

**SPECIAL MEETING MINUTES
TOWN PLANNING AND ZONING COMMISSION
AUGUST 8, 2023
7:00 P.M. HYBRID MEETING
275 BROAD STREET, WINDSOR, CT**

Present: Commissioners Mips, Levine, Jaggon, Jepsen and Kuintzle and Alternate Commissioners Hallowell and Rivas Plata (departed at 8 p.m.)

Absent: Alternate Commissioner Harvey

Also Present: Town Planner Barz and Assistant Town Planner Sealy

I. OLD BUSINESS – *Continued from July 11, 2023*

Commissioner Mips opened the meeting at 7:25 p.m. The meeting was delayed due to technical difficulties.

- A. 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.

This agenda item was heard during the public hearing portion of the meeting with the corresponding special use applications.

II. PUBLIC HEARINGS

Town Planner Eric Barz gave a brief review and asked the applicant to pick up where they left off and to review any changes that have been made since the last meeting.

- A.-C. Special Uses (3) – 29 Windsor Avenue**, Section 5.2.6H – Parking within a front yard; Sections 15.2.1A & D – Fuel filling station with self-service carwashes; and Section 5.2.6C – Establishments with drive-through windows, 13.8 acres, B2 Zone, Dijon, LLC

Attorney Brian McCann of Pullman and Comley, VHB Office Manager and Engineer John Furman, VHB Senior Traffic Engineer Charles Baker, car wash developer and operator Vincent Porzio, property owner and applicant Dinesh Patel of Dijon, LLC and Certified Planner John Guskowski were present.

Attorney McCann gave a review and briefly discussed the site plan revision; staff reviews; Violet Street realignment; Town Engineer's requests; August 1st email regarding the full redesign of Violet Street; an 8-24 and staff review as part of that process; special use applications and the need for this use.

Engineer John Furman reviewed the site plan revisions made in response to the Commission and staff comments.

Vincent Porzio reviewed the exterior materials for the car wash and proposed to use Quick Brick and heavy-gauge vinyl siding, which is made to look like cedar clapboard. Mr. Porzio also explained the process of where the water from the car wash goes and that none of the water would escape the tunnel.

Mr. Furman showed elevations of the convenience store and discussed exterior materials and ways that it would be consistent with the car wash.

Mr. Porzio explained the need for this application and stated that he would not be investing his time and money if he thought there was no need.

Mr. Furman stated that the storm drainage system has not changed from the original design that had been submitted. He discussed stormwater collection systems, water quality units, catch basins, utility connections and required review at the State level.

Commissioner Levine asked about the location of the underground gasoline storage tanks. Mr. Furman said that those have not been sized or located yet. He demonstrated on the plans where they intended to put them.

Mr. Furman reviewed the fire truck route through the site and turning radii, as well as the trash truck movements. He said all the maneuvers for the trucks would be easy. He also discussed lighting on the site; updates to the landscaping plan; comments received from the Town Engineer on August 7th and their plan to address those and kitchen and restroom waste.

Mr. Barz asked if the garage doors on the tunnel will be closed when a vehicle is being washed and dried. Mr. Porzio said yes, as long as the next car does not break the photo eye, which would trigger the door to open.

Commissioner Kuintzle asked about traffic circulation and if someone could use the vacuums without getting a car wash. Mr. Porzio said it is set up so that someone would go through the car wash and then into the vacuum area. Commissioner Kuintzle shared concerns of someone taking a right turn into the vacuum area and that the truck and fire route showed the ability to go in that way. Mr. Furman stated that Mr. Porzio is proposing to install yellow plastic bollards and line the island with them, which would prevent anyone from turning into the vacuums. He added that in the event of an emergency, the bollards can be moved or driven over.

Commissioner Levine said Attorney Schenkel raised an issue about an updated Wetlands permit since the plans have been revised. She asked if they thought it was necessary. Attorney McCann shared a communication from May 17th from Wetland's Agent Chloe Thompson, which stated there was no need for an updated wetlands permit at this time.

Commissioner Levine asked if the back border of the property would be vegetation only without any hardscape. Mr. Furman said that is correct and explained the proposal.

Commissioner Levine said that she drove by and the back of the property is a mess with old trucks and vehicles and she assumed that it will all be cleaned up. Mr. Furman said yes and explained what they have planned.

Commissioner Jaggon asked if it would be a better idea to get authorization from the full Wetland's Commission instead of getting an email from one person. Mr. Furman said that she (Ms. Thompson) is the agent for the Commission and speaks on their behalf under state and local regulations.

Commissioner Jepsen asked if the fuel tanker truck has to back out to exit instead of turning through the site. Mr. Furman stated that it would be easier for them to back up but that he was fairly certain they could pull through. Commissioner Jepsen had concerns with other traffic that could make it challenging to back up.

Public Comment:

Alesha Pepper shared safety concerns and did not think the area needed another gas station and car wash.

Jonathan Montana of 22 Deerfield Avenue shared concerns with safety and traffic congestion.

Gloria Ruffin of Violet Street shared concerns of safety, traffic and walkability.

Attorney Edward Schenkel with Jacobi & Case was present to represent Asad Muntaz, owner of 17 Windsor Avenue in Windsor, who opposed the development. He stated that this is not the right project for this property and asked for the special use permits to be denied. He cited several reasons to deny, which included legality; special use criteria not satisfied; health, stormwater and environmental issues posed; inconsistent with the Plan of Conservation and Development (POCD); no modified wetlands permit and no Section 8-24 review under the Connecticut General Statutes (CGS) had been approved by the Commission prior to applying for the special use permit. He introduced three consultants who would provide testimony – Brian Miller of Miller Planning Group, Engineer Steven Trinkaus and Public Health Specialist Dr. Melvin Kramer.

Planning Consultant Brian Miller discussed the area; impact on the neighborhood; Department of Transportation (DOT) approval; realignment of Violet Street; clusters of convenience stores, gas stations and car washes in the area; pedestrian environment; congestion in the site; no neighborhood benefits; other special use considerations; gateway to Wilson area of town and potential impact of the proposal.

Engineer Steven Trinkaus stated that he was asked to review stormwater management, erosion and sedimentation control plans and traffic movements. He discussed Department of Energy and Environmental Protection (DEEP) requirements; cited inefficient online hydrodynamic separators being used, which often go unmaintained leading to dysfunction; water quality volume and increased pollutants loads; concerns that the DOT may not have the capacity to handle the water running off the site; increased runoff volume; location of water tanks for car wash and gas tanks not shown on plans; slopes and contours; no erosion control measure at the base of the cut slope; no information on a 10-year rain event included; detailed phasing plan needed; and concerns with turning movements exiting the site to the north or south.

Dr. Melvin Kramer introduced himself and stated that he had degrees in public health and environmental health and served as a Public Health Officer in New Jersey. He discussed health and wellbeing; chemicals

and particulate matters released into the air during the fueling process; health concerns with 16 fuel pumps and idling cars and population disparity.

Attorney Schenkel discussed the special use criteria and why he thought not one criteria was satisfied. He discussed pedestrian use; intensive uses; amount of travel lanes; exiting lanes for emergency vehicles; lack of data; public need; quantity of gas stations in that area; the POCD, stormwater issues and environmental concerns.

Commissioner Mips requested a five-minute recess at 9:42 p.m. and the meeting reconvened at 9:47 p.m.

Mr. Barz reported that the staff had some outstanding concerns but nothing that they have not dealt with in the past as a condition of approval. He said the concerns are outlined in the August 4 and August 7 staff memos. He said the operator of the facility mentioned some materials that he was not familiar with and would need to look into it further to determine if it was appropriate. He said he saw signage on the elevations and that staff would need to take a look at that as well.

Mr. Barz said that the Town Engineer has reviewed the engineering and seems fairly satisfied despite Mr. Trinkaus' analysis. He noted that he is not qualified to say who is right and who is wrong. The Town Engineer had read his previous analysis and based on her memo, she did not seem too concerned. He also noted that the applicant would need a stormwater management permit, which will require the owner of the property to enter into an agreement with the Town, which will be filed on the land records, making them responsible for the perpetual maintenance of their stormwater, grease and oil separators and catch basins on the site. He said they would then need to regularly report maintenance back to the Town Engineer. He continued that they would also need to get an erosion and sediment control permit based on final plans, which will address some of that.

Mr. Barz stated that a lot of the commentary that the Commission heard tonight is subjective opinion and that it is ultimately up to the Commission to determine whether this does or does not meet the criteria, using their own judgement. He said we have a special use permit to allow for parking in the front yard in the B2 zone. The B2 zone serves two purposes. It is our main street type shopping street environment that we have on Broad Street, Poquonock Avenue and Palisado Avenue and it also serves as our suburban shopping zone, like Windsor shopping center, Kennedy shopping center, Price Chopper shopping center and others that have gotten this special use permit for this type of development. He said there was nothing unusual in allowing that and they are not running counter to the Plan of Development, the zoning regulations or the intent of the special use.

Mr. Barz continued and agreed that it is a gateway area and said that we want to work with the applicant to make sure that this building and site are as attractive as possible. He said in regards to the two curb cuts, there is approximately 300 feet between the non-access line of the highway ramp and the southern edge of the property, so they could conceivably have two curb cuts, one for each 150 feet. He said the neighboring gas station that is opposing this has two driveways with comparable frontage.

Mr. Barz addressed the safety of the area and agreed with what the applicant's planner, who spoke at the last public hearing, had said a gas station like this relies mostly on existing traffic that is on Interstate 91 or on route 159. He said people generally do not go out of their way to get gas and that the applicant is looking to

capture existing traffic and divert it. He agreed that it would take traffic away from the other two gas stations but that it was not the Commission's job to protect one business over another but they would have to balance that with the public need.

Mr. Barz spoke to the reconfiguration of the site and stated that the staff is satisfied with the changes they have made with decompressing it and taking away some of the more congested conflict points and redirecting the traffic to the rear.

Mr. Barz said he would have to get another opinion as to whether a new wetlands permit is needed for a development that was scaled back from what was previously approved and had no impact on those wetlands. He said it was staff's belief that it was not necessary, but if the Commission needed more information then the application would have to be tabled to get an opinion.

Assistant Town Planner Sealy reminded Mr. Barz that there was an issue raised about the zoning regulation's side bars and the 8-24 process. Mr. Barz said that we have annotated regulations and that he set out to create the appearance of post-it notes and Polaroid pictures on the side bar that would help people understand in layman's terms what the zoning regulations were saying. He read from the zoning regulations on page 1-1, which states that the side bars contain information that is not part of these regulations. He went to the gas station section of the regulations and read a side bar, which states that self-service car washes are only allowed with existing gas stations but that the regulation says that automated self-service car washes shall only be allowed in conjunction with a fuel filling station subject to the following requirements. He said the regulations used to say in conjunction with an existing fuel filling station but that he researched it and verified that the language had been amended but that he had failed to amend the side bar, which is not a part of these regulations.

Mr. Barz addressed the 8-24 process and said that Town Attorney, Tim Fitzgerald, was in his office discussing the sequencing of an 8-24, relative to this application. He said they brought Attorney McCann into the conversation over the phone. They came to the conclusion that under the current situation, there is a catch 22. The Department of Transportation (DOT) will not even look at their application to create an intersection there until there is a TPZ approval. We cannot do an 8-24 to surrender existing town right-of-way and accept state right-of-way until after a TPZ approval is given. He said they agreed that the Commission could condition this approval upon the Town Engineer's final review of the intersection and she stated in her memo the standards that must be met. He said after that it would then go to the DOT and then if they approve the realignment then they would have to agree to the land deal that would make this happen and then we would go through the 8-24 process. He said the abutter's attorney is saying the statutes explicitly say otherwise and that he could not explain that. He said it would seem impossible in this situation to do an 8-24 for something the DOT has not even reviewed and approved yet.

Attorney McCann gave a rebuttal and discussed allowed use; reviewed application timeline and reviews; amount of frontage and curb cuts; traffic movements and patterns; pedestrian use; the 8-24 process; sufficient demand for the business; the POCD and how it comports with the project; air pollution and who regulates it in CT; special permit criteria; the two-phase development plan; transparency; and reviewed reasoning why no revised wetland permit was obtained.

Certified Planner John Guskowski encouraged the Commission to focus on two things – the regulation and the POCD – and that these uses are allowable by the Town’s regulations and that the Town’s POCD encouraged this type of business in that area. He said the Commission can condition this approval on the realignment of Violet Street as approximately shown, otherwise the applicant would have to come back before the Commission.

Mr. Barz shared that he asked both attorneys what would happen if a town meeting, the Town Council or the DOT will not approve the intersection as shown and the response from both attorneys was that the applicant would have a null and void application.

Mr. Guskowski clarified that an CGS 8-24 referral is only applicable when dealing with municipal property. He said if the realignment of Violet Street occurs exclusively within the State’s right-of-way then it would not require an 8-24.

Mr. Furman introduced Traffic Engineer Charlie Baker to address pedestrian safety and access to the site. Mr. Baker explained the reasoning behind reconfiguring Violet Street and demonstrated on the plans how it could create a safety issue, like a head on collision without the realignment. In response to concerns with Violet Street, he believed the realignment and traffic signal would be a great improvement, noting that residents on Violet Street will no longer have to wait for a gap in traffic during peak periods and will be able to wait for a green light and safely make a left turn. He said for pedestrians, this traffic signal will comply with all current ADA requirements and that there will be a pedestrian signal and crosswalks to provide a safer crossing.

Mr. Barz reiterated the conditions to include if the Commission was inclined to approve the application and Mr. Sealy reminded the Commission that there was a waiver request on the site plan.

A. Special Use – 29 Windsor Avenue, Section 5.2.6H, Parking within a front yard, 13.8 acres, B2 Zone, Dijon, LLC

Motion: Commissioner Levine moved approval of the special use for 29 Windsor Avenue, parking within the front yard for 13.8 acres in the B2 Zone.

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

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

Motion: Commissioner Levine moved approval of the filling station with self-service carwashes for 13.8 acres in the B2 Zone with conditions that authentic red brick is used, resolution of all the issues outlined in the staff memos of August 4th and August 7th, the realignment of Violet Street by the Department of Transportation and final staff sign off and approval.

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

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

Motion: Commissioner Levine moved approval of the 29 Windsor Avenue establishments with a drive-through window, 13.8 acres in the B2 zone.

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

Site Plan – 29 Windsor Avenue, Mixed commercial development, 13.8 acres, B2 Zone, Dijon, LLC
Motion: Commissioner Levine moved approval of the site plan for a mixed commercial development, 13.8 acres in the B2 Zone, including the waiver requested in accordance with section 3.1.2C(2)(a)(ii) for reducing the distance between the parking lot or driveway to a building within the Wilson Study Area and including all the conditions previously stated.
Commissioner Jepsen seconded the motion and it passed 5-0-0.

III. ADJOURNMENT

Motion: Commissioner Levine moved to adjourn the meeting at 10:40 p.m.
Commissioner Jaggon seconded the motion and it passed 5-0-0.

Respectfully submitted, _____, Andrea D. Marcavitch, Recording Secretary on
August 8, 2023.

Jill Levine, Secretary