

**MINUTES  
TOWN PLANNING AND ZONING COMMISSION  
March 10, 2020  
7:00 P.M. COUNCIL CHAMBERS, TOWN HALL  
275 BROAD STREET WINDSOR, CT**

**Present: Commissioners Mips, Levine, Profe, Correia, and Smith.**

**Alternate Commissioner Jaggon and Alternate Commissioner Ferraina were present, but not seated. Alternate Commissioner Harvey was absent.**

**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**

**1. Site Plan – 30, 36, 40-42, & 44 Baker Hollow, Addition, I Zone, Alford Associates, Inc.**

Wilson Alford, Jr., Engineer from Alford Associates, Inc. was present and addressed the Commission. Mr. Alford stated that the property is located on the southeast side of Baker Hollow Road. The owners are OSF Flavors located at 44 Baker Hollow Rd where the addition would be constructed. The addition would be located on top of the loading area which would upgrade their research and development facility. Mr. Alford stated that the emergency access would circle around the addition. Mr. Alford noted that sewer and water are available on the property from the existing building. There is a detention basin located on the south side of the building that runs into an existing pipe and then to another detention basin. Mr. Alford stated that the Fire Marshal and Engineering would like revised exit movements for fire

apparatus. Mr. Alford stated that they are asking for a waiver for dead-end parking. There are currently fifty employees at the facility and OSF Flavors is hoping to increase the number of employees.

Town Planner Barz asked Mr. Alford if there is a means at the end of the parking lot for a vehicle to pull in and do a K-turn to turn around. Mr. Alford said that they can go out the emergency access that will not be gated.

Commissioner Mips asked if this property was located on the paved area of Baker Hollow Road. Town Planner Barz explained that it is to the rear of buildings on Baker Hollow Road. Mr. Alford stated that the access was on the paved section of Baker Hollow Road. Commissioner Mips asked Mr. Alford if he received the March 6th comments from the engineering Department. Mr. Alford stated that yes he had and the comments were addressed already.

Commissioner Smith asked if the emergency access was graveled. Mr. Alford stated that the emergency access was gravel. Commissioner Smith asked if that would support the fire apparatus. Mr. Alford said that yes it would. Commissioner Smith asked if that was just for fire setup or just for fire travel. Mr. Alford stated that it's 18' wide, enough to put the fire stabilizers down. Commissioner Smith asked if the gravel was going to support stabilizers. Mr. Alford stated that yes it would support a vehicle going across the road. Commissioner Smith asked if that's a normal travel lane. Mr. Alford said that it's not a normal traffic lane, it's an emergency access for the fire department. It would not be gated at the end.

Asst. Town Planner Sealy stated that staff has reviewed the application and the building addition complied with the Day Hill Standards. Asst. Town Planner Sealy noted that part of the existing building is going to get a new facade. There is concern about the fire apparatus exiting the site and Town Planner Sealy requested that it be included in the conditions. Commissioner Mips asked Asst. Town Planner Sealy about the staff comments. Asst. Town Planner Sealy stated that most of the comments were minor and would be addressed subject to a final staff review.

**Motion: Commissioner Levine moved to approval of the Site Plan – Site Plan – 30, 36, 40-42, & 44 Baker Hollow, Addition, I Zone, Alford Associates, Inc. with the following conditions:**

1. Fire Truck access be subject to final staff approval.

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

## Minutes

### 1. February 11, 2020

**Motion: Commissioner Levine moved to approve the minutes as amended.**

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

## II. MISCELLANEOUS

### 1. Zoning Practice – February 2020

## III. PLANNER'S REPORT

### 1. Update on recent development.

Town Planner Barz stated that SSA Steel on Marshall Phelps Road had built their first phase that was approved in March last year and is now advancing onto their second phase. Great Pond building two has been certified to occupy, building three also would be certified to occupy in two weeks, building four would be certified to occupy in a month after that, and all eight building are scheduled to be completed by October 2020. At 200 Great Pond, the renovations for GE have been completed and GE will be moved there shortly from the Addison Road.

## IV. BUSINESS MEETING

### A. Continuation of New Business – None

### B. Application Acceptance

1. **Special Use – 1 Joseph Lane & 1201 Kennedy Road**, Distribution Center, Section 8.6x, I Zone, SPA Properties, LLC
2. **Special Use – 244 Bloomfield Ave.**, Yoga Meditation Center, Section 8.6e, I Zone, Olivares

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

### C. Old Business – None

## V. PUBLIC HEARINGS

1. **Text Amendment to Zoning Regulations and the Great Pond Form-Based Code**, Zoning Regulations Section 13.2.8B(1) & Form-Based Code 2.2.1, 2.3.4, 2.3.5 & 5.4, Table 5.2, 7.2.1, Alford Associates, LLC

Wilson Alford Jr. was present and recapped the application for the Commission. Mr. Alford explained the form-based code to the Commission and how it differed for their property. Mr. Alford stated that to attract more people to the project, a lot of amenities would be added within the building. The project would be similar to Heirloom Flats in Bloomfield. Mr. Alford noted that it's a community with amenities within your own home. It would have more social life contained in one building.

Commissioner Levine asked if this was happening in two separate buildings. Mr. Alford stated that no it's one building, but Great Pond had several buildings. Mr. Alford stated that

everything in one building is a different lifestyle. The concept was patterned like the one in Bloomfield that was constructed and very successful.

Mr. Alford stated that it's not going to be the same architect as Great Pond. Commissioner Mips noted that Great Pond is too big of a building on that parcel. Mr. Alford stated that this was a different type of building than what the form-based code envisioned. Mr. Alford noted that the major problem was traffic on Day Hill Road and in 2015 the POCD addressed that issue on pages 10-17. Mr. Alford stated that by implementing a TNDD, it would reduce traffic. Mr. Alford stated that the other amendment to the form-based code would allow geothermal and solar to increase the imperviousness on the property by 1% for every 10% of energy supplied.

Commissioner Mips read the letter dated March 5, 2020 into the record. Town Planner Barz asked Mr. Alford to clarify where that leaves them now in terms of your client moving forward. Mr. Alford stated that the withdrawn amendments were already approved in February 2019 and there was an appeal period of a year. Town Planner Barz asked Mr. Alford what those amendments did. Mr. Alford explained what the previously approved amendments were for. Town Planner Barz stated that the enabling language allowed them to append to the Great Pond form-based development. Mr. Alford noted that was correct and the others were to restrict the decisions to be made by the Great Pond Developer. Town Planner Barz stated that it allowed them to have a third-party architect. Mr. Alford noted the last amendment was to allow the Great Pond Developer to pick a third party architect. Town Planner Barz stated that subsequently to those changes, they came back with a form-based code and a concept plan. Mr. Alford said that yes they did. Town Planner Barz asked if those are in litigation currently. Mr. Alford stated that Town Planner Barz said that we came back with a form-based code and those were the form-based code, subsequent to that we came for concept approval and that was appealed. Town Planner Barz asked if their client were successful in the appeal, would they be able to move forward with the staff for the new concept without coming back to the Commission. Mr. Alford said that we intend to come back with a new concept plan.

No public spoke in favor.

Spoke against:

Atty. Tim Hollister, Shipman & Goodman, representing Winstanley Enterprises which was the Great Pond Developer, Great Pond Village which was the Great Pond Master Developer, and Winfield Business Park, which owns land on the south side Day Hill Road. Atty. Hollister handed the Commission packages to review. Atty. Hollister stated that overall Great Pond had no objection to development on Day Hill Road, however that development should not be allowed to undermine the Great Pond Form-Based Code. The Real Group proposed multifamily development in close proximity to the industrial zone. This should be handled very carefully as Windsor's POCD pointed out.

Atty. Hollister stated that there are some significant procedural and subsequent points of disagreement as follows:

1. There was a notice defect in this application.  
The applicant did not ask the Commission staff to send a certified notice to the Town of Bloomfield as requested by 16.1.8.C of the Zoning Regulation and the General Statute's 8-7d.f., and 16.7.1D which said that the form-based code changes followed text amendment procedures of 16.4. The Real Group's property located at 10 Great Pond Drive was very close to the Bloomfield Windsor town line. Atty. Hollister stated that the Real Group is proposing form-based code amendments that would allow a very large one building apartment complex, like Heirloom Flats in Bloomfield. Atty. Hollister noted that this could questionably be a major traffic generator. A major traffic generator required a certified notice of the text amendment to be sent to Bloomfield, but did not occur. That was a notice defect.
2. Real Group have been less than forthright with their claim they are withdrawing three proposed amendments because they were approved in February of 2019. Great Pond disagreed with the claim that the changes to 2.2.1, 2.3.4 and 2.3.5 of the form-based code as approved in 2019 are still in effect.

Atty. Hollister stated that the letter from Alford Associates dated March 5, 2020 was the first time Great Pond was aware of any changes made by The Real Group. The amendments were applied for in early 2019 and the Commission approved the amendments to the Zoning Regulation 13.2.8.b and to the form-based code 2.2.1, 2.3.4 and 2.3.5 to allow the TNDD to be extended, which then curtailed the role of the master developer and eliminated the role of the master architect. Atty. Hollister asked why Great Pond was not made aware of the February 2019 application. Atty. Hollister stated that it was because there was no notice sent to Great Pond.

Atty. Hollister proceeded to take the Commission through the chronology of The Real Group application that are contained in the Commission's packets.

Tab #1: The starting point, minutes from February 26, 2019 TPZC meeting. Alford Associates represented the Real Group during this application approval.

Tab #2: Great Pond's November 1, 2019 application to amend the form-based code to revise the overall relationship within Great Pond of the multifamily residential and the industrial within the Great Pond property.

Tab #3: Great Pond submitted an update of the September 2018 form-based code which does not reflect the Real Group's February 2019 amendments to the form-based code. The Real Group said nothing about that omission. They had notice of it, but they just let it go. Great Pond's November 1, 2019 was approved by the Commission.

Tab #4: The Real Group appealed the approval from November 2019 on December 10, 2019 to the Superior Court.

Tab #5: On page 6 of the appeal, the Real Group's claim was that Great Pond had not filed an accurate and up to date version the form-based code.

Tab #6: On December 20, 2019, Alford Associates revised their application originally filed December 5, 2019 and applied for the same amendments that had been approved in February 2019. Atty. Hollister asked why they did that.

Tab #7: Atty. Hollister stated on December 20, 2019, Great Pond refiled an application and once again filed an accurate and up to date version of the form-based code, dated December 19, 2019 that did not include any of the February 2019 amendments from the Real Group. Great Pond was never aware of them and the Real Group once again did not say anything about that.

Tab #8: Town of Windsor's approval notice of the Great Pond Application to revise the form-based code. Atty. Hollister stated that the Commission approved amendments to the form-based code last revised September 19, 2018, which didn't include the Real Group's approved amendments from February 2019. Atty. Hollister noted that appeal period for the action had now expired and confirmed with staff the January 27, 2020 form-based code is now on the Windsor Planning and Zoning Commission's website. It did not contain any of the amendments from February 2019. Atty. Hollister explained that he did not feel the revisions that Mr. Alford withdrew from this application were approved as he claimed in his March 5, 2020 letter. Atty. Hollister stated that it appeared the Real Group applied for their application in December 2019, hoping no one would look back to February 2019 and see there was a notice defect.

Atty. Hollister stated that we disagree with Mr. Alford that the three provisions were approved in February 2019. Atty. Hollister stated that the purpose and the structure of the Great Pond Form-Based Code was to apply to all buildings and development within one overall parcel. The form-based code specified the building forms, footprints and architectural detail into an intergraded development. The master plan, the master plan developer, and the master plan architect were absolutely crucial to the execution of the form-based code. The Real Group proposal of the form-based code undermined critical features of the form-based code. It reduced control for the Master Developer and it eliminated the Master Architect in favor of a third party architect. It also made changes to 5.4 to the maximum dimensions of a large urban building. Atty. Hollister noted that this was not just on the Real Group's property, but anywhere in Great Pond Village. Atty. Hollister stated that the amendment redefined the maximum impervious coverage not just for the Real Group, but for Great Pond Village. It introduced conventional zoning concepts.

3. There are several parts before the Commission that undermined the form-based code as it had been adopted and revised over the past eight years. Their proposal to amend 7.2.1B.5 of the form-based code, which allowed greater impervious coverage based on the possible use of geothermal or solar was in effect an illegal conditional zone change.

Atty. Hollister stated that the Real Group wanted to increase the maximum impervious coverage of this one large apartment building from 50% to 60%, conditioned on the possible future use of solar or geothermal.

Tab #11: refers to Geothermal Heat Pumps

Atty. Hollister stated that the proposed 7.2.1B.5 made the maximum coverage dependent on the use of solar or geothermal, which was an illegal amendment per the U.S. Department of Energy Federal Energy Management Program (FEMP). Atty. Hollister noted that maximum coverage cannot be set based on a promise to consider an alternative energy source before any building plans have been put together or the heating load calculated. This was not the purpose of the Zoning Regulation.

Tab #10: CT Land Use §22.16 (the zone and therefore the uses of the property cannot be subject to change and conditions beyond the control of the zoning commission itself.)

4. The proposal facilitated multifamily residential adjacent to industrial development, on the south side, which is not good planning as regulations and past practice recognize. It was also contrary to the POCD.

Atty. Hollister stated that putting apartments next to industrial uses was not good planning. Tenants would complain about the industrial use impact, trucking, and noise. The Real Group would be setting up these conflicts in a very direct way than anything that would go on the Great Pond side of Day Hill Road. The POCD showed only industrial on the south side of Day Hill Road.

Atty. Hollister stated that in addition to the notice defect and the less than forthright procedural tactics, the Commission should recognize the January 27, 2020 version of the form-based code as what was in effect. This would mean that the amendments of 2.2.1, 2.3.4, and 2.3.5 are not in effect. Atty. Hollister noted that The Real Group is proposing to dismantle portions of The Great Pond Form-Based Code, proposing an illegal zone change, proposing a larger apartment complex next to industrial use, and contradicting the POCD.

Town Planner Barz stated that he agreed with Atty. Hollister regarding the issue of the development being adjacent to an industrial development. Town Planner Barz noted that when the concept plan was approved, the volleyball club was going to replace Rolled Alloy and now that is not happening. Town Planner Barz said he was opposed to that application then and had the same concern today. Town Planner Barz disagreed with Atty. Hollister on the notice issue and believed the statute stated that we have to notify an abutting town if the project involves significant traffic, water, storm drainage, etc. It was his understanding that a text amendment with no specific project being approved at the time and would not require notification to Bloomfield. When Great Pond refiled their application in December 2019, Atty. Hollister asked the town to notice the Town of Bloomfield. It was done at the attorney's request and the staff recognized that was not a requirement. Town Planner Barz

noted that he can check with the town attorney to verify if Bloomfield needed to be noticed, though he believed that he already spoke with the town attorney and he agreed that Bloomfield didn't need to be noticed. Town Planner Barz explained that he was not ready to comment on this application since there was new information provided tonight.

Commissioner Mips asked seeing this was Great Pond's form-based code, how do the changes go into it and how does the amendments get put into the code. Town Planner Barz stated that originally the Great Pond Architect, who was the keeper of the code, updates the code and provides the town with a newer version. Town Planner Barz noted that when an outside party changed our standard Zoning Regulations to enable an appendage to the Great Pond Code, the Great Pond Architect had a conflict since he worked for Great Pond and therefore would not be changing the form-based code. A third party architect would be needed, but the third party architect wasn't updating the code. Town Planner Barz stated that we have the code changes in our files, but we hadn't updated the form-based code yet, as far as anything legal, he doesn't know.

Town Planner Barz explained the abutter notice requirements to the Commission regarding Great Pond not knowing about the changes to the form-based code. Abutters are only noticed for zone changes, site plans, and special uses, not text amendments. Commissioner Levine asked where the authority was for all that. Town Planner Barz said that the statutes require all of that and our regulations mirror the statutes. Town Planner Barz stated that, as a rule, he does not call abutters to let them know what was happening in their area. Town Planner Barz stated that he thought Winstanley was paying attention but they weren't aware. Commissioner Levine noted that the Town Planner had to remain neutral. Town Planner Barz stated Winstanley was now included in the zoning registry and would now be notified of any future applications.

Commissioner Mips asked if the appeal was still in court. Town Planner Barz stated that there are two court cases. The first case, Winstanley appealed the concept plan approval and the second case, Real Group had a countersuit regarding a defect in Winstanley's text amendment. Commissioner Levine asked if the court cases were still active, are we able to rule on this application. Town Planner Barz noted that he wasn't qualified to answer that. Town Planner Barz stated that a month ago the Commission approved Great Pond's repeat change with their case still pending. Commissioner Mips said that this was getting more confusing by the minute.

Atty. David Sherwood, representing Real Group, was present and addressed the Commission. Atty. Sherwood stated that on December 10, 2019, he told the Commission it was virtually impossible to tell what version of the Great Pond Form-Based Code was the current version. The December 10, 2019 application from Winstanley was not filed, in the Town Clerk's office. The Commission approved the application and Real Group filed an appeal because of the defects. Atty. Sherwood stated that Winstanley subsequently reapplied. Atty. Sherwood said they were not hiding anything. Atty. Sherwood stated that

the reason Mr. Alford withdrew the three code provisions, which were adopted February 2019 was because there was a notice problem and there is a one-year appeal period. The one-year appeal period expired on February 26, 2020 and at that point those text amendments became unassailable, so they are part of the form-based code now. Atty. Sherwood noted that there are two remaining provisions, one for building size and the other for an alternative energy use. Atty. Sherwood noted that the State Statute 8.7d.f says if you have a development project that had a significant impact and these two proposals were text amendments that don't need to notice to Bloomfield. Atty. Sherwood said that it was not a defect.

Atty. Sherwood stated that Section 7.2.1, which gave you certain advantages if you use a certain density and if you use certain energy systems. The language we are proposing is identical to Zoning Regulations Section 14.2.9. Atty. Sherwood noted that the effect it would have would unify the treatment of the energy systems throughout the entire town. Atty. Sherwood stated that Atty. Hollister claimed that we were proposing a residential use next to an industrial use and we were not, but amending table 5.2 of the form-based code building size. There is no specific plan in front of the Commission and you were not approving a building or a use. The Great Pond Code was part of the Windsor Zoning Regulations, it was not the particular property of David Winstanley. Atty. Sherwood stated that in order to build a residential building on the proposed property, Mr. Alford was going to need a map amendment and a concept plan.

Commissioner Smith asked Atty. Sherwood about the alternative energy possible coverage going from 50% to 60% and how do you determine the percentage, before or after geothermal. Atty. Sherwood said that if the Commission approved the amendment and there was a plan with geothermal, which proposed more than the 50% coverage, you then decide if you want to approve it. Commissioner Smith stated that we had energy systems in town that were approved and then after those conditions never worked. Commissioner Smith asked when you go to the 60%, when would it be operational or would it stay operational. Atty. Sherwood explained the process to Commissioner Smith. Commissioner Smith asked why the word "possible" was in it. Atty. Sherwood noted that the language in the proposal was identical to the Zoning Regulations and his understanding was that it doesn't require the Commission to give the bonus.

Atty. Hollister stated that the Real Group hid the ball in two ways.

1. Not mentioning the February 2019 amendments through not only one, but three applications to amend the form-based code.
2. Then withdrawing after the one year period passed.

Atty. Hollister agreed with Atty. Sherwood that Real Group had withdrawn their proposed amendments 2.2.1, 2.3.4, & 2.3.5. The issue now would be what code provision was now in effect, the February 2019 amendment, which has been ignored through three applications and overwritten by January 27, 2020? Atty. Hollister noted that Mr. Alford had presented a

site specific form-based code to the Commission. Atty. Hollister stated that in response to Commissioner Smith's question about the maximum impervious coverage, it doesn't have to do with geothermal or solar, but increasing the maximum impervious coverage which was illegal. Atty. Hollister said that Real Group should adopt their own form-based code and not mess with Great Pond's. That would be the easiest answer. Atty. Hollister stated that the Real Group should create their own TNDD, make their own form-based code and stop making amendments which effect not just their property, but the whole Great Pond Village Development.

Mr. Alford stated that this was not site specific, just a building that we would like to emulate. Mr. Alford stated that Great Pond had no proprietary interest in the form-based code. Mr. Alford stated that Great Pond wrote the regulations, then set it out, and it's now part of the Town of Windsor Zoning Regulations. Mr. Alford stated that Real Group amended the part of it that says the person who rewrote the code was not the developer. Mr. Alford said that Real Group did not delete the architect, but the applicant gets to pick an architect to review the project. Mr. Alford said that unless the Commission approved this, there was no plan.

Commissioner Correia asked Town Planner Barz for clarification in 2.3, if the commission doesn't actually get to see the plans. Town Planner Barz stated that if they had to come back for a concept plan, you would see the conceptual plan. Commissioner Correia asked if the concept plan was at their discretion or a requirement. Town Planner Barz stated that if their appeal of the previous concept plan were overturned, then the previous approval stood. Town Planner Barz said that it would make it a T4 zone and they could come in with the building without a concept plan. If the appeal failed and they come back for a concept plan, the Commission would have the discretion to approve it or not.

Commissioner Levine asked then should this be in front of us now. Town Planner Barz stated that unfortunately we are running out of time. The public hearing opened on January 14, 2020. Town Planner Barz asked Atty. Sherwood to clarify 8-7d, can a 35 day extension to be granted. Atty. Sherwood said 35 day extension once the public hearing was opened. Atty. Sherwood said that he wanted to point out to Commissioner Levine, that this was not a concept plan or a site plan, but we are here proposing two text amendments. Commissioner Levine stated that she understood that. Atty. Sherwood stated that the litigation had nothing to do with this application and the decision of this application would not affect that.

Commissioner Levine asked if increasing the size of the building was contingent upon using alternative forms of energy. Atty. Sherwood said that was not correct.

Town Planner Barz asked Atty. Sherwood about the extension again. Atty. Sherwood said that he doesn't think we can extend this beyond 35 days. Town Planner Barz asked Atty. Hollister his take on 8-7d. Atty. Sherwood said that his suggestion would be to close the public hearing and if you want to talk to the town attorney then do that. Town Planner Barz said that he doesn't want to close the public hearing before getting a legal opinion first. Atty.

Hollister stated that it's 65 days. Town Planner Barz noted to Atty. Sherwood that you could grant up to 65 additional days to close the hearing since the statute was changed. Town Planner Barz asked Atty. Sherwood if he would grant an extension to the April 14, 2020 meeting. Town Planner Barz asked the Commission if they had any questions they wanted him to ask the town attorney. Commissioner Levine said that she would like to hear from Mr. Alford.

Mr. Alford explained that they asked for two amendments to the form-based code and what the proposed amendments were. Mr. Alford noted that the amendment regarding the alternative geothermal and solar were basically taking the Town's Zoning Regulations for solar and putting that into the form-based code.

Commissioner Mips asked Mr. Alford, but you combined the regular Zoning Regulations with the TNDD. Mr. Alford stated that no they are not combined. Commissioner Mips said that he did. Mr. Alford stated that it's combined with the form-based code. Mr. Alford noted that they would like to do geothermal, but more importantly solar. Town Planner Barz stated that you can do solar and don't need a text amendment to do it.

Commissioner Smith asked Mr. Alford if he did the form-based code to have higher densities from the Town Regulations. Mr. Alford stated that the Zoning Regulations don't allow you to create the New England Village that everyone lives in. The form-based code got closer to being able to do that. Commissioner Smith stated that no New England village was like Great Pond, they took it out of Charleston, South Carolina. Mr. Alford noted that it's made to have a community feel to it. Commissioner Smith agreed with Mr. Alford, but the Form-Based code has higher densities per acre and asked for even more which was too much. Town Planner Barz stated that the 50% impervious coverage requirement did not apply north of Day Hill Road because the densities in the T4 zone are higher than 50% with the understanding that there is over 300 acres of the open space in Great Pond. Everything south of Day Hill Road was envisioned to be the Economic Development Zone, which was similar to the Industrial Zone in which we have a 50% impervious coverage requirement. Town Planner Barz stated that they were trying to do what was done on the North side of the road, but in the industrial area in the south.

Mr. Alford stated that Town Planner Barz said the area that is south of Day Hill Road is industrial, we are just asking for an increase of the size of a building. Commissioner Smith said that it doesn't say if it's industrial or residential, you're just asking for the size of a building. Commissioner Smith asked then I am not looking at anything except the size of a building. Mr. Alford stated that is correct. Commissioner Smith asked if the building would be on Day Hill Road. Mr. Alford stated that it might be another piece of property.

Town Planner Barz asked Mr. Alford and Atty. Sherwood about the comment they made regarding the exclusivity of the form-based code. Town Planner Barz stated that the form-based code was a town code and adopted by the town, but until Mr. Alford made changes

to both regulations, it only effected one party, paid for by one party, and it applied exclusively to Winstanley. Mr. Alford said that we are not going to talk about who paid for it. Mr. Alford asked, do you know how many times he has heard cost had nothing to do with the application. Town Planner Barz stated that it was a proprietary code and having an architect, who worked for Great Pond, which worked hand and hand with the town and everything rolled into that. Town Planner Barz said that Hamden and Simsbury have a form-based codes and applied to certain routes and everyone was bound by it. Town Planner Barz stated that no one was bound by this except Great Pond until you amended those changes. Mr. Alford stated that Great Pond has no proprietary right to the code and it was not their regulation.

Commissioner Mips stated that she would like the town attorney to go through all of this and let us know what to do. Commissioner Mips stated that the town attorney needed to ask about the form-based code amendments that Real Group amended and why they are not in the code. Commissioner Mips noted that she had a problem with combining the Zoning Regulations and the form-based code.

Town Planner Barz stated that he needed to find out if Atty. Hollister's claim and the citation of the court case was effective. Commissioner Mips asked if we are still in litigation and if we are what basis would that have on it.

Commissioner Levine noted that she would like all this clarified.

Commissioner Correia asked in the letter received from Alford Associates, Inc., about withdrawing the amendment since it was already amended, was that a correct statement. Town Planner Barz stated that he would check that as well.

Town Planner Barz stated that he would give the letter, Atty. Hollister's packet and possibly invite both attorneys to speak with our attorney. Town Planner Barz noted that April 14 was going to be a busy meeting, but we would get this all taken care of.

**Motion: Commissioner Mips moved to recess until the April 14, 2020  
Commissioner Levine seconded the motion and it passed unanimously, 5-0-0.**

**2. Special Use – 465 Broad Street, Section 15.2.14, Filling, R11 Zone, Aitkin**  
Asst. Town Planner Sealy stated that the applicant had requested be continued to the April 14, 2020 meeting because of concern for wetlands.

Commissioner Mips asked if there was no garage there now. Commissioner Smith noted that there was a storage shed, but had been approved for a 675 sq. ft. garage.

**Recessed until April 14, 2020 meeting.**

**3. Special Use Re-Approval – 777/903 Day Hill Road, Section 8.6P, Extended-Stay Hotel, Alford Associates, Inc.**

Wilson Alford, Jr. was present and addressed the commission. Mr. Alford stated that this was previously approved with conditions. Mr. Alford stated that there are several reasons the hotel doesn't want a range now. Mr. Alford noted that the hotel brand doesn't want a hotplate in the guest rooms. Mr. Alford stated that it was more difficult to finance a range because of a fire hazard and the Fire Marshall does not feel it's appropriate to have in room. Mr. Alford asked to have the range deleted from the conditions.

Commissioner Profe asked didn't the state pass a law last year that which grills could not be in certain places if the unit was not owned. Town Planner Barz stated that he was not aware of any state law.

Mr. Alford handed the Commission the sections of Zoning Regulations for what he was proposing. Mr. Alford stated that this was an extended stay hotel, which included a separate kitchen area. A kitchen was three or more of the following items: kitchen counters and/or cabinets; a range; wall oven and cooktop; kitchen hood, microwave oven; refrigerator and/or freezer, dishwasher, kitchen sink (22" x 30" or greater) or food disposal. Mr. Alford noted that he proposed a kitchen counter, a microwave oven, and a refrigerator. Mr. Alford stated that this satisfied the requirements for a kitchen. Mr. Alford noted that this regulations was not really for a hotel, but for another unit located in a house, as in in-law apartment.

Commissioner Mips asked Town Planner Barz what the Residence Inn had for a kitchen. Town Planner Barz stated that they had full kitchens with ranges. Commissioner Mips asked if that was an extended stay hotel. Town Planner Barz said yes and so is the Hyatt with full kitchens.

Commissioner Correia said that it was cost prohibitive.

Commissioner Levine quoted the minutes from the last meeting and said that the range was not part of the condition. Town Planner Barz stated that it was implied and doesn't have to be conditioned.

Commissioner Mips asked if we had a lot of fire calls at the Residence Inn because of that full kitchen. Town Planner Barz said that he does not have an answer for that. As for the Fire Marshall's Office, they would always err on the side of public safety. Town Planner Barz noted that we had multiple types of hotels in town, but Mr. Alford chose extended stay. An extended stay hotel implied the people renting that room would be able to cook and not eat out every night. Town Planner Barz stated that if Mr. Alford does not want to apply what an extended stay hotel had, then come back under another regulation and give us the full-service hotel with a restaurant, meeting rooms or meet the requirements of the all-suite

hotel. Coming back after the fact to get rid of the cooktop, you would never get a proper kitchen in an extended stay hotel going forward since everyone would now say they want what they have.

No Public Comment.

Mr. Alford stated that it's a difference of what the Town Planner intended what might be in someone else's hotel or what the regulations say. Mr. Alford noted that according to the zoning regulations this was all that is needed for a kitchen.

Commissioner Mips asked Mr. Alford if only the underlined kitchen items were the ones that the hotel wanted. Mr. Alford said that all he had to provide was three of them and he did. Town Planner Barz stated that when he wrote this definition, the town was having an ongoing issue with residential properties, where people were making illegal apartments. We found that rooms were being configured for kitchens, but full-size sinks or other things were being left out until after the COs were issued. Town Planner Barz stated that we had to put this definition in the regulations to rein in an issue to say if you provide these things in addition to another kitchen in a house, then you have a second kitchen. Town Planner Barz noted that he never did this to apply to a Residence Inn or extended stay hotel. If it was my intent, it would have been written considerably different.

Commissioner Mips said that Mr. Alford did not underline a kitchen sink. What do you expect people to wash dishes in. Mr. Alford said that he had a layout of the room to hand out to the Commission.

Town Planner Barz said that while Mr. Alford is saying he relied on this, it's a misapplication of the definition. Town Planner Barz stated that this does not mean you have consider no range in the special use.

Commissioner Correia asked if this needed to be clarified going forward. Town Planner Barz said that he thought it does need to be clarified to close a loop hole.

Mr. Alford handed in a design layout to the Commission and explained it to them. Mr. Alford noted that the sink was smaller than what was qualified, but you can wash dishes in it.

Commissioner Smith asked what was in the cabinets. Mr. Alford stated plates, cups, and utensils. Commissioner Smith said he agreed with the Fire Marshall in having no cooktop. The microwave needs to be monitored when they are using it, but he doesn't have a problem with the three things that would be in the kitchen.

Commissioner Correia asked why it is called an extended stay hotel, it should just be a hotel with microwave and a mini refrigerator. Town Planner Barz noted that they were calling it an extended stay hotel so they don't have to provide a restaurant. Commissioner Correia

said that they were trying to find a cost effective way to make a regular hotel without having to provide those amenities.

Mr. Alford stated that it said an extended stay needed a kitchen and we provided the three things that go in it. Mr. Alford said that this was straightforward and met the regulations.

Commissioner Mips asked where the kitchen area was. Mr. Alford explained the layout he handed out to the Commission. Commissioner Mips said that she was concerned about setting a precedent here. Mr. Alford stated that Town Planner Barz should rewrite the regulations.

Commissioner Levine said that truthfully the purpose was that a person staying in the room could make a meal. You really can cook a meal in a microwave oven. Mr. Alford stated that they can heat anything that was prepackage in the microwave. Commissioner Correia stated that they can also stay at a regular hotel and do that. Commissioner Correia stated that this was not an extended stay hotel. Commissioner Correia noted that he traveled a lot and this was not an extended stay hotel. Commissioner Correia agreed with Mr. Alford that the regulations needed to be amended. Mr. Alford stated that the regulations needed to be amended.

Commissioner Profe asked how many extended stay hotels were in this area. Mr. Alford stated that the Holiday Inn Express said if approved, they would allow a Holiday Express here.

Commissioner Levine noted that he does meet the regulations as they are written. Commissioner Mips stated that Town Planner Barz needed to come up with an amendment quick before another hotel comes in. Town Planner Barz noted that the Commission had the discretion to say yes or no, but whatever happened an amendment will be written.

Commissioner Correia said that with the last approval we set a precedent. The Commission wanted a range and Mr. Alford was now back and doesn't want one. Commissioner Levine said that yes, but we would have to use the regulations. Commissioner Correia said that we added the requirement of the cooktop.

Commissioner Mips said that she can't see a Residence Inn extended stay without a cooktop, especially if the person needed to cook something.

Commissioner Levine stated that she believed there is a Holiday Inn Express on Rt. 75. Do they have cooktops? Commissioner Mips stated that is a Holiday Inn Express, not an extended stay. Commissioner Correia noted that there was a regulation for different hotels here. Commissioner Correia said that they were trying to say this was an extended stay hotel, but they were trying to get around a traditional kitchen based on the regulations.

Asst. Town Planner Sealy read the minutes from January 14, 2020 about the decision. Commissioner Levine asked then why the property had an application last month. Asst. Town Planner Sealy noted that was for the site plan for the fill.

Commissioner Smith stated that he was trying to work with the regulations. Commissioner Smith noted that extended stay hotel implied a long-term stay. Commissioner Smith said that he doesn't see what made this an extended stay hotel, but if you wanted to change the name it would be fine.

Commissioner Profe asked about changing the definition, who would get hurt by that. Mr. Alford explained that all he had was the regulations to go by and we met the requirements.

Commissioner Mips said that a kitchen counter should not be one of the three. Mr. Alford noted that he didn't write the regulations. Commissioner Mips stated that in January you agreed with a cooktop. Mr. Alford said that his client does not want a cooktop.

Commissioner Mips noted that the Residence Inn meets the requirements with a full kitchen, but this does not.

Town Planner Barz noted that if he hadn't addressed an internal zoning matter by making this definition, we wouldn't be having this discussion. Mr. Alford said that Town Planner Barz did though.

Commissioner Profe asked if we have a lot of development waiting for this. Mr. Alford said that no and the Town Planner had enough time to modify the regulation. Commissioner Profe stated that if an application came along, we could deal with that, otherwise we had a kitchen defined.

Town Planner Barz stated that was special use and the Commission had the discretion to say this was what should be included in an Extended stay hotel.

Mr. Alford noted that the sink will not be 22"x 30". Commissioner Mips asked if it would be bigger than a bathroom sink to wash a plate. Mr. Alford stated that yes it would.

**Motion: Commissioner Smith moved to approve the Special Use Re-Approval – 777/903 Day Hill Road, Section 8.6P, Extended-Stay Hotel, Alford Associates, Inc. modification of the existing use under 8.6P approved on January 14, 2020 and to eliminated the cooktop in each guest room kitchens, further guest rooms should include a countertop with cabinets, microwave oven, refrigerator and a sink.**

**Commissioner Levine seconded the motion and it passed, 4-1-0.**

## **VI. Public Communications and Petitions - None**

TP&ZC

March 10, 2020

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**VII. ADJOURNMENT**

**Motion: Commissioner Levine moved to adjourn the meeting at 9:05p.m. Commissioner Profe seconded the motion and it passed unanimously, 5-0-0.**

Respectfully submitted, \_\_\_\_\_, Lisa Ozaki, Recording Secretary

I certify these minutes were adopted on April 14, 2020

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Jill Levine, Secretary