

**Montville Planning & Zoning Commission**  
**REGULAR MEETING**  
**December 12, 2023 - 6:00 p.m.**  
**Town Council Chambers – Town Hall**  
**310 Norwich-New London Turnpike, Uncasville, CT 06382**

**MEETING MINUTES**

1. **Call to Order.** Chairperson Lundy called the meeting to order at 6:00 p.m.
2. **Pledge of Allegiance.** All rose for the Pledge of Allegiance
3. **Roll Call.** Present: Chairperson Sara Lundy, Vice Chairman Wills Pike, Secretary John Desjardins and Commissioners Chuck Longton, John Poole, and Joseph Summers. Absent: Commissioners John Estelle and Joshua Kobyluck. Also Present: Director of Land Use and Development Liz Burdick, Assistant Planner Meredith Badalucca, and Zoning and Wetlands Officer Stacy Radford.
4. **Additions or Changes to the Agenda.** Director Burdick requested that New Business Item 9a, 23 ZC 4 for Zoning Regulation Text Amendments as listed, be amended to add Section 4.11.14 to the list.

**MOTION (Desjardins/Pike) to APPROVE the requested amendment to New Business Item 9a, 23 ZC 4 for Zoning Regulation Text Amendments, to add Section 4.11.14 to the list of Sections to be amended. All in favor (6-0-0). MOTION APPROVED.**

5. **Minutes:** Approval of the November 14, 2023 Regular Meeting Minutes.

**MOTION (Longton/Summers) to APPROVE the minutes of the November 14, 2023 Regular Meeting. All in favor (6-0-0). MOTION APPROVED.**

6. **Remarks from the public not relating to items on the agenda.**

Attorney Harry Heller of Heller of Heller & McCoy with an office at 736 Route 32, Uncasville, CT addressed the Commission regarding the proposed settlement of the litigation of Richard George v. Town of Montville Planning and Zoning Commission that was approved by the Commission at its 11/14/23 meeting. He stated that a date has been set by the Superior Court for a hearing on January 17, 2024 at 2pm at 70 Huntington Street, New London to consider approval of the settlement and it is open to the public.

Attorney Jon Chase, with an office at 34 Church Street, Mystic, CT, stated that he represents Richard George and thanked Attorney Heller for bringing the matter to the Commission's attention. He reiterated the date and time of the Superior Court hearing.

7. **Public Hearing/Discussion & Decision:**

- a. **Public Hearing: 23 SUB 1 – 958 Route 163 (Parcel ID 046-008-000), Oakdale, CT – Owner/Applicant: The Nevar Company / Dean Fiske for a proposed 1-Lot Resubdivision.** *(Submitted 7/26/23, Date of Receipt 8/22/23, Public Hearing Opened 9/26/23, Cont. to 12/12/23 with 28-day ext. granted. PH must close by 12/12/23).*

Director Burdick read the list of new exhibits (51-57) into the record as follows:

51. Town Engineer Comments dated 11/16/2023

52. Town Engineer Comments dated 12/4/2023
53. Access Easement Rec'd 12/4/2023
54. Town Attorney Comments dated 12/5/2023
55. Revised re-subdivision Plan, dated 12/4/2023 and Rec'd 12/5/2023
56. Town Engineer Comments dated 12/5/2023
57. Planner Comments #6, dated 12/12/2023

Director Burdick updated the Commission on the status of the application. She stated that at the last meeting, CT DOT had not yet reviewed the revised plans, but since, per Gary Brigham of the CT DOT District 2 office by phone, the revised plans have been reviewed and are approved with the condition that the Applicant provide it with a fully executed sightline easement Agreement. She stated that since the November meeting, the plans were sent to the Town Engineer for review and comments due to proposed grading in favor of Lot 2 over Lot 1 and requested plan revisions had been completed to his satisfaction. Director Burdick confirmed that all Town staff comments had been addressed and that the Town Attorney has signed off on all easement documents with one comment that is being addressed. Director Burdick stated at this point she feels the application may be approved, but reserved final recommendation pending the close of the public hearing.

Chairperson Lundy invited the public to comment on the application. She called for comment from those in favor of the application and there were none. She called for comments from those opposed to the application and Attorney Jon Chase, with an office at 34 Church St, Mystic, CT addressed the Commission.

First, Attorney Chase stated that he represented Raymond and Shirley Mostowy, who were originally opposed to the application. He stated that their prior concerns regarding driveway and drainage easements to be granted to them by the Applicant, over proposed Lot 1 as shown on the latest plan set, had been satisfied.

Attorney Chase continued to speak in opposition, but no longer on behalf of his clients, the Mostowys. He submitted a Verified Pleading for Intervention in Proceedings Pursuant to Connecticut General Statutes § 22a-19 by Julieanne Drake, dated 12/12/2023 that was marked as Exhibit "58" by staff.

Director Burdick requested that Chairman Lundy call for a short recess to contact Town Attorney, Matt Willis to advise how to proceed after said submission.

Chairperson Lundy recessed the hearing at 6:24 p.m. The hearing resumed at 6:39 p.m.

Director Burdick stated that, after speaking with Attorney Willis regarding procedure, the Commission should allow Attorney Chase to speak and submit his document(s) into the record. She stated after Attorney Chase has finished speaking, Attorney Miele should have the opportunity to rebut the argument.

Director Burdick asked Attorney Chase to state for the record that he represents, the Intervenor Julieanne Drake and he responded yes.

Attorney Chase continued addressing the Commission and stated he was concerned regarding Commission/staff communication during the recess. All Commissioners stated that they had not discussed the application and Director Burdick stated she had spoken to Attorney Miele only to advise procedure going forward.

Attorney Chase continued by discussing the following documents that were marked as exhibits by staff as they were submitted:

Exhibit 58. Verified Pleading for Intervention in Proceedings Pursuant to Connecticut General Statutes § 22a-19 by Julieanne Drake dated 12/12/2023.

Exhibit 59. Siting Council Petition of TRITEC Americas, LLC for a declaratory ruling that no certificate of environmental compatibility and public need is required for the construction operation, maintenance, and decommissioning of a 0.999 MW AC solar photovoltaic project in Montville, Connecticut dated 11/13/2023.

Exhibit 60. Appendix B to Siting Council Petition dated 9/30/2023, "Proposed Solar Photovoltaic Array, 958 CT Route 163, Montville, Connecticut, Prepared for TRITEC Americas, 888 Prospect Street, Suite 200, La Jolla, California, Prepared By: Solli Engineering, 501 Main Street, Monroe Connecticut 06468, 11 Vanderbilt Avenue, Norwood, Massachusetts 02062." Rec'd 12/12/2023 at Public Hearing.

Exhibit 61. Town Council Resolution, Volume 673 Page 785, regarding Mostowy Property, dated 8/17/2021.

Attorney Chase summarized his statements saying there are feasible alternatives to the solar project that is before the CT Siting Council that will aid the preservation of the surrounding historic structures and requested the application be denied.

Director Burdick asked Attorney Chase if he would like to read the intervention statement into the record, Attorney Chase declined.

Chairperson Lundy called for comments from those in favor of the application to speak for the second time.

Attorney James Miele, with an office at 396 South Main Street, Cheshire, CT, spoke in favor of the application in rebuttal of statements made by Attorney Chase. He stated there were a number of inaccuracies, such as the solar project petition with the Siting Council was not submitted by the Applicant for this matter, but by TRITEC Americas, LLC. He stated that the matter up for discussion at the public hearing is only for the resubdivision of the property, not for a solar array. He added that specific factual allegations are required for an intervention petition and that the allegations are all general. Attorney Miele requested Casey Burch, P.E. for the project, of Solli Engineering, address the Commission regarding the allegations in the Intervention Pleading.

Mr. Burch addressed the Commission stating the application for a 1-Lot resubdivision and any potential development of this property will not produce any unreasonable amount of pollution or create the impairment or destruction of any public trust in air, water, or other natural resources in the state or in the town.

Chairperson Lundy called for comments from those opposed to the application to speak for the second time.

Attorney Jon Chase again addressed the Commission and submitted another document for the record and marked as an exhibit by staff as follows:

Exhibit 62. "Siting Council Schedule of Petition No. 1601-TRITEC Americas, LLC, dated 11/15/2023."

Attorney Chase stated it is clear from the plans that there are extensive excavations proposed that have the potential to produce runoff into the surrounding wetlands.

Chairperson Lundy called for comments from those in favor and those opposed a third and final time and there were none.

**MOTION (Longton/Summers) to CLOSE the Public Hearing. All in favor (6-0-0).  
MOTION APPROVED. The public hearing closed at 7:10 p.m.**

**b. Discussion & Decision: 23 SUB 1 – 958 Route 163 (Parcel ID 046-008-000), Oakdale, CT – Owner/Applicant: The Nevar Company / Dean Fiske for a proposed 1-Lot Resubdivision.**  
*(Submitted 7/26/23, Date of Receipt 8/22/23, DRD 65 days from close PH).*

**MOTION (Longton/Pike) to postpone application decision to a further date TBD.  
Discussion followed regarding tabling the application to the next regular meeting of the Commission. AMENDED MOTION (Longton/Pike) to postpone the application to next regular Planning and Zoning Commission Meeting on January 23, 2024. All in favor (6-0-0). MOTION APPROVED.**

**8. Old Business:**

**a. 23 SITE 9 – 125 Depot Road (Parcel ID 071-007-000), Uncasville, CT – Applicant: KKSH2 LLC (on behalf of Marine Materials Management Limited Owner: Uncasville LLC/Gateway Montville LLC (Lessee) – Agent: Attorney Harry Heller for a Site Plan/Coastal Site Plan Review for Marine Materials Management Transloading Facility at existing Gateway Terminal.** *(Submitted 9/13/23, Date of Receipt 9/26/23, Orig. DRD 11/30/23, Tabled from the 11/14/23 meeting with 28-day extension of time to make the decision, New DRD 12/12/23).*

Director Burdick stated the Applicant, in a letter from its Attorney Harry Heller of Heller, Heller & McCoy, at 736 Route 32, Uncasville, CT, dated December 6, 2023 has withdrawn the application.

**b. 23 SUB 2 – Old Colchester Road (Parcel ID 037-006-000), Oakdale, CT – Owner/Applicant: Watch Hill Builders, LLC for a proposed 6-Lot Subdivision.** *(Approved with Conditions on 9/26/23. Orig. deadline to file subdivision mylar plans 12/24/23.)* **REQUEST FOR 90-DAY EXTENSION OF TIME TO FILE MYLAR PLANS.**

Director Burdick read a letter that was received from Attorney Harry Heller on behalf of the Applicant, dated December 4, 2023, requesting a 90-day extension to file the subdivision mylar plans on the land records. She advised the Commission the Applicant shall file subdivision mylars within 90-days of the approval date, but can request 2 additional 90-day extensions of time to file the mylars. She stated this is the Applicant's first request for extension and recommends the Commission approve it.

Attorney Harry Heller, of Heller, Heller & McCoy with an office at 736 Route 32, Uncasville, CT, addressed the Commission stating that the Applicant is waiting for the Land Surveyor to certify that iron pins and monuments are set in accordance with the conditions of approval. He stated the Applicant is requesting the extension due to the close approaching deadline.

**MOTION (Longton/Desjardins) to GRANT 90-day extension of time to file the subdivision mylar plans. All in favor (6-0-0). MOTION APPROVED.**

**9. New Business:**

a. **23 ZC 4 – Zoning Regulation Text Amendment to Amend Sections 1.3, 5.2.7, 6.2.6, 7.2.5, 8.2.8, 9.2.6, 9B.2.4, 10.2.6, 11.2.5, 12.2.15, Delete Sections 5.3.3, 6.3.3, 7.3.3, 8.3.1, 9.3.1 regarding Family and Group Child Care Home and Child Care Center – Applicant: Town of Montville Planning & Zoning Commission. (Date of Receipt 12/4/2023 – DRD N/A – Set PH for 1/23/2024).**

Director Burdick addressed the Commission stating the proposed regulations amendments were required per Public Act No. 23-142 and read a section of the Act into the record. She explained that a letter was sent November 14, 2023 to the Office of Policy and Management from Mayor Bunnell stating Montville's current zoning regulations are not in compliance with the Act and advised that the regulations will be brought into compliance by April 1, 2024. Director Burdick stated, per the Act, the Town cannot require special permit approval for any family and group child care homes or child care centers and the current regulations say a special permit approval is required. The proposed text amendments, drafted by Assistant Planner Meredith Badaluca, reflect the changes that need to be made to the regulations. Director Burdick explained the addition of Section 4.11.14 came after Town Attorney Matthew Willis reviewed the proposed amendments and recommended this additional change in order to make the regulations inclusive for any residence in any zone for family child care home or group child care homes. She recommended the Commission receive the application for proposed text amendments as submitted in the application and added at the meeting set a Public Hearing date for the next regular Planning & Zoning Commission meeting scheduled for January 23, 2024.

**MOTION: (Longton/Desjardins) to set Public Hearing for Application #23ZC4 for January 23, 2024. All in favor (6-0-0).**

b. **22 SITE 3 - 612 Route 82 (Parcel ID 058-009-00A) Oakdale, CT – Applicant: Oakdale Food Stop - Owner: Leemilts Petroleum, Inc. (Approved by PZC on 5/24/22). REQUEST FOR REDUCTION OF SOIL EROSION & SEDIMENT CONTROL BOND FROM \$9,400 TO \$3,000.**

Director Burdick addressed the Commission to explain that the applicant has requested the release of the required SESC bond in the amount of \$9,400 submitted as a condition of approval for 22SITE3. She stated portions of the site are not permanently stabilized with vegetative or other cover and recommended \$6,400 of the bond be released with the Town retaining the remaining \$3,000 until the site is fully stabilized.

Commissioner Poole inquired how long it would take for it to be stabilized and Director Burdick stated hopefully by summer 2024.

Chairperson Lundy inquired if \$3,000 would be sufficient if the Commission should have to call the bond and Director Burdick stated that she felt it would.

**MOTION (Longton/Summers) to REDUCE the required Soil Erosion & Sediment Control Bond required for PZC Application 22SITE3 from \$9,400 to \$3,000. All in favor (6-0-0). MOTION APPROVED.**

c. **Commission discussion of 2022 Montville Plan of Conservation & Development Action Items.**

Chairperson Lundy explained that a matrix was drafted by the Land Use and Development staff at her in order to update the Commission on what tasks had been performed or were in process with regard to implementing action items recommended by the POCD.

At the request of Chairperson Lundy, Director Burdick gave the Commission an overview of some of the highlights such as the new Fishing Pier & Boat Launch improvements, Moxley Road Bridge, Fair Oaks Community Center improvements, preservation of the Congregational Church at Meetinghouse Lane and the updates to the POCD & Affordable Housing Plan with the latest census data. Commissioners were asked to review the document and direct any questions to the office of Land Use and Development.

**10. Zoning Matters:** ZEO Report was read into the record by Zoning and Wetlands Officer, Stacy Radford.

**11. Land Use Director Report:** Projects update.

Director Burdick announced to the Commission that she has accepted a position with the Southeastern Connecticut Council of Governments as a Regional Planner.

Director Burdick updated the Commission regarding the Fishing Pier project, stating that RACE Engineering is to begin geotechnical work on the project at the end of the month. She stated Eversource has to be on site to monitor the work due to gas lines that run across the Thames River. She stated she hopes construction will begin on the project no later than fall of 2024.

Director Burdick updated the Commission regarding the Animal Control Facility project. She stated that bids to construct the project were opened on Thursday, December 7, 2023 and ranged between \$2,100,000 to over \$3,000,000 and the lowest three bids have been sent to Silver Petrucelli to be vetted and to make a recommendation to the Town regarding the award.

**12. Other Business:**

Chairperson Lundy introduced Joseph Jaskiewicz, the Town Council liaison to the Commission. Mr. Jaskiewicz requested a list of current projects in Town and also acknowledged the hard work of the Commission and staff.

Chairperson Lundy recognized Director Burdick for the great work she has done over the last two years and wished her well with her new position.

**13. Correspondence:** None.

**14. Executive Session:** None.

**15. Adjournment.** Chairperson Lundy called the meeting to close at 7:48 p.m.