

**MINUTES
TOWN PLANNING AND ZONING COMMISSION
MAY 15, 2019
7:00 P.M. COUNCIL CHAMBERS, TOWN HALL
275 BROAD STREET, WINDSOR, CT**

Present: Commissioners Mips, Levine, Correia, Smith and Harvey sat for Profe. Jaggon was present, but not seated.

Also Present: Town Planner Barz, Assistant Town Planner Sealy and Recording Secretary Lisa Ozaki.

I. NEW BUSINESS

Commissioner Mips opened the meeting at 7:00 p.m.

- A. Public Communications and Petitions (five-minute time limit per person) - None**
- B. Communications and Petitions from the Town Planning and Zoning Commission - None**
- C. Zoning Enforcement Officer's Report - None**
- D. CGS § 8-24 Referral Requests - None**
- E. Pre-Application Scrutiny - None**
- F. Re-Approvals/Revisions/Extensions - None**
- G. Site Plans**
 - a. Site Plan 777 Day Hill Road, Extended-Stay Hotel, I Zone, Alford Associate Inc.: Postponed to June 11th, 2019 upon request of the applicant**
- H. Minutes**
 - 1. April 9, 2019**

Commissioner Levine states pg. 4, number 2 Phil's should be Philip's.
Motion: Commissioner Levine moved to approve the minutes as amended.
Commissioner Smith seconded the motion and it passed unanimously, 5-0-0.

II. MISCELLANEOUS

- 1. FYI: Zoning Practice - May 2019**

TP&ZC

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The following letters were read in support by Atty. Brian Smith: Cherie L. Post, 8 Billerica Ave. Ext., Unit 10, North Billerica, MA; Kariann Mazzone & Scott Linstrom, 12 Marion Rd., North Billerica, MA; Tameka Tomlinson, 9 Forest Glen Circle, Middletown, Ct; Jessica DaPonte, 43 Pickett Rd., Plainfield, Ct; Laurie Gentile, 36 Feldman Terrace North Haledon, NJ; Riley D. Johnson, 253 High St., Hartford, Ct.

All letters in favor of Mr. Tulloch's commercial kennel were from those who purchased a Rottweiler puppy; the letters stated that the puppies had good temperament; were well behaved; great with children; and that Mr. Tulloch was very trustworthy and honest; a great breeder; and his kennel was very well kept.

Town Planner Barz was asked by the Commission at the April meeting to have a conversation with the town attorney regarding the considerations that this Commission could consider, and to contact the Department of Agriculture regarding the inspection and licensing of this type of facility. Mr. Barz stated that he spoke with an Animal Control Division officer and explained the nature of the operation. He told them Mr. Tulloch's testimony to the Commission regarding his belief that he did not need a license. The officer confirmed that Mr. Tulloch fell between the cracks with his operation. Mr. Barz was told that as long as he is not selling puppies off the premises or to third parties, like a pet store, then he did not need a license. If he is not boarding dogs other than his own, he does not need a license. Animal control would not do any inspections of his premises, before or during operation unless they receive a call about some kind of animal welfare issue. In that case, they would do an investigation.

Town Planner Barz mentioned to the town attorney the issues that were being raised regarding the number of animals, the conditions, and the size of the runs, sanitation and other issues. The town attorney cautioned the Commission to limit those issues to only the ones that have bearing on the considerations that are spelled out in the regulations. An example of that would be noise; excessive barking that would detract from enjoyment of the neighboring properties. Zoning Regulations Section 15 under considerations are what the Commission should be reviewing. So, if you feel that 22 dogs is too many for the good of the dogs, that's off the table but if you think 22 dogs is too many and it's bad for the neighborhood, that's a different issue. Atty. Smith met with the staff about the issue of the bonding. Mr. Barz's initial thought was that the bonding should be longer than one year, but the Commission can revisit that a year from now if it were to approve it. The applicant will have to come back for the first year re-approval anyway. Atty. Smith added that Mr. Tulloch is willing to add additional evergreen screening on the westerly portion of his property. He noted that they have tried to address the concerns, by literally putting forth a risk to him, of his own money, to operate in the way that he believes he can do. They have tried to demonstrate that he has good experience with a number of people. This is an agricultural zone with 4 ½ acres. The design of the building is trying to meet the criteria of the design to limit any disruption to the neighborhood. The design and the experience is far different than that of the predecessor. For all those reasons, they

Commissioner Mips asked Town Planner Barz if this is also in an agriculture area. Mr. Barz stated that it is in an agriculture zone, but the area has more of a residential feel to it with many single-family homes. The agriculture to the north, for the most part, has been converted to industrial and most farming is confined to the rear of the south side of Stone Road.

Commissioner Harvey asked Town Planner Barz to explain the existing variances. Mr. Barz explained there were two variances granted to property: The first to cut the property into two parcels, which have been recombined again, possibly for financing purposes, and the second was in reference to Section 10.5.5, which requires that the kennel be 500' from the nearest residential zone. They were only 330' away from nearest residential zone and received a variance of 170'. It is not the nearest house but the nearest residential zone. There are numerous houses in the agricultural zone that are closer than 330'.

Commissioner Levine asked if the variance runs with the owner. Mr. Barz stated that variances run with the land. Commissioner Harvey asked how the variances were determined. Mr. Barz states there are two tests: whether the variance was in harmony with the Zoning Regulations and whether there is a legal hardship. Their response regarding harmony states they will not be changing the character of the property and we want to keep a rural feel to this land. There are substantial tree line buffers separating this property from its neighbors. The dog hotel will be built as such and will provide additional buffer as well. Also we would build a kennel so that it is the farthest distance possible from the surrounding residences. Their stated legal hardship was the property's smaller size of 4.2 acres and the placement of the existing home. The combination of these two factors limited where the dog hotel can be built, however we would be able to build a substantial distance from AA zone property where it will not be hindering to them. Mr. Barz says there is not a clearly stated legal hardship there.

Atty. Smith stated that they have a classic issue where some of the neighborhood has been developed into something other than agriculture zone, however this is in the agricultural zone and a larger parcel than some of the surrounding neighbors. Mr. Tulloch has the ability to move the facility, which he did, even farther back from the prior application. Even the prior application had screening and we are adding even more screening. If the Commission thinks we should add even more, I'm sure I can ask Mr. Tulloch and he may be willing to do that. He doesn't want any disruption to the neighborhood, but unlike his predecessor, he is also willing to risk real money. It is more valid since Mr. Barz said the only thing you need to do is remove the dogs and kennel and not convert it to farm use. We were trying to figure out how much to convert the property. Turning it into a different use. If you are talking about \$10,000 just to remove the dogs for whatever reason he didn't comply or to change the kennel, that \$10,000 is more than adequate to cover it. If this Commission thinks it should be more than one year, I can ask him that. We are willing to work with the community and work with the Commission. We think he is a far different person than the previous owner, it is a commercial kennel. Part of a commercial kennel is

commercial kennel. Mr. Barz stated yes. Commissioner Harvey asked you could not be in a residential zone? Mr. Barz stated there could be four adult dogs in a residential zone, but if they are not running it as a commercial kennel and nobody is complaining, we are none the wiser. But that is the limit. Commissioner Harvey stated for her this is the primary issue with this proposal. The 22 dogs, is a lot more than four and yes this is agriculturally zone, but there are single family houses. So the character is really closer to residential and I hesitate greatly to intentionally put an incompatible facility that going to cause problems, noise, and changing the character. That is why this is hard. A special use permit is not a sure thing. Commissioner Mips stated that is why you put a time limit on it. Commissioner Harvey stated this is an investment that a property owner makes is at their own risk before they have the special use permit. That is not a consideration for us. Any kind of investment the owner had anticipated in hoping to get a special use permit. Mr. Barz stated there was an alliance from the old special use permit. Commissioner Mips stated the problem is he relied on the variance that was already there. Commissioner Harvey asked does the fact that there was a special use for the kennel previously change the expectation for the new property owner? Mr. Barz said it certainly made that property more attractive to them, but you do have to take that into a little bit of consideration. He certainly is looking to expand on what is done there. Commissioner Mips said this is totally different then the doggie daycare. It is a different kind of facility and function completely. Mr. Barz clarified the definition of kennel in the keeping of four dogs for commercial gain. If you happen to be a dog lover and have 6 dogs as pets, it's fine. But if you are breeding them and selling the puppies then it isn't.

Commissioner Levine stated this is very difficult for me. I think this area was zoned agricultural when it truly was agricultural area. Now with the urban sprawl it's become a residential area and when you try to blend the two, it's a very difficult thing. Our job is to apply the regulations and keep our personal feelings out of this. I'm trying really hard to do that.

Commissioner Smith said this would be a lot easier if ZBA hadn't given the approvals. To the east and to the west I believe there are farm houses and fields. I would be inclined to approve the application with several conditions.

Commissioner Mips agreed that ZBA has put us into a position. I believe this is a completely different use than the previous application. I don't think Mr. Tulloch is going to be having 22 dogs breed at the same time. I think if we put in the performance bond, the one year time limit and the other things, we are giving him a chance to prove himself. Part of it is, our ZBA that granted a variance and that is what Mr. Tulloch based everything on. From that point of view, I think we could go along with this, with the conditions.

Motion: Commissioner Smith moved to approve the Special Use – 909 Stone Road, Commercial kennel, Zoning Regulations Section 10.5.4, AG Zone, Tulloch with the following conditions:

3. **Special Use – 777/903 Day Hill Road, Extended-Stay Hotel, Zoning Regulations Section 8.6P, I Zone, Alford Associate Inc.**

Motion: Commissioner Levine moved to recess the application until the next regular TP&ZC meeting on June 11, 2019. Commissioner Correia seconded the motion and it passed unanimously, 5-0-0.

4. **TNDD Concept Plan – 10 Great Pond Dr., 181 Multifamily units, I Zone, Real Group/Alford**

Wilson Alford Sr., engineer with Alford Associates, was present and addressed the Commission on behalf of the Real Group, a Dan Ferraina company. The property is located on the south side of Day Hill Road. Great Pond is located to the right as you look at this plan. We are here tonight to ask for a concept plan, a TNDD. What we are proposing is a series of apartment buildings. The apartment buildings have been designed under the form-based code. We designed them so they are closer to the street, parking to the rear, and carports located around the rear of the parking lot. There is a swimming pool, a community building and a park, which has benches around it. We are asking for this to be approved as part of the Great Pond TNDD. It is not part of Great Pond, but is approved under the same regulations as Great Pond. We think it is appropriate and I will show you how it fits in with Great Pond. Mr. Alford showed the concept plan for Great Pond. Looking at the Great Pond development, the T4 zones from Great Pond are similar to our project at 10 Great Pond. It is an extension of the rest of the development, it is interesting in the scale and character of the two different developments, how similar they are. I think what we are proposing would be compatible and a good extension the Great Pond development which is to the north. The general concept of the Great Pond is sort of an extension of the Plan of Conservation and Development. One of the concerns that have been an issue for the town is the traffic on Day Hill Road. The eliminating factor of traffic on Day Hill, as part of the POCD is to have more residential development, which will reduce the amount of traffic. So, that starts out with Great Pond and this extension. If you were to develop this at the current zoning, it could accommodate a 15,000 sq. ft. office building. The office building in the morning would generate inbound traffic and then in the afternoon traffic out to Rt. 91. Once they hit the area where the hotels are, there is a traffic jam. It is the problem that town has been facing for years with the Day Hill corridor. The POCD recognized this and looks for alternative uses that were appropriate for the area. Starting with Great Pond and we envision our project would be a continuation of that. Instead of having a business office to have people come to in the morning, we have residential units to provide a place to live and reduce the traffic. Possibly causing a short commute where they walk or ride a bike to work. This is in the conformance of the POCD. This project is helping reduce traffic and allow development to add commercial with adding more people being there at night.

different master. To avoid any conflicts, they have bowed out. The applicant has secured an architect that will provide that service and I have been in conversations with him. He has the form-based code and has been reviewing it, so that process will go forward. We reviewed a plan a week ago for the apartment buildings and they clearly did not meet the standards. Their Great Pond Architect is aware of that. We will be working with them to bring it into conformance.

Commissioner Levine asked if the Commission is only considering the conceptual plan. Town Planner Barz stated this is a zone change. While tonight feels like a site plan, you are acting legislatively by changing the map. Mr. Barz stated that in approving a change in the TNDD, you are essentially doing a zone change.

Mr. Alford stated the Great Pond Architect is really a 3rd party architect who is separate from the town and Alford Engineering. They review the project for the town to take the burden away from staff and make sure the plan follows the form-based code. The town staff has to approve this architect. Commissioner Levine asked if this is approved tonight, will the applicant come back with a site plan? Mr. Alford said no, it will then go to the staff. We will hire an architect to review the plan and make sure it is in conformance with the form-based code. We will then deal with the town staff at that point. The decision tonight involves the Commission's judgment regarding the change from I Zone to TNDD.

Commissioner Harvey asked if zoning to the south and west is all industrial? Mr. Alford said yes. Commissioner Harvey asked if the permitted uses that could come in the future could be any uses allowed in the industrial zone. Town Planner Barz said yes.

Commissioner Levine read a letter from Marlene and Michael Frechette, 675 Prospect Hill Road and George Yeramian, 739 Prospect Hill Road concerning traffic, the confined space for housing, and the surrounding Great Pond is entirely dedicated to manufacturing and warehousing businesses.

Town Planner Barz stated that there were no staff comments. Basically, we have a zone change and the Commission's job is to determine if this is an appropriate use at this location. You are legislating a change in use from industrial to residential. What is the impact on traffic? I think they make a good case citing the Plan of Conservation and Development in regards to traffic. The only difference I see is the proximity to the industrial development and the uncertainty of it. If you approve this, I think the overall concept plan of Great Pond would need to be addressed to reflect the addition of this number of units, so this number does not cut into their totals. Commissioner Mips stated that this is a lot more apartments than what we allowed across the street on more acreage. Mr. Barz stated that it meets the 50% impervious coverage requirement for a block south of Day Hill Road per the form-based code. The plan that was shown to the staff seems deficit in terms of the parkland, they could address by shuffling things

Commissioner Harvey had a similar concern, which goes back to the original Great Pond that was a unified concept and was not comfortable carving out that huge warehouse section in the north, and now this feels like more of the same: changing what that original concept was. We would be putting residential with industrial. Commissioner Mips said but we have that already. The people coming into this though already know there is industrial there. Commissioner Harvey expressed concerned for what could come into the future and cause compatibility issues. Commissioner Mips stated that is the developer of this particular property's problem. Commissioner Levine stated that is what is happening all over the Day Hill corridor: residential backed up to industrial. Commissioner Smith noted that the residential was there first. Commissioner Levine stated that Walden Woods came after the factories were built. Commissioner Mips stated if they want to go to the problem of building it, they know they are bringing it to an area that is already industrial. If it is rental units, maybe it is a good idea here. Commissioner Smith agreed with Mr. Alford's assessment of people are either going to walk or bike to work or get in their cars and go the opposite direction of the traffic coming in.

Motion: Commissioner Levine moved to approve the TNDD Concept Plan – 10 Great Pond Dr., 181 Multifamily units, I Zone, Real Group/Alford. Commissioner Correia seconded the motion and it passed, 4-1-0, with Commissioner Harvey voting against.

5. Zone Change – 72 Mack Street, AA Zone to NZ Zone, 1.1 acre, Town of Windsor

Commissioner Smith stated he is an abutter. Town Planner Barz asked Commissioner Smith if he can be objective in reviewing this application. Commissioner Smith said he has no problem with that.

Town Planner explained that this property has a small colonial on 1.1 acres. We are looking to rezone it to the NZ zone, which is the Public & Quasi Public Zone. This allows municipal, religious, and quasi-public uses by right. It also allows residential uses in accordance with AA zone standards. Whether we rezone this to NZ or not, it is still a viable home. Putting this in the NZ zone provides flexibility for the reuse of the house. In the NZ zone, there are a number of special uses to allow for conversion of community facilities when their existing use is no longer viable. In this case we have a house that could be an office. That would give you the ability to weigh in the future what to do with it. We have a professional office zone right next door. There could be some compatibility there. It could be a town office or quasi-municipal office for a nonprofit agency or something of that nature.

Motion: Commissioner Levine moved to approve the Zone Change – 72 Mack Street, AA Zone to NZ Zone, 1.1 acre, Town of Windsor. Commissioner Smith seconded the motion and it passed unanimously, 5-0-0.

facility. The northern portion of the building is currently occupied by the DPW. This particular town facility use is permitted by special use under section 15.2.4. The intended use will be in harmony and function with the existing DPW. The southern portion of this building will be renovated for police use. Out in the front there will be an addition of a vestibule. A public plaza will be in the front of police station. Additional visitor parking is around the northern portion. The back northern portion of the site will be used by DPW with an impound lot for police use. There is access into a secure lot with a sliding gate and fence around for police and police employee parking. There will be covered cruiser parking of 22 spaces that could potentially be used for solar. An access to the sally port in this secure parking lot. Cruisers can pass through another sliding gate to exit to the south. One thing we are requesting is to waive the interior islands to maintain the layout of the property. We are planning on relocating a two lane access drive to the focal point on the main entrance of the police facility.

Town Planner Barz asked about the elevations. Paul Dominov, Project Architect from Kaestle Boos, present them to the Commission. This building was once a warehouse. The front of this is brick and on the back three sides are just block masonry, so what we are going to do is clad the entire building that goes across the DPW and the police side to kind of tie the building together. The addition of the entry vestibule will mark the front door of the police so the public knows where to go. There will be a canopy with signage of Windsor Police over it. Commissioner Mips asked Mr. Barz is that going to change what we were asking in all of our industrial buildings? Mr. Barz said he has to check that. The condition of approval would be final staff review. Commissioner Mips said we cannot ask more of our applicants than our own buildings.

Commissioner Levine said she sees there are wetlands on the site that are closer to the public works end of the building and those permits would have probably already been acquired. Mr. White stated that the town has received wetlands approval. He stated we have taken out parking near the wetlands and there will be limited mowing there. Commissioner Levine questioned the solar panels. Mr. White explained where they are located. She asked if there is any special requirement for the panels being on top of the parking area. Town Planner Barz said no. Mr. White believed this will be an overall improvement to the site, dressing up the front with planting and vegetation. We will still have irrigation, as well as drip irrigation in the plant beds.

Commissioner Mips asked Town Planner Barz if she understood correctly that the north side is going to be offices. Mr. Barz stated no, it is storage. When apartments were built behind town hall on the old Parks Department garage site, we were renting a warehouse on Addison Road. When we purchased 100 Addison Road, we canceled that lease and moved all the equipment to there. This is where the Parks and Grounds equipment is and no offices.

Town Planner Barz explained that this is a public hearing. Last month was not a public hearing, so the applicant has to explain everything again. Mr. Snelgrove explained that he would like to sell his ice cream that he manufactures in his East Granby store, along with other confections that are in the Windsor store. He has complied with the Building Department and complied with additional items the Health Department.

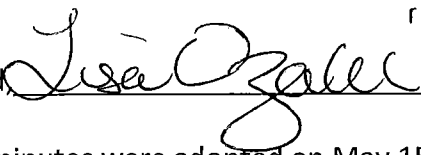
Town Planner Barz asked what are the hours of operation and day of weeks that the business would be open. Mr. Snelgrove stated that currently he is only open Monday thru Saturday, 10:30am to 6pm but would probably extend Saturdays, depending on business. At this point, Windsor closes at 6pm. Downtown area closes up at 6pm and he is hoping that changes now that three new restaurants are opening soon. Town Planner Barz stated he is not suggesting hours of operation as a condition on the application, but just wanted the information on record. Mr. Snelgrove stated he is open in East Granby until 8pm, which he finds is the longest he can go since in not a lot of lighting out there. Here, if we can get some more people downtown in Windsor center, a later time would be a good thing for the town, especially with new restaurants coming in. He is looking to create an environment where people want to come down to the town center and ice cream brings those type of people down.

Commissioner Smith asked about the outdoor seating area. Mr. Snelgrove stated he currently has two tables out there, which is something he has had since he moved in. Commissioner Smith asked Town Planner Barz if there is any regulation for this. Mr. Barz stated we have outdoor dining for eating establishments provided they do not obstruct sidewalks, have a garbage receptacle, and so on.

Mr. Snelgrove noted that flowers only represent about 40% of his business and that confections from East Granby are the bulk of his business. Snelgrove's has been in town since 1924 and he is trying to keep it here by diversifying his business.

Commissioner Levine asked Town Planner Barz about the last month's minutes stating that he was going to ask the town attorney about the special use permit. Town Planner Barz stated we already did and that is why we are here. Mr. Snelgrove stated he notified all the abutters. Mr. Barz stated staff has signed off with just a note from the Health Department that they needed to do a final walkthrough prior to the food permit. Mr. Snelgrove has spoken with Health and they have done several walkthroughs. He already has a Class 1 license. The classification is not changing. Health did try to put us up to a Class 2, but he told them that was not correct, which they verified. Mr. Barz stated that the Health Department does regulate the equipment and layout of the business. Mr. Snelgrove stated he provided the Health Department with a floorplan they are going to do a final walkthrough.

APPROVED

Respectfully submitted,  Lisa Ozaki, Recording Secretary

I certify these minutes were adopted on May 15, 2019


Jill Levine, Secretary