

MEETING NOTICE AND AGENDA

MANSFIELD PLANNING AND ZONING COMMISSION

Monday, February 2, 2015 ▪ 7:00 PM

Or upon completion of Special Inland Wetlands Agency Meeting

Audrey P. Beck Municipal Building ▪ 4 South Eagleville Road ▪ Council Chambers

1. Call to Order
2. Roll Call
3. Approval of Minutes
 - a. January 20, 2015 Regular Meeting
4. Zoning Agent's Report
5. Old Business
 - a. Scenic Road Alteration, 140 Codfish Falls Road, S. Guyette, PZC File #1329 and 1010-1)
Memo from Director of Planning and Development
 - b. New Subdivision Application, 140 Codfish Falls Road, S. Guyette, PZC File #1329
Memo from Director of Planning and Development
 - c. Re-Subdivision Application, 101 East Road, C. & L. Niarhakos, PZC File #293-2
Tabled pending 2/17/15 public hearing
 - d. Request for Modification, Whispering Glen, 73 Meadowbrook Road, Uniglobe Investment LLC, PZC File #1284-2
Tabled to 2/17/15
 - e. Other
6. New Business
 - a. Proposed Modification to Special Permit for new tenant (Mike's Pizza), 1659 Storrs Rd, OMS Development LLC., PZC File #1319
Memo from Zoning Agent
 - b. Other
7. Mansfield Tomorrow | Our Plan ▶ Our Future
 - a. Public Hearing Scheduled for Monday, March 2, 2015 at 7:00 p.m.
8. Reports from Officers and Committees
 - a. Chairman's Report
 - b. Regional Planning Commission
 - c. Regulatory Review Committee
 - d. Planning and Development Director's Report
 - e. Other
9. Communications and Bills

10. Adjournment

Binu Chandy ▪ JoAnn Goodwin ▪ Roswell Hall III ▪ Katherine Holt ▪ Gregory Lewis ▪ Peter Plante
Barry Pociask ▪ Kenneth Rawn ▪ Bonnie Ryan ▪ Paul Aho (A) ▪ Vera Stearns Ward (A) ▪ Susan Westa (A)

DRAFT MINUTES
MANSFIELD PLANNING AND ZONING COMMISSION
Regular Meeting
Tuesday, January 20, 2015
Council Chamber, Audrey P. Beck Municipal Building

Members present: J. Goodwin (Chairman), B. Chandy, R. Hall, K. Holt, G. Lewis, B. Pociask,
K. Rawn, B. Ryan
Members absent: P. Plante
Alternates present: P. Aho V. Ward, S. Westa
Staff Present: Linda Painter, Director of Planning and Development
Curt Hirsch, Zoning Agent

Chairman Goodwin called the meeting to order at 7:35 p.m., appointing alternate V. Ward and to act in P. Plante's absence.

Minutes:

- a. 12-15-14 Meeting Minutes –B. Ryan MOVED and R. Hall seconded, to approve the 12-15-2014 meeting minutes as written. B. Pociask noted that he listened to the audio of the meeting. MOTION PASSED UNANIMOUSLY.
- b. 1-05-15 Meeting Minutes- B. Ryan MOVED and K. Rawn seconded, to approve the 1-05-2015 meeting minutes as written. MOTION PASSED with all in favor, except B. Chandy who was disqualified.

Zoning Agents Report:

There were no questions or comments on the Zoning Agent's monthly report.

Public Hearings:

Scenic Road Alteration, 140 Codfish Falls, S. Guyette, PZC File #1010-1- Chairman Goodwin opened the Public Hearing at 7:38 p.m. Members present were J. Goodwin, B. Chandy, R. Hall, K. Holt, G. Lewis, B. Pociask, K. Rawn, B. Ryan and alternates P. Aho, V. Ward, S. Westa; V. Ward was seated. Linda Painter, Director of Planning and Development, read the legal notice as it appeared in the Chronicle on 1/6/15 and 1/14/15 and noted a 1/15/15 memo from Linda Painter.

Ed Pelletier of Datum Engineering, appeared on behalf of the applicant. He described the plan to remove two trees and move back a decorative stone wall along Codfish Falls Road.

J. Goodwin noted that there was no public comment.

K. Holt MOVED and B. Pociask seconded to close the Public Hearing at 7:41 p.m. MOTION PASSED UNANIMOUSLY.

Re-Subdivision Application, 101 East Road, C & L Niarhakos, PZC File #293-2 - Chairman Goodwin opened the Public Hearing at 7:41 p.m. Members present were J. Goodwin, B. Chandy, R. Hall, K. Holt, G. Lewis, B. Pociask, K. Rawn, B. Ryan and alternates P. Aho, V. Ward, S. Westa; V. Ward was seated. Linda Painter, Director of Planning and Development, read the legal notice as it appeared in the Chronicle on 1/6/15 and 1/14/15, and noted a 1/15/15 memo from Linda Painter, 1/14/15 and 1/17/15 memos from Derek Dilaj, a 1/14/15 memo from Jeff Polhemus, a 12/2/14 letter from Troy Quick, a 11/17/14 memo from Edward Pelletier, the 1/5/15 minutes of the Conservation Commission, a 1/8/15 memo from Gerald Hardisty, a 11/25/14 letter from Mary Harper (with attachments), a 4/17/14 memo from Robert Thorson, a 4/25/14 letter from Donald Aubrey, a 3/13/14 soil test from Geoffrey Havens, a 1/15/15 email from Liz Vitulla, an undated letter from George and Jean Norman, and a 1/20/15 letter from Jean Phillips.

K. Holt MOVED and R. Hall seconded to continue the Public Hearing to 02-17-2015. MOTION PASSED UNANIMOUSLY.

Old Business:

a. New Subdivision Application, 140 Codfish Falls Road, S. Guyette, PZC File 1329 -

Commission members discussed the need for a conservation easement and the enforcement options of the note on the plan requiring an open space dedication if the property is sold to someone outside the Guyette family. The Director of Planning will consult with the Town Attorney for an opinion as to whether the payment of any consideration by one family member to another would take this property out of the statute and provide the Commission with authority to require an open space dedication, and if not, what enforcement provisions could be incorporated into the map note to provide greater protection. The applicant did consent to the establishment of a conservation easement along Codfish Falls Road. The discussion was continued to the 2-2-2015 meeting.

b. Re-Subdivision Application, 101 East Road, C. & L. Niarhakos, PZC File #293-2;

Item tabled pending 2-17-2015 continued public hearing.

c. Proposed Tenant Signage, 1659 Storrs Road, OMS Development LLC., PZC File #1319

Zoning Agent Curt Hirsch and Applicant Bill Gavigan, Jr., responded to Commissioners' questions regarding the number, use and location of the proposed signs.

G. Lewis MOVED and K. Holt seconded to approve the proposed signage for 1659 Storrs Road submitted by Poyant Signs, dated 1/13/15, as required by the special permit approval granted to OMS Development, with the following conditions:

1. There is no authorization for an additional tenant to occupy the site. Signage for Pizza Mike's shall not be authorized until the Commission has approved a modification to the special permit;
2. Further details on materials and landscaping for the monument sign shall be submitted to the Planning Office for review and approval prior to the construction of this sign;
3. During the construction of the monument sign, the gasoline pricing sign shall be removed;
4. Per Article X.C.11 of the zoning regulations, signs shall be lighted only during the hours open for business or until 11:00 p.m., whichever is later.

MOTION FAILED with B. Chandy, K. Holt, G. Lewis and B. Ryan in favor, all others opposed.

K. Rawn MOVED and V. Ward seconded to approve the previous motion with the addition of a new condition (5): This approval does not authorize the Dunkin Donuts sign proposed on the south façade of the building (Route 44) as depicted on Sheet 7a.1.

MOTION PASSED with all in favor except G. Lewis and B. Ryan who voted in opposition.

d. Draft UConn Campus Master Plan

Commission members reviewed the wording of the proposed correspondence to the University of Connecticut regarding the Draft Campus Master Plan. By consensus, members agreed to add the following wording to the beginning of the paragraph regarding the Hockey Arena, "We understand the need for a year round ice center; however, the Town..." and to eliminate the last sentence of that paragraph.

K. Holt MOVED and B. Ryan seconded to authorize the Chair to edit the draft letter and to include agreed upon changes to the Hockey Arena section (page 3) and to forward said letter to the Town Council.

MOTION PASSED UNANIMOUSLY.

New Business:

- a. **Request for Modification, Whispering Glen, 73 Meadowbrook Road, Uniglobe Investment LLC, PZC File #1284-2**

Linda Painter, Director of Planning and Development, reported that this modification to a special permit was received on 1-14-2014 and will be reviewed by staff for the 2-2-2015 meeting.

Mansfield Tomorrow

- a. **Public Hearing Scheduled for Monday, March 2, 2015 at 7:00 p.m.**

Director of Planning and Development Linda Painter will provide the Commission with a summary of the comments received at the informational sessions. She will also remind informational session participants that these meetings are not public hearings, and that if residents wish to make public statements, they must attend the public hearing to be held on 3-2-2015.

Reports from Officers and Committees

- a. **Chairman's Report** - No comments offered
b. **Regional Planning Commission** – S. Westa reported CROG is working on an analysis of trends in walking and biking as a means of transportation.
c. **Regulatory Review Committee** – Members are currently meeting as part of the Zoning Focus Group.
d. **Subcommittee on Infrastructure** – Heading to be removed from agenda.
e. **Planning and Development Director's Report** – L. Painter reported a consultant has been identified for the Corridor Study.

Communications and Bills:

Noted.

Adjournment:

The meeting was adjourned at 9:09 p.m. by the Chairman.

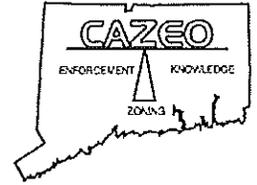
Respectfully submitted,

Katherine Holt, Secretary

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Town of Mansfield



CURT B. HIRSCH
ZONING AGENT
HIRSCHCB@MANSFIELDCT.ORG

AUDREY P. BECK BUILDING
4 SOUTH EAGLEVILLE ROAD
MANSFIELD, CT 06268-2599
(860) 429-3341

Memo to: Planning and Zoning Commission
From: Curt Hirsch, Zoning Agent
Date: January 29, 2015

MONTHLY PERMIT ACTIVITY for January 2015

ZONING PERMITS

<u>Name</u>	<u>Address</u>	<u>Purpose</u>
Finsmith/Esparza	19 Elizabeth Rd.	12 x 12 deck
Nowosie.ski	118 Warrentville Rd.	12 x 16 shed
Poyant Sign	1659 Storrs Rd.	site signage
Lowe	517 Chaffeeville Rd.	1 fm dw

CERTIFICATES OF COMPLIANCE

Cichowski	25 Old Turnpike Rd.	1 fm dw (reconstruction of Ash House)
Anthony	54 Mansfield Hollow Rd.	garage
Bzymek	260 Codfish Falls Rd.	garage
Dancy	56 Farrell Rd.	garage & mud room

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Department of Planning and Development

Date: January 29, 2015
To: Planning and Zoning Commission
From: Linda M. Painter, AICP, Director *LMP*
Subject: Alterations to Codfish Falls Scenic Road (File #1010-1)
Removal of two trees and relocation of stone wall and fence (140 Codfish Falls Road)

This memo updates and supplements my January 20, 2015 memo. The public hearing on this item was opened and closed on January 20, 2015. The item was tabled due to its relationship to a pending subdivision application. As the proposed alterations require Town Council authorization, the Commission needs to forward an official opinion to the Council for their consideration. Approval of the subdivision could be made contingent upon the Council's approval of the alterations to the scenic road.

Summary and Recommendation

In reviewing the proposal, the relocation of the stone wall and fence and removal of two trees do not appear to have a significant impact on the scenic character of Codfish Falls Road. If the Commission concurs with this finding, the following motion would be in order:

_____ MOVES, _____ SECONDS to communicate to the Town Council that the Planning and Zoning Commission has no objection to the removal of two trees and the relocation of a stone wall and fence as depicted in the Guyette Estates Subdivision Plan dated September 25, 2014 and revised through January 6, 2015 as the proposed alterations will not significantly alter the scenic character of Codfish Falls Road.

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Department of Planning and Development

Date: January 29, 2015
To: Planning and Zoning Commission
From: Linda M. Painter, AICP, Director *LMP*
Subject: Subdivision Application-Stephen Guyette (File 1329)
Guyette Estates Subdivision – 140 Codfish Falls Road

This memo updates and supplements my report dated January 15, 2015.

At the January 20th PZC meeting, the PZC discussed the application and asked for an opinion from the Town Attorney as to whether the subdivision would be exempt from the open space dedication requirements if there was any monetary consideration provided for the transfer of the house on lot 3 to a family member, even if no monetary consideration was provided for the value of the land itself. Additionally, questions were raised regarding the legal authority for the PZC to require an open space dedication in the future if any of the lots were sold outside of the family and whether an open space dedication could be tied to the request for a common driveway. I consulted the Town Attorney on these issues and received the following information:

- **Exemption from Open Space Dedication Requirements.** The exemption from open space dedication requirements authorized by Section 8-25(a) of Connecticut General Statutes and Section 13.1.8 of the Mansfield Subdivision Regulations would not apply if there is monetary consideration for the transfer of any of the property, including the house on Lot 3. The following is the specific statement provided by Town Attorney Kevin Deneen:

"If the qualified family member is paying for the house and lot, that is 'consideration' in the law, and therefore this provision would not apply. Although I can find no case law interpreting this statute, the meaning is quite clear, the transfer must be 'for no consideration.'"

- **Ability to Require Open Space Dedication if properties are sold in the future.** I asked the Town Attorney whether the Commission could require an open space dedication if property was sold outside of the family within a specified timeframe, such as within five or ten years. As of the date of this memo, Attorney Deneen was researching this issue to see if it had been addressed by other communities. His initial review indicated that he could find no statutory authority for such a restriction; however, he was continuing to research the issue. The following is the specific statement from Attorney Deneen:

"I can find no authority to place such a restriction, but it seems incongruous that you could gain the exemption based on conveying without consideration to a family member, and then the family member could immediately convey the lot to a third party for consideration."

- **Relationship of Open Space Dedication to Common Driveway.** The Commission cannot link the issue of whether the subdivision is exempt from providing an open space dedication to the request for a common driveway. The following is the specific statement provided by the Attorney Deneen:

"The two issues should be treated independently. The question of whether an application qualifies for the open space exemption should not impact the application for the common driveway."

Upon receipt of the opinion regarding the applicability of the open space dedication exemption if monetary consideration was provided for the transfer of Lot 3, I notified the applicant. On January 28, 2015, I received a revised Map Sheet 2 (revision date of January 27, 2015) identifying two proposed conservation easements:

- **Lot 1.** The conservation easement on Lot 1 would be donated voluntarily by the owner as discussed at the January 20th meeting. The proposed easement is located on the front of Lot 1, along Codfish Falls Road and contains 3.02 acres.
- **Lot 3.** The conservation easement on Lot 3 would be dedicated upon transfer of Lot 3 for monetary consideration. The proposed easement is located in the northwest portion of the property, abutting the land of Ronald and Marilyn Guyette and includes the Flood Hazard area as well as a portion of the stream that runs from east to west along the northern portion of the property. The proposed easement would contain 11.41 acres. This easement would only be dedicated if Lot 3 is transferred for monetary consideration; otherwise, no easement would be conveyed.

If Lot 3 is transferred for monetary consideration, the exemption to the open space dedication requirements would no longer apply. Pursuant to Section 13.1.1 of the Subdivision Regulations, the Commission can require up to 15% of the land area be dedicated as open space, either through a conservation easement or dedication of the land to the Town. Based on this requirement, the minimum open space dedication that could be required would be 8.28 acres. Section 13.3 authorizes the Commission to require that the character of the land within the open space dedication be similar to the character of the land of the site as a whole. In this case, 49.8% of the property as a whole has either wetlands or slopes greater than 15%. The proposed conservation easements exceed the minimum required open space (14.43 acres as compared to 8.28 acres required). Of the area to be placed within conservation easements, 4.58 acres are upland areas, which equates to 55% of the required area to be dedicated and 31.7% of the actual area being dedicated. As the two areas proposed for dedication of conservation easements are those identified by the Commission as preferred locations and the dedication exceeds the minimum requirements,

staff finds that the proposed character of the dedication to be consistent with the intent of this provision of the regulations.

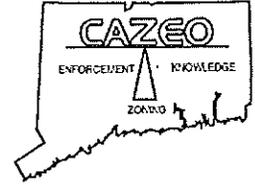
As the easement dedication on Lot 3 is only triggered if the lot is transferred for monetary consideration, I have asked the Town Attorney for assistance in identifying the best way to enforce this dedication, such as whether a separate agreement would be needed. The mechanism for executing this dedication should it ever be required could be made a condition of subdivision approval.

Based on the information provided by the Town Attorney and the revised plans submitted by the applicant, I believe that the issues raised by the Commission at the January 20th meeting have been addressed. If the Commission concurs, a motion should be prepared that addresses the items identified in my January 15th memo, specific findings for approval of the common driveway and the appropriate mechanism for enforcement of the conservation easement dedication on Lot 3 if it is transferred for monetary consideration.

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Town of Mansfield



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(860) 429-3341

To: Planning & Zoning Commission
From: Curt Hirsch, Zoning Agent
Date: January 29, 2015

Re: OMS Development – proposed additional tenant - PZC #1319

On 9/16/13, the PZC approved a special permit for OMS Development, LLC, for *an expansion of the existing convenience store with a drive-thru window at 1659 Storrs Road*. Condition#1 of said approval stated “Unless modifications are specifically authorized, the proposed uses and site improvements shall be limited to those authorized by this approval”. Article VII.N.3 also states that any proposed retail use involving on-premises food preparation requires PZC approval. The Commission can also determine that the presence of an additional tenant on the site may create conditions not foreseen in the prior special permit application that warrant a new special permit.

The 5/30/13 Statement of Use submitted with the special permit application stated: “The proposed use consists of an enlargement of the convenience store structure with an addition of 1,546 square feet for the retail operations of (the) store”. I note here that neither the special permit application, nor the PZC’s approval of the special permit, specifically acknowledged that Dunkin Donuts would be a tenant of the building, even though it was clearly understood by the Commission that the drive-thru window would be for the existing Dunkin Donuts use. The proposed additional tenant is *Pizza Mike’s Pizzeria*. Mike LaMothe has submitted a 1/16/15 Request for Modifications application including a statement of use, a floor plan of his tenant space and a listing of the contractors involved with his tenant ‘fit-out’. LaMothe’s statement of use explains that the store will be a seven days a week operation, opening daily at 11:00 am and closing at 2:30 am Sunday-Thursday, 3:30 on Friday and Saturday. He will sell fountain soda and pizza by the slice or whole pizzas for take-out. We have also received a 1/28/15 letter from Attorney Samuel Schragger stating that the “The space will not contain customer seating and there will be no delivery service offered.”

Pizza Mike’s is concurrently being reviewed by the Eastern Highlands Health District and no zoning permit should be authorized until the EHHD has authorized the proposed use.

The proposed operation is considered to be a retail use under our zoning regulations because there are no provisions made for on-site customer seating or food consumption. The total area of the building remains the same as approved under the special permit. There is no dedicated

customer entrance to the pizzeria. It shares the same building access as the convenience store and Dunkin Donuts. While the number of parking spaces required under the zoning regulations is based upon the square footage of the building, which is not changing, an additional tenant will add to the number of employees present on site. I suggest that this be managed through any approval as a condition, that if the Zoning Agent determines parking to be inadequate for all uses of the site, that the property owner provide additional parking on adjacent property also owned by him, for mandatory employee use. I recommend that **the PZC grant the 1/16/15 Request for Modifications from Mike LaMothe, for an additional retail food service use on property owned by OMS Development at 1659 Storrs Road. This modification is granted because there is no change in the retail floor area of the building and is conditioned upon the following:**

- 1. No Certificate of Compliance shall be issued until the Eastern Highlands Health District has approved the food service use, and;**
- 2. If the Zoning Agent determines that existing site parking is inadequate to serve all the uses of the site, the property owner shall provide additional parking on the adjacent property at 625 Middle Turnpike, also owned by OMS Development, and that the adjacent parking be mandatory employee parking. (As an option, the approval could add that This parking condition shall be filed on the land record to assure it can be enforced should the property be conveyed.)**

REQUEST FOR SITE/BUILDING MODIFICATIONS
(see Article XI, Section D of the Mansfield Zoning Regulations)

APPLICANT/OWNER SECTION

- 1. Owner(s) OMS Development LLC Telephone (561) 339-6478
(please PRINT)
 Address 3180 Washington Road Town West Palm Beach Zip 33405
- 2. Applicant(s) Michael Lamothe Telephone (860) 382-5631
(please PRINT)
 Address 380 Daleville Rd Apt #108 Town Willington Zip 06279
- 3. Site Location 1659 Storrs Road Mansfield CT 06268

4. Reference any approved map(s) that would be superseded if this request is approved:
Preliminary Floor Plan
Preliminary Plans + Elevations OMS Development 7/1/13
Sheet 1Z-101

5. Reference any new map(s) submitted as part of this request:
Addition and Renovation For: OMS Development LLC 1/13/15
TENANT LAYOUT Sheet A-104

6. Itemize and describe the modification(s) being requested, using separate sheet where necessary. The description must be adequate to determine compliance with all applicable land use regulations: -
See attached

7. Michael Lamothe date 1/16/2015
 Applicant's signature

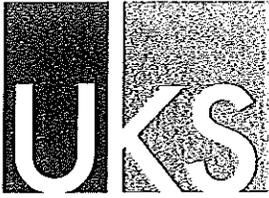
Itemize and describe the modification(s) being requested, using separate sheet where necessary. The description must be adequate to determine compliance with all applicable land use regulations:

Please refer to the accompanying kitchen plans as a reference and visual aid. I have also included a list of the contractors and subcontractors that we plan on utilizing to complete the kitchen.

- Our floors will be a 6 X 6 quarry tile
- Our ceiling is a 2 X 2 tile grid, vinyl rock drop ceiling
- We plan on installing an exhaust hood system that also provides tempered make-up air to the unit.
- All of our drainage, venting, water piping and gas piping has been sized, tested and inspected to date 12-4-2014. Please also note that all of Pizza Mike's drains were roughed into the grease trap line, which empty into the 1,000 gallon outdoor grease trap.
- We plan on installing all of our equipment that can be found on our kitchen plan. We will be using Restaurant Paradise Equipment as our equipment supplier.
- Hot water for Pizza Mike's Pizzeria is proposed to be a Noritz LP gas fired on-demand water heater with mixing valve to temper the hand sink water. There is still the discussion on whether a small electric heater will be used for auxiliary to set proper temperatures to both bathroom sinks and Pizza Mike's hand sink.

Pizza Mike's Pizzeria plans on being open Sunday through Thursday from 11:00am-2:30am and Friday and Saturday from 11:00am-3:30am. We will be selling fountain soda, pizzas by the slice, and whole pizzas, with various toppings, that customers can pick up.

Received 1/20/15



MERITAS LAW FIRMS WORLDWIDE

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sschrager@uks.com

January 28, 2015

Mansfield Planning and Zoning Commission
Town of Mansfield
4 South Eagleville Road
Storrs, Connecticut 06268

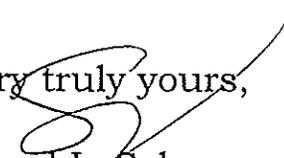
Re: **1659 Storrs Road, Mansfield**

Dear Commissioners:

This office represents OMS Development, LLC, the owner of the above referenced premises. You have before you for consideration on February 2, 2015 a request for modification of the Special Permit/Site Plan. This request was made by Michael LaMothe, a prospective tenant of the enlarged and rebuilt convenience store space. The convenience store originally and continues to contain space for a sub-tenant, Dunkin Donuts.

Mr. LaMothe intends to use a portion of the convenience store space for a take-out pizza business. The space will not contain customer seating and there will be no delivery service offered. The operation of the business will be similar to that of Cumberland Farms, immediately across the street from 1659 Storrs Road.

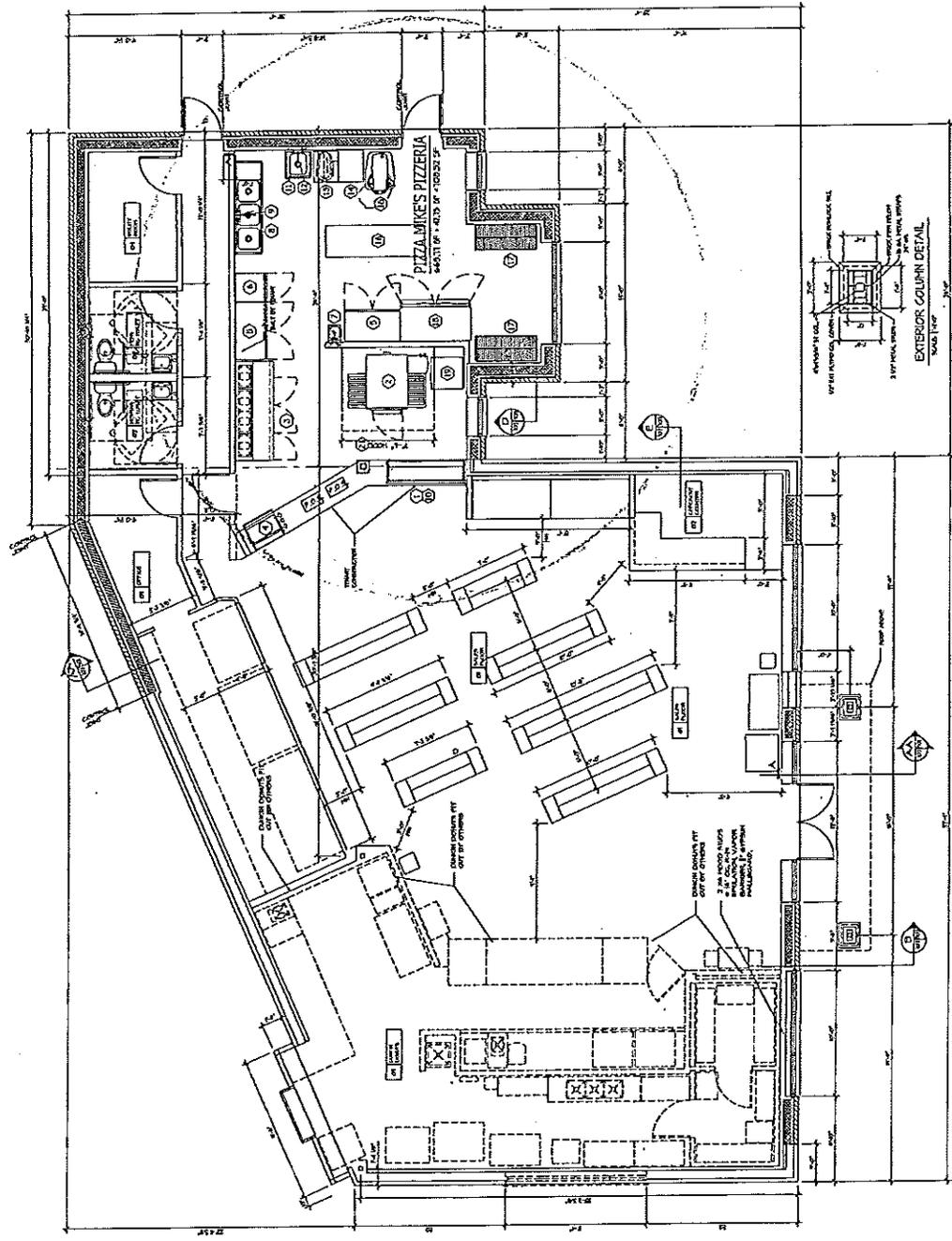
Representatives of OMS Development, LLC will be in attendance at the February 2, 2015 meeting to answer any questions you may have.

Very truly yours,

Samuel L. Schrager

cc: OMS Development, LLC

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THE PROJECT IS TO BE A
RENOVATION OF THE EXISTING
BUILDING TO ACCOMMODATE
THE ADDITION OF A PIZZERIA
AND RESTAURANT. THE
EXISTING BUILDING IS A
ONE-LEVEL STRUCTURE
WITH A TOTAL AREA OF
10,000 SQ. FT. THE
PROPOSED ADDITION IS
A TWO-LEVEL STRUCTURE
WITH A TOTAL AREA OF
15,000 SQ. FT. THE
TOTAL AREA OF THE
PROJECT IS 25,000 SQ. FT.



FLOOR PLAN
SCALE: 1/8" = 1'-0"

