

**MINUTES
TOWN PLANNING AND ZONING COMMISSION
FEBRUARY 14, 2023
7:00 P.M. HYBRID MEETING
275 BROAD STREET, WINDSOR, CT**

Present: Commissioners Mips, Levine, Hallowell, Jaggon and Kuintzle
Alternate Commissioner Hallowell was seated for former Commissioner Correia
Alternate Commissioner Harvey
Absent: Alternate Commissioner Rivas Plata

Also Present: Town Planner Barz, Assistant Town Planner Sealy and Secretary Andrea D. Marcavitch

I. NEW BUSINESS

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

A. Public Communications and Petitions (five-minute time limit per person)

Paul Vaca of 1404 Windsor Station Drive stated that he had heard a lot about the 2014 TOD Master Plan and asked the Commission to consider evaluating the implementation of those plans. He suggested that an evaluation would inform us of how we are doing and how we continue to move forward.

Commissioner Levine read an email sent on January 16, 2023 from Ms. Bonnie Karkowski who gave feedback regarding the process for reviewing projects in the Center Design Development District, which was discussed at the last meeting.

B. Communications and Petitions from the Town Planning and Zoning Commission – None

C. Zoning Enforcement Officer’s Report – None

D. C.G.S. §8-24 Referral Requests – None

E. Pre-Application Scrutiny – None

F. Re-Approvals/Revisions/Extensions

- 1. 3.9 Site Plan – 99 Lamberton Road, EV Charging Stations, I Zone, 21.69 acres, Travelers**
- 2. 3.9 Site Plan – 500 Groton Road, New Facility, IW Zone, Ryan Companies**
- 3. 3.9 Site Plan – 5 & 7 Waterside Crossing, Patio, Fire Pits & Pavilion, I Zone, Delcorp, LLC**

Assistant Town Planner Todd Sealy briefly reviewed the applications.

G. Site Plans

1. Site Plan – 29 Windsor Avenue, Mixed commercial development, 13.8 acres, B2 Zone, Dijon, LLC

- a. Waiver request according to section 3.1.2.C(2)(a)(ii) for reducing the distance between the parking lot or driveway to a building within the Wilson Study Area.

Commissioner Mips stated this application would be heard during the public hearings with the other items on this project.

H. Minutes

1. January 10, 2023

Motion: Commissioner Levine moved to approve the draft minutes of January 10, 2023 meeting as amended.

Commissioner Hallowell seconded the motion and it passed 5-0-0.

II. MISCELLANEOUS

A. Connecticut Federation of Planning and Zoning Agencies (CFPZA) – Winter 2023

B. 75th Annual CFPZA Conference – Thursday, March 23, 2023

Town Planner Eric Barz asked the Commission to let staff know if they would like to attend.

Commissioner Mips stated they would receive credits for continuing education requirements and encouraged the whole commission to attend.

Commissioner Levine followed up with a question she asked last month about the land use webinar and if it was possible to attend certain portions. Mr. Barz apologized and stated that he forgot and would get back to Ms. Levine.

III. PLANNER'S REPORT

1. Update on recent development – None

IV. BUSINESS MEETING

A. Application Acceptance

1. Special Use Re-Approval – 777, 903 and 1001 Day Hill Road, Section 15.2.13, Top Soil, Gravel, Sand, Clay, or Stone Removal, I Zone, Alford Associates, Inc.

2. Concept Plan – 144 Broad Street, 106 units, B2 Zone, 2.655 Acres, Alford Associates, Inc.

The above items will be scheduled for public hearing at the next regular Town Planning and Zoning Commission meeting on March 14, 2023.

B. Old Business – None

V. PUBLIC HEARINGS

Commissioner Levine read the legal notice into the record.

A. Special Use Re-Approval – 519, 545 & 549 Palisado Avenue, Sections 10.5.3 & 4.5.7C, Private schools, AA/AG Zone, Madina Academy

Mr. Ahsan Saghir was present and requested re-approval of the special use permit.

Public Comment:

Don Jepsen of 495 Palisado Avenue stated that he is the largest abutter to the school and had no complaints. He reviewed the site plan with Mr. Barz and found that there were some screen plantings that were shown and were never planted. These plantings would offer additional screening to his yard and he would be excited if they were planted.

Mr. Barz commented that staff had met with Madina Academy and had some concerns. The Fire Marshal's office did some inspections and are now satisfied. He also mentioned there were some evergreen trees to be planted in a staggered fashion along the front border between Mr. Jepsen's property and Madina Academy. Mr. Barz apologized that it had fallen through the cracks 11 years ago. He said installation of the landscaping this spring should be added as a condition of approval.

Motion: Commissioner Levine moved approval of the special use for 519, 545 & 549 Palisado Avenue, Madina Academy, with the understanding that the evergreen screening will be installed as soon as weather permits.

Commissioner Jaggon seconded the motion and it passed 5-0-0.

B. Special Use Re-Approval – 519, 545 & 549 Palisado Avenue, Section 15.2.16, Daycare centers, AA/AG Zone, Madina Academy

Mr. Ahsan Saghir was present and explained that this special use would continue to allow babysitting services for staff if they needed. Currently, there are no children but they would like to continue to offer it to staff should anyone need it.

Commissioner Mips asked if the childcare services were just for staff. Mr. Saghir said yes, just for staff.

Public Comment: None

Mr. Barz had no additional comments.

Mr. Jaggon asked what safety measures are in place for the daycare. Mr. Saghir stated the sprinkler system has been checked by the Fire Marshal and they have brand new exit signs. He said just like the school, they have everything in there.

Motion: Commissioner Levine moved approval of the special use application at 519, 545 & 549 Palisado Avenue for the daycare center at Madina Academy. Commissioner Jaggon seconded the motion and it passed 5-0-0.

C. Special Use – 530 Hayden Station Road, Section 8.6E, Commercial recreational and cultural buildings, I Zone, Twitchell

The applicant was unable to attend and the application was continued to March 14, 2023.

D. Site Plan and Special Uses – 29 Windsor Avenue, Section 5.2.6H, Parking within a front yard, 13.8 acres, B2 Zone, Dijon, LLC

Attorney Michael Ceccorulli of Pullman and Comley, LLC and VHB Associates Engineer and Office Manager John Furman were present and reviewed the application. Mr. Ceccorulli discussed the challenges of the site, location and size of the lot, topography, layout, economic viability, wetlands and plans for expansion of the wetlands on the property. Mr. Furman discussed size of the parcel, development area, proposed uses, curb cuts, traffic, wetlands, site grading, parking, drainage, retaining wall, erosion control plan, fire truck route, lighting plan, landscaping and pocket park plans, traffic analysis, elevations and stormwater management.

Commissioner Mips stated that there are a number of questions and concerns and she asked how they have been addressed so far. Mr. Furman stated that they have received three letters – one from engineering, one from the BSC Group and one with staff comments. He said they are in the process of reviewing the comments and are creating a response to comments letter to address them. Mr. Furman stated that none of the comments they have seen are unsurmountable.

Commissioner Mips shared her concern with the location of the daycare in proximity to the highway and how close it to the side of the road. Mr. Furman responded that there is a ravine between interstate 91 and the property. There is a low point and our site is higher, so someone would have to be rocketing off the 91 ramp to hit the wetland and then come back up the ravine to the property. Mr. Furman continued that the tenant who is interested in the site prefers the proposed location.

Commissioner Mips asked where they were planning to put the EV (Electric Vehicle) stations. Mr. Furman said that he will have to look at the code as he is not familiar with what the new code requires. It would be their intention to have them for every building.

Commissioner Mips recounted how a car on Broad Street last summer was hit while charging at an EV station and there was a fire. She said that placing them anywhere near a building bothers her after seeing that. Mr. Furman said that the issue with EV chargers is that they need 100 amps and the further away from the building that you place them, there will be a voltage drop in the cables and that is why we often see them near buildings.

Commissioner Levine asked about the retaining wall at the back of the property and if it was 5' in height. Mr. Furman said yes. Commissioner Levine asked where would it begin and end. Mr. Furman pulled up the grading plan on the computer screen and showed the Commission the location. He said it starts at the side of the building at elevation 56' and generally the wall would be five to six feet tall.

Commissioner Levine asked if they would need a retaining wall at the back of the property. Mr. Furman said they would if they were doing something there. The property is unique in that it has a very gentle slope up to the back and then it goes very straight. He stated that there will be a swale at the back which will collect any water coming from the higher elevations and then the water from the swale will feed into the wetlands. He continued that past the swale is a plateau and instead of a retaining wall they elected to have a grassed slope which they thought would look better than another wall.

Commissioner Mips asked how people would be coming into the site for the daycare. Mr. Furman showed the site entries and exits.

Commissioner Levine stated that the front of the building is really in the back. Mr. Furman said that it is and that also goes for the retail too.

Commissioner Levine said that on the plans there is a half-moon drawn on the far right and she assumed it would be an island. Mr. Furman said yes, that is a landscaped island.

Commissioner Levine asked if the exterior play area will be fenced in the front. Mr. Furman responded yes, it will. He believed there would be an access gate to the rear which would be just for emergency purposes. He noted that in any enclosed space, two exits were required.

Commissioner Levine noted that she didn't see the letter from the Wetlands Commission stating it was approved but she assumed it was approved. Mr. Barz said yes, the Wetlands Commission had approved it.

Commissioner Levine asked what kind of businesses they hoped to attract in the retail spaces. Mr. Furman said that the retail space is being developed as a multi-tenant type of development with small storefronts. They can see businesses like a cell phone, mattress or vitamin store. Commissioner Levine said not a high volume type of business. Mr. Furman said they are not anticipating that.

Commissioner Levine thought it would be a problem for both the retail and the daycare if they had a high-velocity retail establishment there. Mr. Furman said that they are not anticipating that. He said that the traffic volume that they estimated was taken from ITE (Institute for Transportation of Engineers), which has a specific code for large, big box stores. The code that was used here was multi-tenant.

Commissioner Levine asked what the hours of operations would be for the gas station. Mr. Furman asked the operator of the gas station to speak to that. Vinnie Porzio of 120 Tranquility Road, Middlebury, CT was present and stated that the hours of operation would be something like 6 a.m. to 10 p.m. and the car wash would be 7 a.m. to 9 p.m., seven days a week.

Commissioner Kuintzle asked how one would get into the carwash from the south end. Mr. Furman said that the carwash is unidirectional. Commissioner Kuintzle said you can't get into it. Mr. Furman said there are tight turns but that they have software they run vehicles through and the plan is set for the largest vehicle that could make it through the carwash. Mr. Furman showed the Commission on the plans how someone would enter and exit the carwash and how they would access the vacuums.

Commissioner Kuintzle stated that he was looking at it if he were to enter from the south end and asked how he would get into the carwash. Mr. Furman demonstrated on the plans the direction a vehicle would need to go. Commissioner Kuintzle stated that at one point traffic would meet head on and that those going in and going out would meet head on. Mr. Furman said yes, you have to do a loop.

Commissioner Mips said of the 13.8 acres in total, how much of this is actually going to be used for this development? Mr. Furman responded that they are using approximately four acres for this development. Mr. Ceccorulli said it is less than six percent of the total building coverage for the site.

Commissioner Mips commented that she could see all of this on 13.8 acres but putting it down onto four acres concerns her.

Commissioner Levine stated that there is a lot going on.

Commissioner Hollowell asked if the retaining wall is at the back side of the retail building. Mr. Furman said that is correct. Commissioner Hollowell said, so there is no parking, no cars, nothing there. Mr. Furman said, no. He said what is missing on the plans is a sidewalk that will go around the side of the building and connect the back doors so there is a way to get out. Commissioner Hollowell asked if there would be a wall on the top of the retaining wall so someone doesn't fall off. Mr. Furman said there would be a fence. He said the Inland Wetlands Commission asked the same question and asked why the design wasn't flipped where the building is in the back and the parking in the front and the answer is the grading arm. The grade would be too steep.

Public Comments:

Nicole Frazier of 38 Violet Street spoke about the community impact of this development. She noted that this is the third gas station created abutting each other and the fifth gas station in a .7 mile linear path. She discussed increased crime and traffic, home and car theft, lack of police presence, environmental, health and safety concerns affecting low-income communities and communities of color, traffic impact and signage and concerns with the traffic light proposal.

Natasha Frazier of 38 Violet Street spoke of concerns with drainage, increased number of accidents and traffic, potential for traffic backup, increased need for policing and potential problems for residents in the area.

Helen Nixon of Sunset Street shared concerns regarding stormwater, the storm sewer system and flooding in the area. She wanted to be sure the old system could accommodate the new system.

Shaneek Brown of 730 Windsor Avenue shared concerns about increased traffic and the potential danger to neighborhood kids, close proximity of the daycare to the gas station, access for the fire department, negative health impacts, attracting additional crime and the impact on small businesses in the area.

Caeden Winborne of 4 Hampden Place shared that he supported redevelopment of the property but didn't think another gas station would be a good idea. He suggested that the landscaping plan could be improved by adding more trees. He asked if they had a litter control plan and what would happen to the Ranch House.

Mr. Barz stated that he would ask the applicant's representatives to provide comments but that the public hearings wouldn't be closed tonight. He suggested that the Commission ask any additional questions and provide guidance for the applicant.

Mr. Ceccorulli addressed comments and concerns and briefly discussed the location selection, permitted use, amount of commercial corridors, DOT's (Department of Transportation) control of the traffic process, hours of gas station operation, the applicant's interest in safety and accessibility, enhancement to the community, drainage and improved mitigation of stormwater on the site, proximity of the gas station to the daycare, modern gas tanks and their safety sensors and meeting all fire and building codes. Mr. Ceccorulli stated that he would provide more extensive answers to the Commission.

Mr. Barz commented that there are pages of comments, some of which have been addressed and many have not. He said there is a lot of activity confined in a small area of a larger site and the consensus of the staff is that they would like to see it decompressed a bit and to reduce some of the conflicts and tight turns. He acknowledged the applicant's concern that there are topographic issues going on and wetland impacts. He also noted that a litter

control plan will need to be added. Mr. Barz hoped that over the next month that the outstanding concerns could be addressed.

Commissioner Mips stated that the site has too much on it. There are too many things going on at the same time in the same place and has concerns of where the EV stations would be installed.

Commissioner Levine agreed with Commissioner Mips and suggested getting rid of the retail space and to move the convenience store back and open up that area so there would be better traffic control and not so much going on in one tiny area. She commented that there is a point around the carwash where the traffic will likely get stuck.

Commissioner Jaggon asked what the maximum number of kids would be using the daycare. Mr. Ceccorulli replied that they can confirm that number with the tenant but generally that will be regulated by the square footage of the facility and the context of their state license.

Commissioner Mips asked if the daycare would be sublet by the owner of the property. Mr. Ceccorulli stated that it is the expectation that it will be leased directly to an operator.

Commissioner Jaggon asked if there was any study done to determine if there would be any negative impact on Keney Park behind the property. Mr. Ceccorulli said no environmental studies were done but that the grade of the site slopes away from the park. He emphasized that it is extremely rare to have a fuel leak with modern technology and gas stations.

Commissioner Levine shared safety concerns with the park area being located right on Windsor Avenue. Mr. Ceccorulli responded that he understood the concerns but stated that there are also people waiting for the bus on that street. He said it could be just another stretch of unattractive, concrete sidewalk in the neighborhood or it could be a park and from their perspective the park is an enhancement.

Motion: Commissioner Levine moved to continue the public hearing to March 14th. Commissioner Jaggon seconded the motion and it passed 5-0-0.

- E. Special Use – 29 Windsor Avenue, Sections 15.2.1A & D, Fuel filling station with self-service carwashes, 13.8 acres, B2 Zone, Dijon, LLC**

Continued public hearing to March 14, 2023.

- F. Special Use – 29 Windsor Avenue, Section 5.2.6C, Establishments with drive-through windows, 13.8 acres, B2 Zone, Dijon, LLC**

Continued public hearing to March 14, 2023.

G. Special Use – 29 Windsor Avenue, Section 15.2.16, Daycare centers, 13.8 acres, B2 Zone, Dijon, LLC

Continued public hearing to March 14, 2023.

H. Text Amendment – Sections 1.3.3, 2.2, 8.4B, 8.6U, 8.6AA, 10.3 & 10.4, Cannabis production and sales, TOW

Mr. Barz read his memo to the Commission dated January 23, 2023 into the record. He reviewed the process, options and proposed text amendment. He stated the only difference from what was previously proposed is that we will allow growing indoors as a special use, allow recreational sales to be appended to a palliative facility, not as a stand-alone, defined that it can't be grown or processed in the agricultural zone and that processing, testing, packaging, wholesaling and distribution is a permitted use in the I zone.

Public Comments: None

Commissioner Levine read the February 3, 2023 letter from CRCOG (Capitol Region Council of Governments) into the record.

Commissioner Levine asked about the process. Mr. Barz reviewed the process and stated that the Commission can adopt, deny or continue it tonight.

Commissioner Mips commended Mr. Barz and thought he had done his research. She shared that she is ready to adopt the application as it is tonight.

Commissioner Levine stated that she has a different point of view and read a letter that she prepared. She noted legalizing marijuana, tax revenue, concerns that law makers were moving too fast to approve the legalization, health impacts and lack of research. She shared that allowing cannabis outlets in the town of Windsor, in her opinion, is premature. She suggested that if the Commission were to allow marijuana, to approve medical marijuana dispensaries only, until more research is available.

Mr. Barz stated that Commissioner Levine brought up some good points and stated that the likelihood of there being a hybrid facility, a palliative facility turning into a hybrid facility, based on the proposed text amendment is very slim. He stated that with all of the other opportunities, they won't want to be tucked away in an industrial zone in Windsor. They will want to be in a busy location.

Commissioner Levine stated that she didn't have a problem with the palliative use of it and understands the benefits of it, but it is the recreational use that troubles her the most.

Mr. Barz stated that prohibiting the recreational sale will not stop it from being used in Windsor. Commissioner Levine stated that she understood that and really labored over the issue.

Mr. Barz stated that if it was the Commissions desire, he could come back next month and tweak the amendment to remove the recreational aspect.

Commissioner Mips stated that might be better.

Mr. Barz stated that the recreational people can have it delivered but the palliative people who might need it for medical reasons will have it here in town. He asked the Commissioner if that is what they wanted.

Commissioner Hallowell stated that she is okay with how it is written.

Commissioner Mips said that she is and thought Mr. Barz had done a lot of work.

Commissioner Kuintzle asked about the likelihood of someone putting in a palliative facility in Windsor. Commissioner Mips said next to impossible. Mr. Barz stated that there are two locations – somewhere in the middle of Hayden Station Road and somewhere out on Day Hill Road.

Mr. Barz asked if the Commission would like to continue this to next month. Commissioner Kuintzle said yes.

Commissioner Levine stated that if we approve only the palliative, the text amendment would have to be amended.

Mr. Barz asked for a five minute recess to amend the text amendment.

Commissioner Hallowell asked why the Commission couldn't vote on it and does the vote have to be unanimous. Commissioner Levine responded that there has to be a majority.

Mr. Barz stated that it would need a 3-2 vote to pass.

Commissioner Jaggon asked if they should take a poll and vote for it now.

Commissioner Hallowell stated that they have come at this language multiple times and there is a low probability. She shared that we have done a fine job of limiting potential impacts here, understanding that the social impacts are going to happen either way. She stated that it is not the Commission's job to make the social decision.

Commissioner Levine stated that it is our job to protect the citizens of this town.

Commissioner Hallowell stated that it is our job to rule on the zoning applications with the regard to that. She said her opinion is to put it to a vote and it doesn't have to be unanimous.

Mr. Barz stated that he was unsure what would happen if the vote didn't pass. He asked if the Commission could give a five minute recess and he could amend the text amendment.

The Commission took a four minute recess.

Commissioner Hollowell stated that she would like to vote on it as it was written and that if it's immediately re-written before allowing them to vote on it as it was proposed, you have disenfranchised anybody who wanted to vote on it. She didn't see how it would hurt to vote on it as it was written. She asked if it's voted down, would the Commission have the option to re-write it.

Commissioner Mips stated that she would prefer to re-write it ahead of the vote.

Commissioner Hollowell stated that we don't know how everyone is going to vote and that we are preempting that if we are re-writing it before the vote happens.

Commissioner Jaggon agreed with Commissioner Hollowell.

Mr. Barz and the Commission discussed procedures if the proposed text amendment was taken to a vote and it failed. Mr. Barz said it was his understanding that if the motion was denied, then he would have to come back with a new text amendment. Mr. Barz said that they could poll the Commission before taking a vote.

Commissioner Hollowell stated that it feels like they are being herded in a certain direction and they haven't voted on it. She said there can be a motion to approve or a motion to deny and that she wasn't sure of the implications either way.

Mr. Jaggon asked if they could go into a recess and discuss this and come back. Commissioner Mips said no, everything is done in public.

Commissioner Mips said she would like to take a vote on it. Mr. Barz responded to go ahead and vote and that he'd manage whatever outcome.

Commissioner Mips asked for a motion either for or against.

Motion: Commissioner Levine moved that the application of the Town of Windsor concerning the permitted use for both palliative and recreational marijuana facilities as presented be denied.

No second, motion fails.

Motion: Commissioner Hollowell moved to approve the application as submitted. Commissioner Jaggon seconded the motion and it passed 4-1-0

Vote: Mips, yes; Levine, no; Hollowell, yes; Jaggon, yes and Kuintzle, yes.

VI. Public Communications and Petitions – None

VII. ADJOURNMENT

**Motion: Commissioner Levine moved to adjourn the meeting at 9:14 p.m.
Commissioner Hallowell seconded the motion and it passed 5-0-0.**

Respectfully submitted, _____, Andrea D. Marcavitch, Recording
Secretary February 14, 2023.

Jill Levine, Secretary