCA's recommendations and incorporate its comments, in order to return on April 3, 2021. Finally, the application will return to the Planning and Zoning Commission on April 15, 2021, with recommendations from the Inland Wetlands and Watercourses Agency and ACCA. Mr. McKeon stated that the intervention complaint was received today, and the team of 856 Boston Post Road, LLC has not had a chance to review or digest it, but the intention is to make formal comments, with regard to the intervention complaint, according to Mr. McKeon. In being aware of letters of opposition and opposing comments in the media, Mr. McKeon stated that the other intention for the evening is to dispel some of the obvious misinformation and the inaccuracies of what, through this application, the applicant hopes to do and that the people will have a better understanding of the facts of this application, which was submitted on Feb. 19, 2021. Prior to the submission, the applicants conducted a neighborhood outreach, meeting with neighbors on Feb. 17, 2021, wherein Mr. McKeon stated that he personally volunteered to be a recipient of input from the neighbors, with plans to satisfy concerns about the application, some of which were about water service and the potential for blasting. When they met, Feb. 17, 2021, there was no indication an engineer's report had been submitted by the neighbors, according to Mr. McKeon, who stated it was later found that the summary report from the engineer was dated Feb. 15, 2021, and that 856 Boston Post Road, LLC had not yet even filed its application, as of that date. He stated that he hopes to clarify and set the record straight on what the application means. The order of presenters, according to Mr. McKeon, will be Greg Nucci and Kelsy Janus, architects; Michael Ott, engineering; Richard Hosley, rock removal and blasting aspects; and John Cunningham, landscaping plan, with concluding remarks being given by himself. Architect Greg Nucci shared the architectural plans and drawings and explained the process involved in documenting what has to be done, in order to submit the application to the Planning and Zoning Commission. Plans are to retain the historic fabric of The Ledges home, as it exists; it is a colonial revival, which will be made into two dwelling units, with a great lawn out front, and two two-car garages, according to Mr. Nucci, who stated that they came up with this carriage house concept that would compliment this type of colonial revival structure. There is a lot of ledge and a lot of exposed stonework, classical columns, and stonework on the structures, along with a parking court, surrounded by garage spaces; units will be designed so they have their own autonomy, according to Mr. Nucci. The design is all supportive of the main house; planting beds are proposed, with a small tool shed, and a garage with an apartment above, which currently exists on site, will be removed, according to Mr. Nucci. Being proposed is the Gate House, with two units, the existing Ledges building with the garage out front and two units, for a total of seven units; there are a lot of trees on site, as well, according to Mr. Nucci. An existing stairway to The Ledges is going to be retained and embellished; units meet the zoning requirements of being under 2,200 square feet, and all height requirements are met, according to Mr. Nucci, with each unit being described as two-car garage, kitchen, dining room, living room, and bedrooms upstairs. Mr. Nucci also showed an elevation drawing of the existing Ledges building. With plans entitled "The Ledges of Madison," Mr. Nucci explained that the intention is to keep the historic details of The Ledges building, the estate residence, with accommodations made for building and fire safety codes. He showed the floor and building site plans for Units 4 and 5, described as "mirror units," and stated that Units 4, 5, 6 and 7 are identical, except for an ability to have a walk-out cellar in Unit 5; dormers will be used to break up the façade and give some character. In terms of rock removal, no finished basements are planned—there will be crawl spaces and spaces for mechanicals, according to Mr. Nucci. A list of building materials has been presented to ACCA, he stated. Mr. Nucci also presented three dimensional drawings of the

structures on the site; none of the other buildings, with the exception of the Gate House, will be visible from the road. In sharing the “Carriage House Concept Content Plan,” Mr. Nucci stated that fronting Boston Post Road are these large, residential structures—single family homes—and in an overhead view on Google Maps, which Mr. Nucci presented, The Ledges is surrounded by a very heavily wooded forest of trees, which serves as a buffer to adjoining property owners. Licensed Professional Engineer Michael Ott showed the site plan aspects of the project, bordered by Birnbaum Lane and the Boston Post Road. All utility work and roads will require state of Connecticut and town of Madison approval; gas, electrical power, and water will be supplied to the development, according to Mr. Ott, who stated that a new water main will be constructed and tapped into an existing one, which is on Birnbaum Lane. Gas, power and water utilities will go up the existing driveway, and the driveway design will have the proper width to accommodate emergency trucks and vehicles; information sought from the fire marshal is expected to be presented at the continued public hearing; storm water runoff will go to the lawn and not to the neighbors to the west; leaching fields for all four main buildings will be in the lawn area, according to Mr. Ott, who stated that there are leaching fields in that lawn area, today, that will be removed, as well as septic. Soil testing has determined that the soils are very consistent and suitable for septic systems and sewage disposal, Mr. Ott stated, and he then explained the technical details involved in using gravity for the septic system and leaching fields operation, which includes a septic tank and an effluent pumping station. There is a private water main from the 1800s that connects to one on Birnbaum Lane for the estate house and also the carriage house, but the water company has very little record of what was on site, Mr. Ott stated, adding that the applicants did land records research, looked at deed easement agreements, and provided that to the water company, as well as all of the plans. This resulted in an agreement as to the alignment of and how these building will be connected, according to Mr. Ott. No surface water drainage patterns will be changed; it will enter a subsurface storm water drainage system that meets the requirements of the state of Connecticut Department of Energy and Environmental Protection (DEEP) storm water manual, according to Mr. Ott. He introduced Richard Hosley, who will talk about the rock removal aspects associated with this application. Mr. Hosley of The Hosley Companies stated that he was hired by the applicant to do a preconstruction assessment. He gave a PowerPoint presentation, with photographs, showing the rock and ledge on the site, the perspective of the existing ledge compared to the size of a shopping bag, the stone walls, and stated that The Ledges is a beautiful, beautiful piece of property. The Ledges consists of a type of rock known as The Waterford Group, granitic gneiss, which has predictable splitting and cleavage, according to Mr. Hosley. There is evidence of stone production on the site, and photographs showed the northwest corner of the property, pre-existing joints, and prominent joints. Domestic stone production probably took place, because it was so acceptable to the tools of the 1900s, according to Mr. Hosley, who displayed a number of job sites throughout Connecticut where various types of blasting took place, particularly cushion blasting, wherein such techniques protected a number of adjacent structures, including a historic church. Mr. Hosley stated that he sought information from the fire marshal’s office regarding problems that developed during blasting; 49 blasting permits were issued in the town of Madison in the last 10 years, and no blasting permits were revoked, but there was one investigation. Photographs of blasting projects in the town of Madison were also shown involving residences along Middle Beach Road and Copse Road, as well as at Amtrak Railway, Fort Path Road, including one residence, where horses were in a pen at the time of blasting, and no harm came to them, according to Mr. Hosley. One slide depicted Pre-Blast Planning Guidelines, which are followed to allow explosives professionals to not only maintain their licenses and insurances but to also ensure they are able to continue working in the field; Mr. Hosley stated that he carries \$5 million

in insurance. Mr. Hosley explained the technical details involved in the creation of pre-blast designs, which contain a number of mitigation efforts relative to over fracturing, ground control, air blast, and vibration, with vibrations having a number of features, such as wavelength, amplitude, frequency, and speed. Vibration and sound levels are documented with a seismograph, geophone, and a microphone, according to Mr. Hosley. A vibration data accumulation plan will be generated based on practical, “close-in” site specific blasting distances, he stated. The safety of a blasting operation depends on reviewing the qualifications of responsible individuals, the licensing and permitting on the federal, state, and local levels, having a \$5 million insurance policy, and experience—5 years minimum with close-in blasting, according to Mr. Hosley. He stated that he believes rock blasting can be conducted safely and should not disqualify this project. Landscaper John Cunningham showed the overall site plan for The Ledges. Two trees on state property will remain; the large lawn area is the septic area, and it will remain a green area; in Unit 1, “The Gateway Project,” no trees will be removed, with the exception of one larger beech tree, to get to the septic; there is a sidewalk on Birnbaum Lane; and at the existing Ledges, a bluestone terrace will remain, and existing plant material within this area will have to be removed, but it will be replaced with ornamental trees and shrubs, according to Mr. Cunningham. The west perimeter wraps around Unit 6 and 7, and all of these units open up to the circular parking area, which has 19 parking spaces, and at the main house, there will be two new additional stone walls. A garden area is proposed, along with a small storage section; the majority of the lighting is attached to the units, themselves, and there will be no post lights or bollards, or any type of extra illumination, according to Mr. Cunningham. The Gate House has one or two ornamental trees, low ground cover, a patio, terrace, deck attached to the unit, a bluestone landing, and permeable bluestone out to the driveway, he stated. Plans are to run a low plunge pool in one of the existing planting beds. Mr. Cunningham showed a photograph of three trees at a neighbor’s residence that are not on the proposed development site. The garden area will have three raised steel garden beds that sit on a washed, permeable stone, and plans are to fence that garden in, according to Mr. Cunningham. At the conclusion of the development presentation, Mr. McKeon stated that this small cluster development is permitted in the R-2 zone, and it is encouraged by the Plan of Conservation and Development; the regulation has been a part of the Madison Planning and Zoning Regulations since 2018, in Section 3.12, and it came as a result of the Plan of Conservation and Development recommending diversity in housing, housing for the elderly, and housing that requires little maintenance. This application meets every requirement of Section 3.12, having one unit per 10,000 square feet, and Mr. McKeon stated that, to him, it is a very modest increase in density. The parking requirements have been met, and the orientation promotes a sense of community; a stately home is being preserved and maintained, and the development provides a very nice community to live in, Mr. McKeon stated, adding that open space requirements are also being met, as well as the requirements in Section 4.11, regarding special exception permits. The proposed development is what the Planning and Zoning Commission had in mind, when Section 3.12 was created; an overall egregious nonconforming building will be removed from the site, and the public welfare and convenience of these plans provide a development that the town will be proud of, according to Mr. McKeon. While some have proposed not providing the small cluster development at 856 Boston Post Road, but instead considering other options, such as Academy School or Island Avenue School, proposals for Academy School were met with opposition, and Island Avenue School does not meet zoning regulation requirements for a small cluster development, according to Mr. McKeon. This application follows the Plan of Conservation and Development, and it meets all requirements, Mr. McKeon stated. Letters in opposition present misunderstandings, factual inaccuracies, or gross exaggerations, such as the light, the noise, and the traffic will

completely ruin the tranquility of the neighboring properties; the town changed the zoning rules without involving the affected, despite public hearings to create Section 3.12; and this development represents the condonation of Madison, Mr. McKeon stated. However, the concept of a condominium is based on ownership, and it is not a zoning matter, he stated. This application seeks to create seven dwelling units on the property, and it could be a condominium, it could be rented, or it could be a planned community, according to Mr. McKeon, who added that it is inaccurate that the property owner is subdividing the property for a money grab. These plans provide a unique and diverse housing option for people downtown, he stated. Regarding blasting comments—the focal point is the owner’s own house, and it contains the two most important units, Mr. McKeon stated, adding that a blasting plan is a prerequisite to be filed with the town of Madison, and the applicants can consider eliminating crawl spaces for slab on grade; the applicants are happy to address that with an appropriate condition to the approval. Regarding the comment that the development does not match the neighborhood, a number of very skilled architects is involved in this project, there is only going to be one building visible from the street, and Mr. McKeon asked that ACCA, which thought the plan was a great idea, be the judge of what matches the neighborhood. This project is architecturally consistent with the historic character of the site; the historic home on this site is being preserved, protected and maintained; and the property is not in the historic district, but it is a really good example of historic preservation, Mr. McKeon stated. Adding five more dwelling units to the site, for a total of seven units, brought opposition regarding the impact on wildlife, noise, traffic, wetlands, and storm water runoff; wetlands is being addressed by the Inland Wetlands and Watercourses Agency, the septic system is regulated by the health department and the state Department of Health and is not a Planning and Zoning Commission issue; and, regarding wildlife, this property has a 170-foot frontage on the Boston Post Road, and the development is not being constructed in the middle of the forest; in terms of noise, traffic, and activity, there is already noise, traffic and activity on the Boston Post Road, according to Mr. McKeon. While the opposition could be a reaction to small cluster development, it is recommended in the Plan of Conservation and Development, and anyone could ask for a change to be made—anyone could say they do not want small cluster developments and ask that the Plan of Conservation and Development be changed to reflect that desire, according to Mr. McKeon, but no one has done that. Regulation amendments are routinely proposed before the Planning and Zoning Commission, and people could have made an application to the Planning and Zoning Commission to limit small cluster developments, where they are placed, add modifications, or make changes to Section 3.12, but no one did that, Mr. McKeon stated. If the Planning and Zoning Commission denies this application on those grounds, then it is really saying that it is going to ignore Section 3.12; this application meets the regulations and brings forth a project recommended by the Plan of Conservation and Development, according to Mr. McKeon. As a citizen of the town of Madison, Mr. McKeon stated that he is embarrassed at citizens’ behavior—if they do not like the project, they may speak out, but directing venom to the applicant or her family is not appropriate and should stop. At 9:28 p.m., Chairman Clark stated that the Planning and Zoning Commission would spend 15 minutes entertaining questions from the Planning and Zoning Commissioners and then draw the hearing to a close. Vice Chairman Matteson asked whether doors could be placed in the two garages that support the main building, in the event the garage doors fail to function, and someone is inside the garage; he also asked if there is a plan to have a homeowners association to maintain the buildings. There are no doors shown on those two garages, but they could be added on the sides, Mr. McKeon stated, and there will be an association of some type, whether it is a planned community or a condominium, and an association would share the preservation and maintenance of the site. Commissioner Mathers asked whether the retention

system, being designed to retain one inch of storm water, would be able to handle more than the one inch. What is shown on the plans handles the runoff quantity of around 90 percent of Connecticut's rainfall events, according to Mr. Ott; they are currently looking at and reviewing the town's regulations to see whether this type of development merits handling more than one inch of rainfall events. Regarding the blasting, Commissioner Mathers asked how often is an error or miscalculation made that has unintended results. Mr. Hosley stated that the focus was to assess whether or not blasting can occur, by doing a pre-blast plan, which requires a pre-blast survey; this will help to inform the blasting limits. Commissioner Mathers also asked Mr. Hosley how often, in his line of work, errors happen. Mr. Hosley stated that he contacted the fire marshal's office, and there were 48 blasting permits issued by the town of Madison, in the last 10 years, and just one investigation; if there is an accident, the license is revoked, or the permit is revoked; to obtain a blasting permit, one must present insurance of \$5 million for the state of Connecticut and the federal government. Commissioner Hay asked if the proposed blasting site is just in the rear. Mr. Hosley stated that he has identified that the crown in the driveway has to be lessened three and a half feet; there may or may not be much blasting in the area of second reference, to install a slab-on-slab or a crawl space, which is the carriage house to the southwest corner, within a short distance of an existing stone wall. In addition, regarding sanitary lines that will mitigate to the existing septic system, Mr. Hosley stated that he has persuaded Mr. Ott to move those, but there will be some excavation there, and there are prominent joists in that wall, which will allow blasting. With no other questions from the Planning and Zoning Commission, Chairman Clark asked Mr. Ainsworth if he has any questions or comments. According to Mr. Ainsworth, in his 30 years as an attorney, he has never had an applicant make the assumption and characterization of comments, in advance of those waiting to speak and the intervener, and then speak for them. Mr. Ainsworth stated that he represents William and Laurie Downes, and others, and it is a growing group consisting of 21 neighbors and residents; they are very cognizant of what the rules are. Furthermore, Mr. Hosley has not dug enough test pits for blasting, and there is a lot missing from the application—there is a great deal of information missing from the storm water calculation; the buildable area on this lot is much smaller than what is necessary for these seven buildings to go in; and it is also questionable whether it is allowable, because it does not meet the 500-foot setback from the adjacent zone, according to Mr. Ainsworth. The units in the back qualify as a cluster, but the one in the front is not part of the cluster—it faces sideways, and all the others face the street, according to Mr. Ainsworth. Condominium is a laymen's generic term; it is a common interest community, densely put together, Mr. Ainsworth stated. The development presentation took two and a quarter hours in length, Mr. Ainsworth stated. There was this statement that there should stop being attacks made on Ms. Whitehead and her family, but Mr. Ainsworth said he has not done that, himself, nor have his clients; they have put signs on their property, which is their First Amendment right. Chairman Clark thanked Mr. Ainsworth and stated that he realizes Mr. Ainsworth needs time to review all that has been presented; he also stated that the Planning and Zoning Commission wants to hear from every member of the public, and he apologized for not having been able to do so during the evening. Chairman Clark called for a motion to continue the public hearing.

Secretary Hitchcock made the motion to continue the public hearing to April 15, 2021; it was seconded by Commissioner Mathers and unanimously approved.

Vote to continue the public hearing to April 15, 2021 passed, 9-0-0.

IN FAVOR: Chairman Clark, Vice Chairman Matteson, Secretary Hitchcock and Commissioners Mathers, Burland, McDowall, Hay, Bunovsky, and Miller.

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OPPOSED: None.

ABSTAINED: None.

21-04 DVD. 40 and 48 Wall Street. Map 38, Lots 36 & 38. D District/DVD. Owner: White Rabbit LLC; Applicant: William Plunkett. Site Plan Review Application to permit a 30' x 60' framed tent be utilized for a stand-alone, seasonal "pop-up" restaurant. Additionally, permission is being sought to hold a total of six (6) outdoor movies and live music events one night per week.

Applicant William Plunkett stated that this is similar to last year; he is requesting to place a 30' by 60' interim tent to help overcome the vacancy he has experienced with the Covid restrictions. He would like to do a pop-up bar restaurant to supplement the seating they would already be losing with the restrictions; they will be at 50 percent capacity through the season and the summer. Restrictions are calling for six feet apart in restaurants, which Mr. Plunkett stated that they just do not have; the 125 person capacity gets reduced to 60 people, with the pandemic restrictions, and the bar comprises 40 percent of the business, but there is no bar standing, and they can only use half of the bar stools. He would like to be able to use the tent from May 15, 2021 or June 1, 2021 to October 15, 2021 or late October. Mr. Plunkett stated that most of the food would be cooked inside at Moxie, and outside the tent, in the smoker. Parking would be provided by taking the front lawn, which is currently grass, and adding 15 spaces, plus handicapped, by cutting into the existing lawn, and using processed stone, so it will not be a hard surface, according to Mr. Plunkett, who showed the site plan. A couple of movies were presented, last year, and they went off without a hitch, Mr. Plunkett stated. All Covid restrictions are followed and adhered to, Mr. Plunkett stated. Chairman Clark questioned the necessity of adding the parking spaces, this year. If the Planning and Zoning Commission would rather the parking not be added, then it will not be done, according to Mr. Plunkett. The governor allowed outdoor seating at restaurants, to get them as close to capacity as possible, which Mr. Plunkett's business was allowed to do, according to Chairman Clark, who stated that it seems Mr. Plunkett is trying to increase the size of Moxie with the tent. If Covid restrictions would go away, Chairman Clark asked if Mr. Plunkett would still open up the tent, and Mr. Plunkett responded in the affirmative. Chairman Clark questioned whether the commissioners are looking at an expansion of a business. The parking is clearly a violation of Section 8.4 of the parking regulations, Chairman Clark stated, asking how placing parking in a front yard could be justified. Section 8.4 does not permit front yard parking, Chairman Clark stated. Commissioner Mathers questioned whether Mr. Plunkett is considering this an ongoing relief of Covid restrictions, being still subject to the six foot apart restrictions, so, in a sense, there are still Covid restrictions, and Mr. Plunkett stated, "Yes." It may be that the Covid pandemic and restrictions go on next year, Mr. Plunkett stated, requesting that perhaps the commission could allow him to do it for one year, and then see what happens, adding that he will never recover from Covid. That type of parking is not allowed, and it is a distraction to Wall Street, all of the parking is in the rear, by design, Chairman Clark stated; it appears as though there is an attempt to create a new restaurant structure with a tent—to take a temporary tent and make it a permanent part of the landscape. Alternate Commissioner Carol Snow stated that she rode by the site on her bicycle, and she thinks the commissioners should all go to take a look at the property—it is kind of a hodge podge down there. Mr. Plunkett stated that he thought this was a good, interim thing to do; it brings vibrancy to the downtown, providing interest and fun. Chairman Clark asked whether a site walk could be scheduled before the next meeting, and Mr. Anderson agreed that one could be scheduled; Mr. Anderson also stated, that for Mr. Plunkett's benefit, the

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commission should continue the application into the commission's next meeting, which is the planning meeting, in early April. Questions were asked about the movies, and how, in the summer, when the days become longer, would Mr. Plunkett address the fact that the movies would start later and end later in the night. Commissioner Bunovsky stated that he has experience in this area, and the movies could be shown in the daylight, just by changing the type of projector being used; Mr. Plunkett could literally run a movie before sunset, if he wanted to, though the projector would be expensive. Commissioner Mathers asked why the additional parking was not required, last year. Mr. Anderson stated that a fully operational restaurant and a fully operational adjunct restaurant require the parking, in the Planning and Zoning Regulations. Commissioners discussed other options that could be used for parking, during the 4:30 p.m. to 9:30 p.m. hours of operation, such as behind the United States Post Office, and Commissioner Mathers stated that he is not even sure why parking is an issue. Mr. Anderson stated that the Planning and Zoning Commission does have the ability to waive the parking, for a variety of reasons, such as the commission feels there is ample parking in the area, or shared use of the two properties could accommodate parking. If this is a response to Covid, and they are trying to preserve a business for the 2021 season, then Commissioner Mathers stated that he would entertain the idea of waiving the parking. A member of the public, Nancy Karas, was seeking to speak, according to Mr. Anderson, and permission was granted. As a local, small business owner, Ms. Karas stated that there is a need to look at the impact Covid has had on small businesses in the community, and she stated that whenever there is an event, it has done nothing but drive people downtown, in a very positive way. What the Planning and Zoning Commission is talking about doing, now, is a concession to small business, Chairman Clark stated. Mr. Anderson explained that Mr. Plunkett is requesting a permanent approval, and when a site plan review application approval is being sought, that approval is in perpetuity, so, 40 years from now, or 50 years from now, there could be a restaurant in a tent on that site. The request asks for approval for this, going forward; the commission is going to be working with Mr. Plunkett to provide a good outcome, Mr. Anderson stated. What has to be decided is whether this should be conditionally approved for one year, Chairman Clark stated. Local resident Lurrae Lupone stated that she has very mixed feelings about the conversation with the tent; she did have the experience of hearing this from her home; she is not in favor of the parking, because she thinks it diminishes Wall Street; it is noisy to homes in the area, and she wondered if participants would bring their own alcohol, if the events are done outdoors. Mr. Plunkett stated that the hours would be 4:30 to 9:30 p.m., Thursday to Sunday, and not open on Monday, Tuesday, or Wednesday. No one would be able to bring their own alcohol; they would have to buy it from Moxie and be of legal age, as was done last year, and there were no issues, according to Mr. Plunkett. The tent is cordoned off, he stated. Proposed are the pop-up tent hours, the movies would be on Monday and Tuesday nights, and the music would be one day a week, Mr. Plunkett stated, adding that the tent will not be open as long as the restaurant, and in terms of the restaurant, people are usually out by 10:30 p.m. In the five to six years he has been open, Mr. Plunkett stated that he does not think that they have had more than half a dozen complaints. Ms. Lupone stated that she is aware of all of it—the music tends to be quite loud, and the aftermath of guests, she hears them on the street. From her bedroom, she hears the parking lot activity, and she stated that she just does not feel the tent is appropriate on Wall Street, that being a permanent installation, going forward. Mr. Plunkett stated that the parking activity could be from anywhere; the tent is not permanent; it is taken down in October and goes up in June; but she has valid points. This is well said and well taken, Chairman Clark stated. The Planning and Zoning Commission is not looking at saying no; commissioners are trying to find a way to accommodate this request, so that it does not go into perpetuity, Chairman Clark stated. Commissioner Bunovsky stated that this town

does not have a noise ordinance, and, as in other towns along the shoreline, the general rule is that anything that happens after 10 p.m. is too much; in Mr. Plunkett's situation, that can be accommodated. Commissioner Bunovsky stated that he knows Mr. Plunkett would not want to upset the public. Regarding the music, last year, it consisted of a string quartet one time and two guitar players, another time; if problems develop, the solution is to turn the lights off and stop serving the drinks, according to Mr. Plunkett.

Commissioner Bunovsky made the motion to continue the public hearing to April 1, 2021 and to schedule a site walk; it was seconded by Commissioner Mcdowall and unanimously approved.

Vote to continue the public hearing to April 1, 2021 and schedule a site walk, passed 9-0-0.
IN FAVOR: Chairman Clark, Vice Chairman Matteson, Secretary Hitchcock and Commissioners Mathers, Burland, Mcdowall, Hay, Bunovsky, and Miller.
OPPOSED: None.
ABSTAINED: None.

APPROVAL OF MINUTES: Regular Meeting ~ February 18, 2021 and Planning Meeting ~ March 5, 2021. Postponed to next meeting.

REMARKS: Commission Chair ~ None.
Director of Planning & Economic Development ~ None.

ADJOURNMENT

Commissioner Miller made the motion to adjourn at 11:04 p.m.; it was seconded by Commissioner Burland and unanimously approved.

Vote to adjourn at 11:04 p.m. passed 9-0-0.
IN FAVOR: Chairman Clark, Vice Chairman Matteson, Secretary Hitchcock and Commissioners Mathers, Burland, Miller, Bunovsky, Mcdowall, and Hay.
OPPOSED: None.
ABSTAINED: None.

Respectfully submitted,
Marlene H. Kennedy, clerk