

**MINUTES
TOWN PLANNING AND ZONING COMMISSION
DECEMBER 10, 2019
7:00 P.M. COUNCIL CHAMBERS, TOWN HALL
275 BROAD STREET, WINDSOR, CT**

Present: Commissioners Mips, Levine, Harvey, Jaggon, and Smith. Alternate Commissioner Harvey was present seated for Commissioner Profe and Alternate Commissioner Jaggon was seated for Commissioner Correia.

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)

Commissioner Mips read the letter from Alford Associates, LLC dated December 10, 2019, into record requesting an extension of the Public Hearing for 777/903 Day Hill Road to the regularly scheduled meeting on January 14, 2020.

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

Adam Kessler, Asst. Town Engineer was present and addressed the Commission, stating that in 2018, CRCOG awarded the Town of Windsor this project for pavement rehabilitation of the entire Deerfield Road. Mr. Kessler stated that we are aiming for construction in March or April and hopefully will finish by October 2020.

Commissioner Mips explained that the project was one the Town has been waiting for.

Motion: Commissioner Levine moved to recommend to Town Council the approval of the rehabilitation of Deerfield Road Project, as described. Commissioner Smith seconded the motion and it passed unanimously, 4-0-0.

E. Pre-Application Scrutiny - None

F. Re-Approvals/Revisions/Extensions – None

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G. Site Plans – None

H. Minutes

1. November 12, 2019

Motion: Commissioner Levine moved to approve the minutes.

Commissioner Smith seconded the motion and it passed unanimously, 4-0-0.

I. Adopt 2020 Meeting Schedule

Commissioner Mips stated that she is concerned for the May date since the budget referendum could be this night. Recording Secretary Ozaki stated that the Town Clerk said it wouldn't be a problem to cancel May date and schedule a Special Meeting on another night.

Motion: Commissioner Levine moved to approve the 2020 Meeting Schedule.

Commissioner Smith seconded the motion and it passed unanimously, 4-0-0.

II. MISCELLANEOUS

1. Zoning Practice – November 2019

2. Letter from Darwyn Drive Residents regarding 33 Tunxis Street Special Use Approval

Commissioner Levine read the letter dated November 25, 2019, into the record from Darwyn Drive Residents regarding 33 Tunxis Street Abutter mailings.

Town Planner Barz stated there was no receipt of mailings for the application in the file when a resident came to view the file but the applicant was contacted and they submitted the receipts of mailings, which were included in the Commission's packets for tonight. The mailing receipt list indicated all abutters were mailed the public hearing notice, but if the abutters did not open or receive it, it is not the applicant or Town's fault.

III. PLANNER'S REPORT

3. Update on recent development.

Town Planner Barz stated that the first apartment building for Great Pond is ready for a Certificate of Occupancy. There are between twelve to fourteen people ready to move in. Town Planner Barz stated that across the street at 200 Great Pond Drive, G.E. Alstom is moving back into the building from Addison Road and doing significant renovations.

Commissioner Mips stated that the Ardery Chevrolet car dealership has been torn down, which Town Planner Barz confirmed. Commissioner Levine asked if there is a lot of remediation needed with that land. Town Planner Barz stated that there is some remediation needed. Commissioner Levine asked if the land was privately owned now. Town Planner Barz explained yes. Commissioner Levine asked if there was any plans for it. Town Planner Barz explained that the owner has talked about preliminary plans.

IV. PUBLIC HEARINGS

1. **Special Use – 903 / 777 Day Hill Rd.**, Section 8.6P, Extended Stay Hotel, I Zone, Alford Associates

Alford Associates, LLC submitted a letter requesting the application be extended to the regularly scheduled meeting on January 14, 2020.

2. **Special Use Re-Approval – 90 Meadow Road**, Section 9.6.1 & 8.6B, Outdoor Storage, W Zone, 90 Meadow Road, LLC

Commissioner Mips noted that there was no applicant present to address the Commission. The Commission agreed to open hearing and continue to the regularly scheduled meeting on January 14, 2020.

3. **Text Amendment to the Great Pond Form-Based Code**, Section 1.2, 3.1, 3.4.2, 5.4, 5.4.4, 5.4.7, 5.10, 5.8.4, 9.1, and 10.2, Winstanley

Attorney Diane Whitney from Pullman & Comley was present and addressed the Commission, representing Winstanley Enterprises and Great Pond Village. Atty. Whitney noted that the clubhouse at the Great Pond Village has also been finished.

Atty. Whitney stated that Winstanley is requesting a change to the Form-Based code to the ED Zone located on property south of Day Hill Road. Atty. Whitney stated that the reason for the requested changes is to allow for larger buildings. Atty. Whitney indicated that there is a serious interest on this property from a high-tech manufacturer to come to Windsor. Atty. Whitney stated that the changes are to Section 5.4.7 to allow for a larger building. Atty. Whitney stated that Town Planner Barz and she would like to make one more change to the revisions, in Section 5.7.7A regarding the front yard setback. The change would eliminate the sentence "No parking shall be allowed in any front yard setback required by this Subsection". Atty. Whitney stated that the reason for this change is because there is a very large front yard setback and the plan is to have majority of the parking in the rear of the building and some limited parking in the front of the building to accommodate the office use. Atty. Whitney stated that the large buildings would be consistent with all the other buildings on Day Hill Road.

Town Planner Barz explained that Winstanley is applying the I Zone standards within 500' of Day Hill Road to the entire ED Zone, even beyond 500'. Commissioner Mips asked what does that do to the proximity of the residential. Town Planner Barz stated that it is over 120 feet across the street from it.

Atty. Whitney stated that as currently mapped, this applies to two different lots on the south side of Day Hill Road. Town Planner Barz noted that they are on both sides of

Great Pond Drive on the south side of Day Hill Road. Atty. Whitney stated that there is a forty acre parcel and a twenty-seven acre parcel that it will apply to.

Speaking against this application:

Atty. David Sherwood, representing Dan Ferraina of the Real Group 6, LLC for the property abutting the Great Pond Development, which is now part of the Great Pond Form-Based Code. Atty. Sherwood stated that he is here to raise some procedural concerns he has with the application. The first concern is the wording of the proposed amendments was not filed in the Town Clerk's office as required by General Statute Section 8-3A, ten days prior to the public hearing. Atty. Sherwood stated that he was there last Thursday and the application had been filed with a summary of proposed changes, but not the exact wording of the proposed changes. The statute requires that the exact language of what's being proposed language be available in the Town Clerk's office. Atty. Sherwood stated the Town's Zoning Regulation Section 16.4.1.B, require that when you apply for a text amendment, you submit the exact wording you would like the Commission to adopt. Atty. Sherwood noted that he checked the Zoning file and did not have the exact language in it either. Atty. Sherwood stated that there is a notice problem if you include the amendments from tonight.

Atty. Sherwood stated that the second concern is the current version of the Form-Based code is not available on the town website or the Town Planning and Zoning Office. Atty. Sherwood noted that if you go to the town's website, the version that is available is dated September 6, 2018 and was adopted by the Commission last September. Atty. Sherwood stated that there is problems with this version missing adopted amendments in it, such as Sections 4.2.6, 5.4.7, 5.5.5 and 7.2 which are included. Atty. Sherwood indicated that he did a three-year search of the Planning and Zoning minutes and compared all changes to the Form-Based code. Atty. Sherwood handed in the text amendment that was approved on September 11, 2018 and he stated that it was missing from the online version of the Form-Based Code. Atty. Sherwood stated that on February 26, 2019, Skip Alford did a text amendment to change the Form-Based Code Sections 2.2.1, 2.3.4 and 2.3.5 for 10 Great Pond Drive and they are not referenced in the September 6, 2018 version. Atty. Sherwood noted that he doesn't know how far back other changes haven't been incorporated to the Form-Based Code.

Atty. Sherwood stated that the last concern is these amendments are part of a current appeal by The Real Group and the challenge to the adoption of these regulations is essentially the same problems you have with the current application. Atty. Sherwood stated that if the litigation is successful then the Town would of have adopted changes to the September 11, 2018 version and the underlining regulations would have been found to be defective. Atty. Sherwood asked the Commission to not take action to the text amendment tonight and request the applicant submit the exact language with respect to the changes that it is proposing and produce a current version of the Great

Pond Form-Based Code. Lastly, Atty. Sherwood asked the commission to please consider waiting until this litigation involving the Great Pond Formed-Based Code is concluded in court.

Town Planner Barz noted that Recording Secretary Ozaki stated the amendments were filed in the Town Clerk's office. Town Planner Barz stated that the regulations amendments are never immediately published in the Zoning Regulations. Asst. Town Planner Sealy stated that the September 6, 2018 is currently online and is the current copy we have. Town Planner Barz stated that as far as the regulations tonight, he doesn't believe they are dependent upon the previous Winstanley amendments. Tonight's amendments only effect the ED Zone and the other regulations were for a new IW Zone on the North side of the street. Town Planner Barz stated that as far as waiting for a resolution of the court case, we can't hold applications until court cases are settled. Town Planner Barz noted that there is a major tenant looking to come to Windsor and will go elsewhere if this is delayed until a court case is settled. The staff has reviewed and signed off on application.

Atty. Whitney stated we thought the amendments were filed in the clerk's office. Atty. Whitney asked the Commission to go forward with the approval tonight.

Commissioner Smith stated that he couldn't follow the Form-Based Code and he had nothing current to follow with the amendments. It's very difficult and he doesn't understand page three. Commissioner Smith stated that if he can't follow it, he can't favor it.

Commissioner Harvey stated that she couldn't follow page three either and it was not mentioned in the presentation. Town Planner Barz explained that page three shows the floor areas of different types of uses and the amendment is asking to merge those parcels together.

Commissioner Mips asked if by making this change, will that reduce the amount of retail stores or buildings on the bottom of residential, is that what you are saying. Town Planner Barz stated that no this is only to the south of Day Hill Road, so it will not touch any of that on the north side.

Commissioner Levine read CRCOG letter dated December 10, 2019 into the record.

Town Planner Barz stated that the effective date for the amendments would be December 27, 2019.

Motion: Commissioner Levine moved to approve the Text Amendment to the Great Pond Formed-Based Code as amended, Section 1.2, 3.1, 3.4.2, 5.4, 5.4.4, 5.4.7, 5.10, 5.8.4, 9.1, and 10.2, Winstanley and effective December 27, 2019

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Commissioner Harvey seconded the motion and it passed unanimously, 4-0-0.

4. Text Amendment – Section 8.6X, Special Uses, SPA Properties, LLC

Alternate Commissioner Jaggon was seated for Commissioner Correia.

Attorney Thomas Cody from Robinson & Cole was present and addressed the Commission. Atty. Cody stated that he was here on behalf of S.P.A. Properties. The proposed text amendment to the Zoning Regulation, Section 8 is adding a new subsection to 8.6X that would take the exact same permitted uses currently permitted by Site Plan only for certain types of buildings. Atty. Cody stated that there are three criteria's that would be changed to become part of this special use category. The three categories include building height, increased required setbacks from residential zone lines and modifications to the required exterior building materials.

Atty. Cody stated that the first criteria would be that these industrial uses, with a special use approval would be enabled to have a building height of up to 95'. Atty. Cody stated that currently there are a number of different maximum building heights in the I Zone. Manufacturing uses are 60', Full service hotels are 75', and Special permit uses in the I zone can have a building height up to 80'. Atty. Cody noted in the W Zone which is not affected by this amendment, but for reference, truck terminals are permitted with special use up to 110'. Atty. Cody stated that the Walgreens building is 104' high.

Atty. Cody stated that the building height permitted up to 95' with special use by the Commission is only possible by having a required minimum lot size of 70 acres. This means a large parcel that would allow large setbacks. Atty. Cody stated that a building would be set back 100' for every 10' that is above the current maximum of 60' height, from a non-agricultural residential zone boundary and the edge of pavement from a street. Atty. Cody explained that at the maximum building height of 95', setback would have to be 350'.

Atty. Cody stated the second criteria would be the location of the truck loading aprons, which currently prohibits the location between a building and adjoining street. Atty. Cody stated that with the text amendment it would clarify that on large sites, truck loading aprons could be located between the front or rear of the building and adjoining public street provided they are located at least 750' from the edge of the pavement of the adjoining public street.

Atty. Cody stated that the third criteria relates to exterior building material. The current 70% masonry, but the masonry requirement with taller buildings becomes impractical. Atty. Cody stated that to reduce the minimum masonry requirement from 70% to 30%, but there would be variation of in the planes of the design of the building on the front

and sides of the building. Atty. Cody noted that this will increase the flexibility for construction methods to still provide a high quality building.

Atty. Cody stated that the reason for the proposal is because modern industrial buildings are utilizing greater efficiencies in their buildings, incorporating incredible technology and efficiency within use of the building that is driving heights higher than the 60'. Atty. Cody stated that his client is working with a prospective tenant that is very interested in bringing a significant project to Windsor and these changes are needed to accommodate them. Atty. Cody noted that the project would bring in a significant tax base to the town.

Atty. Cody stated that there is a visual slide show for the Commission to watch of the building layout and cross sections. Atty. Cody submitted a thumb drive with the material on it for the file. Atty. Cody explained that the buffer would be landscaped around the entire site. Atty. Cody stated that the amendment is consistent with the POCD and promotes industrial development by increasing flexibility.

Commissioner Levine asked if these regulations would apply to any site within the town of Windsor. Atty. Cody stated that yes in the I Zone that follows the criteria. Commissioner Levine asked what if the site was way up on a hill, would the building be out of proportion with the overall aesthetic quality of Day Hill Road. Town Planner Barz stated that the Day Hill standards within 500' still apply and warehousing and distributing is not a permitted use within 500' of Day Hill Road.

Commissioner Mips stated that she has been trying to figure out where there is a 70 acre parcel. Commissioner Levine stated that she is trying to make sure the aesthetic quality in industrial areas is maintained. Commissioner Mips noted that this is warehousing not industrial.

There was no public comment.

Town Planner Barz asked Atty. Cody about the example if a building went to 95' building would be setback 100' for every 10' over 60'. Town Planner Barz asked Atty. Cody if he meant a 450' setback. Atty. Cody stated that no, it should be a 350' setback. Town Planner Barz stated the 5' in height should require another 100' of setback, as "a fraction thereof" of 10 feet. Atty. Cody stated that wasn't the intent, but that it should be a portion of that. Town Planner Barz read the regulation into the record to make sure it's correct. Town Planner Barz stated that it looks like it reads 100' for every 10' above 60' or fraction thereof. Town Planner Barz amended the Section 8.6X(2) to read "Any portion of a building higher than 60 feet shall be situated away from any non-agricultural residential zone boundary and the edge of pavement of any public street a distance of at least 10 feet for each foot of additional height above 60 feet.

Town Planner Barz stated that the staff has reviewed the application and signed off on it. Town Planner Barz stated that it is limited to sites of 70 acres or more and the setback is going to be greater than the Day Hill standard. Atty. Cody noted the setbacks for similar developments: the Dollar Tree building is 41' high with a setback of 200'; the Walgreens building is 104' high and is setback on International Dr. 300' and the higher part of the building is setback 400'; on Day Hill Road, the Amazon building is 45' high, is setback 1200' back and 120' from Goodwin Dr. Town Planner Barz stated that the building would be 9' less than Walgreens and setback at least 350' from the road. Town Planner Barz noted that there would be a traffic analysis and we would ask for cross sections for the site. There will be an architectural plan so we will know if it will be an attractive building in an industrial area. Town Planner Barz noted that at that height, you would not be able to hide it from everything.

Commissioner Mips stated that there is only a couple of places that she can think of and it would not interfere with anything else.

Town Planner Barz stated that the loading apron going in between the building and the street is prohibited, since after Dollar Tree, we rewrote the zoning regulations, but in this case they're offering to put it 750' from the road. Town Planner Barz explained that it allows for screening and possibly an intervening building in the future to block the view.

Commissioner Harvey asked Town Planner Barz if he had any input on the masonry changes. Town Planner Barz explained that given the height, you don't want to stack masonry or concrete panels that high, so the Commission would have discretion with the materials.

Atty. Cody appreciated the points that Town Planner Barz made and respectfully asked for approval of the text amendment. Atty. Cody noted that he is very excited for the amendment and hoped it would be approved.

Commissioner Smith stated that if this was up on Tradeport, where we already have a Walgreens and a Dollar Tree, I wouldn't have a problem with it. If we adopt this modification could we say no to the Day Hill Road area? Commissioner Mips noted it wouldn't be in the Day Hill Road area. Town Planner Barz stated that it wouldn't be allowed within 500' of Day Hill Road. Town Planner Barz noted that the Commission has discretion to determine if a site is appropriate or not.

Commissioner Mips stated that she can't see a spot around Day Hill Road except behind The Hartford where the land was bought by the State of CT.

Commissioner Smith stated that he used Dollar Tree as a learning experience and remembers the problems with the residents. Commissioner Harvey noted that it could

be double the height of Dollar Tree. Commissioner Levine noted that thinking about the size of Walgreens, that it's huge. Commissioner Smith stated that he can see Walgreens from Northwest Park: that is how big it is. Town Planner Barz stated that a benefit to going high in the right location is that it uses less land and has less environmental impact. Commissioner Mips stated that it all comes down to where the site is located. Commissioner Levine stated that she liked the façade of building and making them look more attractive with landscaping.

Motion: Commissioner Levine moved to approve the Text Amendment Section 8.6X, Special Uses, SPA Properties, LLC as amended.

Commissioner Mips seconded the motion and it failed, 2-2-1.

5. Special Use – 305 Windsor Ave., Section 5.2.6D(1) & 5.2.6O, B2 Zone, Lilly's

Andre Lilly from the Lilly Group, 305 Windsor Avenue and Michael Johnson, Architect from M. E. Johnson & Associates, were present and addressed the Commission regarding the application. Mr. Lilly stated that he would like to expand his restaurant by enclosing the patio. The patio is used for outdoor eating now and enclosing would increase their business throughout the whole year. Mr. Lilly noted that they have outgrown their space. Mr. Lilly stated that they now own the package store next door, which they would like to use for catering storage.

Mr. Johnson stated that the primary reason we are here is because of a parking issue. Mr. Johnson stated that the parcel where the parking is located is part of a condo complex with the bank and the radio station. The parking is not designated, but is a communal parking lot. Mr. Johnson noted that he doesn't know how he could designate the parking for just the restaurant. Mr. Lilly indicated there is also street parking. Mr. Johnson stated that the addition would add an additional 1,200 sq. ft. to the footprint. Town Planner Barz stated that based on your plan you're encroaching into additional parking spaces. Mr. Johnson stated that the parking is going to be moved back.

Town Planner Barz stated that staff has reviewed the application. Town Planner Barz noted that the existing restaurant and the existing package store are grandfathered in under the zoning regulations that says any existing floor area in Wilson or Windsor Center as of the date adopted can interchange any uses without requiring any additional parking. Town Planner Barz stated that any new floor area has to provide whatever the parking requirement is.

Commissioner Mips asked if they were keeping the package store or demolishing it. Mr. Lilly stated that they are keeping it.

Town Planner Barz stated that we could approve this by a 3.9, but we need the site plan to have everything on it and meet the parking requirements. Commissioner Smith asked

if they get credits for being on the bus line. Town Planner Barz stated that we can reduce the parking by up to 30% for on street parking, bus service, and walkable neighborhood. Commissioner Mips asked how many additional spaces they need. Town Planner Barz stated that we don't have enough information to tell you if the plan is feasible from a parking standpoint.

Commissioner Mips asked Mr. Lilly what he is going to use the package store for. Mr. Lilly stated that it is being used for our supplies and catering. Mr. Lilly noted that he does not need any additional parking for that.

Commissioner Levine asked if we could refer this to staff for a 3.9. Town Planner Barz stated that yes you can, but we could find they have a special use approval and not enough parking. Town Planner Barz stated that they need eleven additional spaces to the fourteen spaces they have.

Commissioner Mips stated that the site plan must show all the buildings and the parking spaces that go along with it. Commissioner Mips stated that we should table this and have them come back next month with all the parking on it. Town Planner Barz stated that this application requires a parking analysis. Mr. Lilly handed in a letter from the bank and radio station for the file.

Commissioner Harvey asked if we can approve the concept to avoid them from coming back. Town Planner Barz stated yes, if you approved it with a condition subject to the site plan approval, as long as Mr. Lilly doesn't hold staff accountable for him not being able to meet the conditions of a site plan. Mr. Lilly stated that it would be acceptable and understood. Town Planner Barz stated that he would be comfortable with that.

Commissioner Levine asked what if you worked with them on the parking and then we had a special meeting. Town Planner Barz stated that they might need another special use for parking.

Commissioner Mips stated that we could go through approving with the condition subject to site plan approval.

Motion: Commissioner Levine moved to approve the Special Use subject to site plan approval under Section 3.9 – 305 Windsor Ave., Section 5.2.6D(1) & 5.2.6O, B2 Zone, Lilly's.

Commissioner Smith seconded the motion and it passed unanimously, 5-0-0.

V. BUSINESS MEETING

A. Continuation of New Business – None

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B. Application Acceptance

1. **Text Amendment to Zoning Regulations**, Zoning Regulation Section 13.2.8B & Great Pond Form-Based Code 2.2.1, 2.3.4, 2.3.5 & 5.4, Table 5.2, 7.2, Alford Associates, LLC
2. **Text Amendment to Zoning Regulations**, Section 8.6E, Commercial recreational and cultural buildings and facilities, Lada, PC

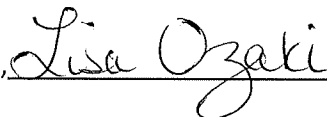
The Commission directed that the above two public hearing items be scheduled for public hearing at the next regular Town Planning and Zoning Commission meeting on January 14, 2020.

C. Old Business – None

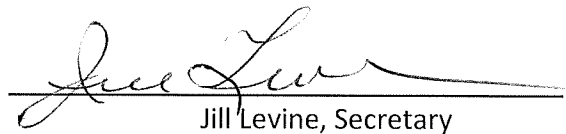
D. Public Communications and Petitions – None

VI. ADJOURNMENT

Motion: Commissioner Levine moved to adjourn the meeting at 8:48p.m. Commissioner Jaggon seconded the motion and it passed unanimously, 5-0-0.

Respectfully submitted, , Lisa Ozaki, Recording Secretary

I certify these minutes were adopted on January 14, 2020


Jill Levine, Secretary

